

**TENDER FOR PROCUREMENT OF 1.0 MMT (+/-
10 %) OF IMPORTED COAL FOR IGSTPP
Jhajjar (3x500 MW)**



**TENDER NO. MMTC/ Steam Coal/14-
15/APCPL/1227 Dated- 01.12.2014**

**GENERAL MANAGER
MMTC Limited
CORE-1, SCOPE COMPLEX,
7, Institutional Area, Lodi Road
New Delhi - 110003, India
Tel.No.011- 2438 1274
Fax: 011 - 2436 6362**

Volume – I
INSTRUCTIONS TO BIDDERS

1.0 INTRODUCTION

Our client, Aravali Power Company Private Limited (hereinafter referred to as APCPL) have requirement of 1.0 Million MT (+/-10%) of Imported Coal for its IGSTPP, Jharli Distt. Jhajjar (3x500 MW) Haryana, 124125, as per specifications mentioned herein, on 'FOR Destination' basis through Indian Ports. The delivery schedule and timely supply is essence of the contract. MMTC, therefore, intends to engage a supplier for the procurement of imported coal for APCPL's power station, through Indian ports.

The Scope of Work includes import of 1.0 MMT (+/- 10%) Steam Coal to Indian Ports, arranging vessels, stevedoring, handling, storage, port clearances, arranging Railway rakes, loading, transportation and delivery at IGSTPP, Jhajjar. All other activities for clearing and forwarding of the consignments like customs clearance, coordination with Port, Railway and any statutory authorities shall also be part of Scope of Work of bidder. All liaisoning, coordination at load port, discharge port, Railways, Handling agents etc. shall also be part of Scope of Work of bidder. Unloading of Coal at Power Station end from Railway Wagons shall be arranged by APCPL.

The Successful Bidder shall have to arrange for requisite plots at port for storage of imported coal procured for APCPL. The Successful bidder shall be responsible and liable for all berthing delays arising out of non-availability of adequate plots at ports or port congestion. MMTC/APCPL in no circumstances shall be responsible for such delay and/or be liable for claim on such account. Also the Successful Bidder shall not hold MMTC/APCPL responsible for any berthing delays under any circumstances.

The bidder should obtain all necessary and related statutory clearances applicable for supply of imported coal against this enquiry from the concerned authorities.

2.0 GENERAL INFORMATION

- (i) The prospective bidders are invited to submit their Bid comprising of Technical & Commercial aspects and Bid Prices for the subject package, in line with the provision of the bidding documents. Methodology for submission of bids has been detailed hereunder in this document.
- (ii) The cost on account of preparation and submission of Bid, negotiations, discussions etc., as may be incurred by the bidder(s) in the process are not reimbursable by MMTC/APCPL, and MMTC/APCPL will in no case be responsible or liable for these costs, regardless of the conduct or outcome of the bidding process.
- (iii) MMTC reserves the right to reject any or all bids, wholly or partially, and to annul the bidding process without assigning any reasons whatsoever, at any time prior to award of contract, and in such case no bidder/intending bidder shall have any claim arising out of such action.
- (iv) MMTC reserves the right to amend/alter/add/delete any provision of this document or of the future contracts arising out of this tender.
- (v) The successful bidder shall have to furnish the Performance Bank Guarantee as per MMTC's format, letter of undertaking, indemnity bond, and trust deed as per MMTC's format at Annexure P.
- (vi) The Successful bidder should also obtain all necessary clearances and other related statutory requirements etc. as applicable for supply of coal from the concerned authorities, without any additional cost to the MMTC/APCPL.
- (vii) The successful bidder may clearly note that terms and conditions enumerated in this bid document are only illustrative and not exhaustive. The successful bidder

will have to enter into contract as devised by MMTC to fully protect MMTC's overall interests and also the interests of APCPL.

- (viii) In the event of any clarification required by the Bidders, the same should be sought in writing not later than **16.12.2014, 1700 Hrs IST**. Please note MMTC will not be responsible to respond to any queries sent by bidders after such date.
- (ix) **Original Tender Document can be purchased from the office of MMTC at the address mentioned in Clause 15.2 below from 1000 Hrs to 1700 Hrs till 16.12.2014 by depositing the tender fees of Rs. 1,00,000/- or US\$ 1650 by way of Cross DD/Banker's Cheque in the name of "MMTC Limited, New Delhi"**

3.0 BIDDING DOCUMENTS

3.1 The Bidding documents comprise the following, in addition to Invitation for bid :

- | | | |
|---------------------------------|---|--------------|
| • Instructions to Bidders (ITB) | - | Volume - I |
| • Conditions of Contract | - | Volume - II |
| • Technical Specifications | - | Volume - III |
| • Annexure/Formats/Forms | - | Volume - IV |

The Bidders are expected to examine all instructions, forms, terms, conditions, specifications and other information in the bidding documents. Failure to furnish all information required as per the bidding documents or submission of a bid not substantially responsive to the bidding documents in every respect will be at the Bidder's risk and may result in rejection of its bid.

3.2 At any time before the scheduled submission of bid, MMTC may, for any reasons, whether at its own initiative or in response to a clarification requested by a Bidder, modify the bidding documents by amendment/addendum. Also MMTC, at its discretion, may extend the date for submission and/or opening of the bids. The amendment/response to clarification(s), if any, will be put up for information on mmtclimited.gov.in and www.eprocure.gov.in and will be binding on the bidders.

4.0 PREPARATION OF BID

- (i) Bids are to be submitted complete in all respect with requisite information, Certificates, Annexures and Bid Proposal Sheets. It shall be free from any ambiguity, cutting or overwriting. Any such correction must be initialed by the person(s) who signs the bids.
- (ii) An authorized representative of the Bidder shall sign/initial all pages of the bid. Authority Letter /Power of Attorney in favour of the authorized representative, indicating that the person(s) signing the bid has the authority to sign the bid and that the bid is binding upon the Bidder(s) during the full period of its validity, is to be submitted with the bid.
- (iii) For preparation of bid, Bidder is expected to examine the bidding documents in detail. Material deficiencies in providing the information requested may result in rejection of the bid.

5.0 LANGUAGE OF BID

The bid prepared by the Bidder and all correspondence and documents related to the bid exchanged between the Bidder and MMTC shall be written in English language, provided that any printed literature furnished by the Bidder may be written in another language, as long as such literature is accompanied by a translation of its potential passages in English language in which case, for purpose of interpretation of the bid, the translation shall govern.

6.0 BID CURRENCY

The bidder(s) shall quote CIF price in US Dollar and for the rest of the scope of work in Indian Rupees

7.0 BID FORMS AND PRICE SCHEDULES

The bidder shall complete the Bid Forms and appropriate Price Schedules furnished in bidding documents (Bid Proposal Sheets) as indicated therein.

8.0 EARNEST MONEY DEPOSIT (EMD)/ BID SECURITY

8.1 The bidder shall submit EMD of Rs 15.00 Crs or USD 24,19,400 alongwith its bid in a separate sealed envelope superscribed with EMD/Bid Security details as Envelope "A". Any bid not accompanied by an acceptable EMD/Bid Security in a separate sealed envelope (A), superscribed with "EMD details" shall be liable to be rejected by MMTC as being non-responsive.

8.2 EMD may be submitted in any of the following forms: -

- (a) A crossed Bank Draft/Pay Order/Banker's Cheque drawn in favour of MMTC Limited, payable at New Delhi from any Scheduled Bank in Public Sector/Private Sector (except cooperative banks) and Scheduled Foreign Banks.
- (b) An irrevocable and operative Bank Guarantee (BG) as per format enclosed at Annexure-C issued by an Indian Nationalized Bank/ Scheduled Bank in Public Sector/Private Sector (except Cooperative or Gramin Banks or Nanital Bank or Dhanlaxmi Bank) and Scheduled Foreign Banks. In case of Bank Guarantee from a foreign bank branch situated outside India, the Bank Guarantee must be issued through any of the Indian scheduled commercial bank other than co-operative bank / Gramin Bank / Nanital Bank or Dhanlaxmi Bank. The bank must have a net-worth of at least Rs. 500 Crore and Capital Adequacy Ratio of 9%. The BG should be valid for a period of 150 days from the due date of submission of tender. In case BG is issued by a bank outside India, it should be advised and made payable through their Indian Branch/Correspondent Bank in India. The Issuing Bank should also state the name and designation of the next Higher Authority of the Officials who have issued the Bank Guarantee.

8.3 While getting the bank guarantee issued, bidders shall ensure compliance to the points mentioned in bank guarantee verification checklist provided at Annexure-D. Bidders are required to fill up this checklist and enclose the same along with Bank Guarantee. If the deadline of submission of Bids and the date of Bid opening are extended due to any reason whatsoever, the extent of validity of BG should be taken care of by the Bidder accordingly in order to make the submitted tender valid.

8.4 Offers without requisite EMD or insufficient EMD shall be summarily rejected.

8.5 The EMD shall not bear any interest.

8.6 The EMD of the unsuccessful bidder will be returned promptly but not until the award of the contract is finalized to the successful bidder on submission of Performance Bank Guarantee and signing of Agreement.

9.0 FORFEITURE OF EMD/BID SECURITY

The EMD /Bid Security may be for forfeited:

- (i) If the Bidder withdraws its bid during the period of bid validity specified by the Bidder.
- (ii) If the Bidder does not accept the arithmetical correction of its Bid Price.

- (iii) If the Bidder refuses to withdraw, without any cost to MMTC any deviation not listed in Deviation/Exclusions Schedule but found elsewhere in his offer.
- (iv) In the case of a Successful Bidder, if the Bidder fails within the specified time limit to furnish the acceptance of Letter of Award.
- (v) In the case of a Successful Bidder, if the Bidder fails within the specified time limit to furnish the required Contract Performance Guarantee, in accordance with relevant clause of Performance Guarantee (Clause 18 Volume – III).
- (vi) In the case of a Successful Bidder, if the Bidder fails within the specified time limit to sign the contract agreement.
- (vii) In the event Bidder gives any false declaration, misrepresentation.
- (viii) In the event bidder indulges in changing/adding or deleting the contents of the tender documents.

10.0 CERTIFICATE REGARDING ACCEPTANCE OF ALL CONDITIONS

- (i) No deviation, whatsoever, is permitted by MMTC, to the provisions of the Bidding Documents. The Bidders are advised that while making their Bid and quoting prices, all conditions may appropriately be taken into consideration.
- (ii) Annexure-K (Certificate regarding no deviation) duly signed, dated and stamped by the bidder, is to be furnished in separate sealed envelope, as detailed in clause 15 below. Any bid not accompanied by such certificate shall be rejected by MMTC.

11.0 INTEGRITY PACT

Bidders are required to unconditionally accept the “Integrity Pact (IP)” (executed on plain paper) as per Annexure –U, The Integrity Pact (IP) is to be submitted in a separate sealed envelope along with Technical Proposal. In case of any grievance, bidders may approach Independent External Monitors (IEMs). Names of the Independent External Monitors (IEM) for this tender are as follows: -

Shri Bijoy Chatterjee, IAS (Retd) Address : MMTC Limited , Core-1 , Scope Complex , Lodhi Road, New Delhi Email : bijoychat@gmail.com	Shri D.R.S Chaudhary, IAS (Retd.) Flat No. L-202 & L-203 (1st Floor) Ansal Lake View Enclave Shamla Hills Bhopal- 462 013 Email: dilip.chaudhary@icloud.com
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The Independent External Monitors (IEMs) has the right to access without restriction to all bidding documentation provided by the Bidder. The Bidder will also grant Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to bidding documentations. The monitor is under contractual obligation to treat the information and documents of the Bidder/Consortium partners/Consortium member with confidentiality.

12.0 PERIOD OF VALIDITY OF BID

The Bids shall remain valid for a period of 120 days from the date of submission of Bid. In exceptional circumstances, MMTC may solicit the Bidder's consent for extension of the bid validity period. When the validity period is extended by the Bidder, the same shall be done without any modification to the Bid by the Bidder, and the validity of the bid security shall also be suitably extended by the Bidder.

13.0 BID PRICES

- (i) For quoting the Bid Prices, the Bidder is expected to take into account the requirements and conditions of the bidding documents. The Bid Prices shall be quoted in Annexure S (Price Schedule Form) given in Volume IV of Bidding Documents.
- (ii) The quoted prices are to remain valid during the entire currency of the Agreement /Contract, till the complete execution.
- (iii) In the event of any corrections, the same should contain the signature of the authorized signatory signing the bid document.
- (iv) All charges should be included in the quoted price and the same should be firm for the entire execution of the contract, in line with the Technical Specifications including Scope of Work and bidding documents provisions.

14.0 FRAUD PREVENTION POLICY

The Bidder along with its associate/ collaborator/ subcontractors/ sub-vendors/ consultants/ service providers shall strictly adhere to the Fraud Prevention Policy of APCPL/NTPC displayed on website <http://www.ntpctender.com> and shall immediately apprise MMTC/APCPL about any fraud or suspected fraud as soon as it comes to their notice. Certificates to this effect shall be furnished by the bidder as per Annexure-L along with his bid. If in terms of above policy, it is established that the bidders/his representative have committed any fraud while competing for this contract, then the bid security of the bidder will be forfeited.

15.0 SUBMISSION OF BIDS

15.1 Sealed Bids are to be submitted in original, in envelopes as detailed herein below:

Envelope I –

- Earnest Money Deposit/ Bid Security of requisite value in the form prescribed in this document at Clause 8.0 above.
- Duly signed and stamped Integrity Pact as per Annexure - U

Envelope II –

- Certificate regarding No Deviation or Exclusion as per format at Annexure- K.
- Certificate regarding Acceptance of Fraud Prevention Policy (Annexure-L)
- Authority Letter /Power of Attorney in favour of authorized Signatory for signing the bid.
- Certificates establishing the experience as required in the tender as per clause 25 Volume – I (Annexure G, H, I, & J)
- In the event of a Joint Venture for handling, MOU/Agreement as per clause 25 Volume – I.
- Declarations / confirmations as required in the tender like;
 - Affidavit of not being black listed/With hold/Banned of business dealing by any government organization (Annexure-N)
 - Declaration to the effect that, the bidder has not offered his price directly / indirectly through any other name, firm/ corporations in this tender (Annexure-M)
- Original tender document duly stamped and signed on all pages as a token of acceptance to all terms and conditions.

Envelope III –

This envelop shall contain the following:

- Unconditional Bid Submission Form (Annexure-R)
- Bank Account Details Form (Annexure-Q)
- Price Schedule (Annexure-S)
- Declaration of Source of Imported Coal (Annexure-V)

- Name of the Overseas Supplier

15.2 The above said Envelopes Nos. I, II & III will be kept in an outer envelope, which shall be sealed and super scribed with Bidder's name, Invitation For Bid Reference No., Due date of Opening & EMD / Bid Security details and shall be addressed to following contact person only:

**GENERAL MANAGER, MMTC LIMITED,
CORE I, SCOPE COMPLEX
LODHI ROAD, NEW DELHI – 110 003**

Last date for receipt of Bids upto 1430 hrs on 23rd Dec 2014. The technical bids shall be opened on **23.12.2014 at 1500** hrs in the office of MMTC at above address.

16.0 SYSTEM OF MAKING OFFER AND ITS SUBMISSION

- (a) Bids for Supply of Imported Coal in bulk to MMTC for consumption in APCPL Jhajjar Power Station are invited in two bids system basis as Technical Bid & Price Bid.
- (b) The bidders shall submit their bids on or before the notified closing date and time fixed for the submission of the tender.
- (c) The first envelope, superscripted as 'Earnest Money Deposit', shall contain the Earnest Money Deposit and duly signed integrity pact as required in the tender.
- (d) The Second envelope superscripted as 'Technical Bid' shall contain all the documents as elaborated in clause 15.1 for technical acceptance and qualification of the bid, excluding Price Bid, duly filled in and signed by the Authorized representative of the Bidder.
- (e) The third envelope, superscripted as "Price Bid" shall contain the Price Bid as per format (Annexure-S) given in Volume – IV of the Tender document.
- (f) The above three envelopes shall be enclosed in an Overall Envelope.
- (g) At the time and date notified for opening of tenders, the first envelope comprising of the Earnest Money Deposit shall be opened. The Envelope Containing Technical bid of only those bidders will be opened who have furnished/ submitted the required Earnest Money Deposit and bids which do not contain Earnest Money Deposit will be rejected outright and Price Bid / Technical Bid Envelope of those bids will not be opened. If any of the bidders indicates the prices in Technical Bid, the bid will be rejected. However the opening of Technical Bid shall not constitute the acceptance of the Bank Guarantee submitted by the bidder towards EMD and the same shall be subject to verification.
- (h) Only those bidders who fulfill all the qualifying requirements and submit the requisite EMD will qualify for opening of the price bid.
- (i) The Bidder's Bid and the documents attached thereto shall be considered as part of the Contract Documents.
- (j) Bids must be addressed to General Manager, MMTC Limited, New Delhi.
- (k) The Overall envelope must show on the outside, the name of the Bidder and his address. In addition, the lower left-hand corner of the envelope should indicated the following :
- (l) "Tender No. MMTC/ Steam Coal/14-15/APCPL/1227 dated 01.12.2014 for supply of 1.0 MMT (+/- 10%) of imported coal" Last date for receipt of Bids upto 14.30 hrs on 23.12.2014**
- (m) Bids shall be fully in accordance with the requirement of this document and the Specifications attached thereto. Copies of appropriate specimen forms furnished with the bidding documents shall be used in quoting the prices.

- (n) All information in the bid shall be in English only; erasers and other changes shall be noted over the initials of the person signing the Bid.
- (o) The Bid must contain the name designation and place of Business of the person with Phone and Fax Nos. of persons making the bid and must be signed and sealed by the Bidder with his usual signature.
- (p) In case of bids by corporations/companies, the President, Secretary or any other person or persons authorized to bind the Corporation/ Company in the matter, must sign the bids.
- (q) Each page has to be signed.
- (r) The Bidder may arrange to drop the sealed Bid in the Tender Box placed at Coal & Hydrocarbon Division, 7th Floor, MMTC Limited, Core I, SCOPE Complex, New Delhi on or before the Bid receipt date and time.
- (s) Any Bid received after the Bid submission Schedule, stipulated in Invitation for Bid shall not be considered.
- (t) The Bidders are required to submit their bid as per Bid Submission Schedule stipulated in the Invitation for Bid issued along with the Bidding Documents. The Bidder(s) may arrange to hand deliver the sealed Bid at above address on or before the Bid Receipt date and time and arrange to drop the sealed bid in the Tender Box before bid receipt date and time. Any bid received by Post/Courier/fax/electronic mode, etc will not be entertained.
- (u) Original tender document purchased from MMTC is to be signed on all pages and submitted alongwith the bid as a token of acceptance of terms and conditions.

17.0 BID OPENING AND EVALUATION

The Bids shall be opened on the specified date and time at the place mentioned above at clause 15.2 and indicated in the Invitation for Bid, in the presence of Bidder's authorized representative who choose to attend the opening. The bids received and accepted will be evaluated by MMTC to ascertain the technically & commercially responsiveness as per the requirement of the bidding documents and Evaluation Criteria specified in the Bidding Documents.

The bids shall be opened in 2 stages. In the first stage, Envelope No. I and Envelope No. II, as contained in Clause 15 shall be opened in order of the number. Only those bidders who are eligible by fulfilling the laid down criteria of the relevant stage of the bid will be eligible to attend further proceedings of the bid evaluation. In other words those representatives whose bids are found to be incomplete at any stage of bid evaluation may not be allowed to continue in the proceedings.

The bidders found successful in Technical Evaluation shall be notified for opening of the price bids and their authorized representatives may attend the price bid opening.

18.0 PRELIMINARY EXAMINATION OF BID

MMTC will examine the Bids to determine whether the same are complete, whether any computational errors have been made, whether required documents have been furnished, whether the documents have been properly signed and whether the Bids are generally in order.

Arithmetical errors, if any, will be rectified on the following basis:

If there is discrepancy between the unit price and the total price, which is obtained by multiplying the unit price and quantity, or between subtotals and the total price, the unit or subtotal price shall prevail, and the total price shall be corrected accordingly. If there is a discrepancy between words and figures, the amount in words

will prevail. If the Bidder does not accept the correction of errors, its Bid will be rejected and the Bid Security /EMD may be forfeited.

The MMTC may waive any minor informality, nonconformity, or irregularity in a bid that does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any Bidder.

Prior to the detailed evaluation, MMTC will determine whether each bid is of acceptable quality, is complete, and is substantially responsive to the Bidding Documents.

19.0 DETAILED EVALUATION

MMTC will carry out a detailed evaluation of the responsive bids, in order to determine whether the various aspects in accordance with the Technical and Commercial aspects are in accordance with the requirements set forth in the Bidding documents. If a Bid is found to be non-responsive, it shall be liable for rejection by MMTC. The evaluation shall be based on the evaluated cost of completing the contract in compliance with all commercial, contractual and technical obligations under this Bidding Document.

20.0 EVALUATION & AWARD CRITERIA

Bidders should make themselves aware of various costs involved in delivering imported coal to APCPL, Jhajjar. They must also make themselves fully aware of all details and/or constraints including the railway evacuation plan / availability of rakes in delivery of imported coal to the plant. The bidders have to quote their prices as per the format provided in Volume– IV of Tender Documents.

The bidders have to quote price for supply of imported coal, per format at **Annexure-S** of the tender document. The range for specifications of coal has been specified. Further the prices are linked to CERC Composite Index or ICI 3 indices as has been specified clause 5, Volume-III and Annexure-A, Volume-IV. The bidder should quote prices based on Guaranteed Parameters specified in Clause 4, Volume-III and Annexure-B.

For evaluation purpose, Prices offered by the bidders shall be evaluated on basic custom duty @ 2.5% and CVD @ 2% as indicated in price schedule.

The successful bidder shall be determined basis the lowest price offered by the bidder for delivery of coal at APCPL's IGSTPP Jhajjar.

Conversion to Single Currency

To facilitate evaluation and comparison the MMTC will convert all bids prices, to Indian Rupees, as applicable, as per the following

Source of exchange rates: Published by Reserve Bank of India

Date of exchange rate: Seven days prior to date of opening of (Techno commercial) Bids. (e.g. for date of opening as 16.12.2014, date of exchange rate shall be 09.12.2014).

21.0 LETTER OF INTENT & AGREEMENT

Prior to the expiry of the period of bid validity, MMTC will notify the Successful Bidder in writing through Letter of Intent (LOI) sent by registered post, or through

courier or by telefax, that its bid has been accepted. Issuance of Letter of Intent, along with signing of Agreement with the Successful bidder subsequently, as per Clause 24 Volume - III, only will constitute the formation of the contract.

22.0 PERFORMANCE GUARANTEE

Within Ten (10) working days of issuance of Letter of Intent, the Successful Bidder(s) shall furnish the Performance Guarantee, as detailed at clause 18 of Volume III of bidding documents. Performance Guarantee shall be valid for 6 months beyond the expiry of validity of Agreement.

23.0 AUTHORISED REPRESENTATIVES

Any action required or permitted to be taken, and any document required or permitted to be executed, under the Contract, by MMTC or the Bidder shall be taken or executed by the officials authorized for the purpose.

24.0 OBLIGATIONS OF THE SUCCESSFUL BIDDER

The Successful Bidder(s) shall perform the work and carry out their obligations as per Scope of Work and terms and conditions defined in the Tender Document or Contract / Agreement with all due diligence, efficiency, and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advance technology and safe methods. The Bidder shall always act, in respect of any matter relating to the Contract or to the Work, as sincere advisers to MMTC and shall at all times support and safeguard MMTC's legitimate interests.

The supply of imported coal against this tender is for the IGSTPP Jhajjar of APCPL, which is very critical and vital. Hence the bidder shall make himself / itself, well conversant to all the costs / financial exposure involved and all the operational matters involved to supply the imported coal as per the requirement. Neither MMTC LIMITED nor its customer M/s APCPL will be responsible at any point of time for any costs incurred by the bidder towards fulfillment of the contractual conditions.

The import under this tender will be on CIF basis and accordingly in compliance with government guidelines a No Objection Certificate (NOC) is required to be obtained from TRANSCART (Ministry of Shipping, Government of India). The successful bidder shall provide requisite documents and information as may be required by TRANSCART for issuing NOC. Cost, if any, charged by TRANSCART in issuance of NOC and all implications for any delay or refusal in issuance of NOC shall be to the account of the successful bidder.

25.0 QUALIFYING REQUIREMENT

The Bidder can be an individual firm meeting the qualifying requirements stipulated hereunder as per Clauses A and B;

OR

The Bidder can be a Consortium of maximum three (03) firms meeting the qualifying requirements stipulated hereunder as per Clauses A and B collectively. Each partner of Consortium shall meet at least 25% of Technical Criteria Requirement mentioned at Clause A1 or Clause A2 or at least 25% of the Financial Criteria Requirement mentioned at Clause B except for the Net worth criteria mentioned at Clause B (ii).

The Consortium shall necessarily identify one of the Partners as lead Partner who shall meet on its own at least 51% of one of the Technical Criteria mentioned at clause A1 and Clause A2 and at least 51% of Financial Criteria mentioned at Clause B except for the Net worth criteria mentioned at clause B(ii).

In case, lead partner of Consortium meets on its own, at least 51% of only one of the Technical Criteria mentioned at clause A1 or A2, then one partner other than lead partner shall have to meet at least 51 % of the remaining Technical Criteria.

A Technical Criteria for Bidder:

A1 The Bidder should have imported / exported and supplied a minimum of **0.45 MMT** of any dry bulk (solid) commodity, like Coal, Iron ore, Fertilizers, Chemicals, Cement etc. of origin other than India to any firm, directly or through PSU, in any continuous twelve (12) months in one or multiple contracts during the past three (3) years reckoned from the date of Techno Commercial bid opening.

In support of the aforesaid experience, the Bidder shall furnish:

- a) Supply Experience certificate from purchaser as per Annexure G and;
- b) Certificate in original from Statutory Auditor(s) of the Bidder as per Annexure H

AND

A2 The Bidder should have handled, including port operations and loading for dispatch through Indian Railways, a minimum of **0.45 MMT** of any dry bulk (solid) commodity, like Coal, Iron ore, Fertilizers, Chemicals, Cement etc. in India, directly or through PSU, in any continuous twelve (12) months in one or multiple contracts during the past three (3) years reckoned from the date of Techno Commercial bid opening.

In support of the aforesaid experience, the Bidder shall furnish:

- a) Handling Experience certificate from the purchaser as per Annexure-I and;
- b) Certificate in original from the Statutory Auditor(s) of the Bidder as per Annexure-J

B. Financial Criteria for Bidder:

- (i) The average annual turnover of the Bidder in the preceding three (3) financial years as on the date of Techno-Commercial bid opening should not be less than **INR 460 Crore** (Indian Rupees Four Hundred Sixty Crore Only) or in equivalent foreign currency.
- (ii) Net Worth of the Bidder as on the last date of the financial year immediately preceding the date of Techno-Commercial bid opening should not be less than 100% of its paid-up share capital.

(iii) In case the Bidder is not able to furnish its audited financial statements on standalone entity basis, the un-audited unconsolidated financial statements of the Bidder can be considered acceptable provided the Bidder further furnishes the following documents for substantiation of its qualification:

a. Copies of the un-audited unconsolidated financial statements of the Bidder along with copies of the audited consolidated financial statements of the Holding Company.

b. A certificate from the CEO/CFO of the Holding Company, as per the format enclosed in the bid documents, stating that the un-audited unconsolidated financial statements form part of the Consolidated Annual Report of the Company.

In cases where audited results for the preceding financial year as on the date of bid opening are not available, certification of the financial statements from a practicing Chartered Accountant shall also be considered acceptable.

(iv) In case a Bidder does not satisfy the financial criteria, stipulated at Para B(i) and/ or B(ii) above on its own, its Holding Company would be required to meet the stipulated turnover requirements at Para B(i) above, provided that the Net Worth of such Holding Company as on the last day of the preceding financial year is at least equal to or more than the paid up share capital of the Holding Company. In such an event, the Bidder would be required to furnish along with its bid, a Letter of Undertaking from the Holding Company, supported by Board Resolution of the Holding company, as per the format enclosed in the bid documents, pledging unconditional and irrevocable financial support for the execution of the Contract by the Bidder in case of award.

(v) The un-utilized Line of Credit for fund based and non-fund based limits with cash and bank balances including fixed deposits of the Bidder as on a date not earlier than 15 days prior to the date of bid opening, duly certified by its Bankers, should not be less than **INR 46 Crore** (Indian Rupees Forty Six Crore Only) or in equivalent foreign currency.

In case certificates from more than one bank are submitted, the certified unutilized limits shall be of the same date from all such banks.

(vi) Where another Company of the group acting as the Treasury Centre is responsible for Treasury Management of the Bidder having combined credit/guarantee limit for the whole group, the Bidder would be required to provide a Banker's certificate regarding the un-utilized line of credit for fund based and non- fund based limits together with cash and bank balances including fixed deposits available to such Treasury Centre. Further, Treasury Centre should certify that out of the aforesaid limits certified by the Bankers, the Bidder shall have access to the line of credit of a level not less than the amount specified at para B(v) above. In proof of this, the Bidder would be required to furnish along with its bid, a Letter of Undertaking from the Treasury Centre, supported by a resolution passed by the Board of Directors of the Holding Company, as per the format enclosed in the bid documents, pledging unconditional and irrevocable financial support for the execution of the Contract by the Bidder in case of award.

- (vii) In case the Bidder's unutilized line of credit for fund based and non fund based limits specified at Para B(v) above is not sufficient, a comfort letter from one of the Bankers specified in the bid documents unequivocally stating that in case the Bidder is awarded the Contract, the Bank would enhance the line of credit for fund based and non-fund based limits to a level not less than the specified amounts to the Bidder or to the Treasury Management Centre, as the case may be, shall be acceptable.
- (viii) In case of a bid submitted by a Consortium, the turnover and line of credit shall be considered on a combined manner for all the Consortium partners but the partners shall be required to meet the Net Worth criteria individually. However, in case of a Consortium of Holding Company and/or Subsidiary, the options at Para B (iii) and B (iv) are also available to the Bidder.

NOTES:

- i) Net Worth means the sum total of the paid up share capital and free reserves. Free reserve means all reserves credited out of the profits and share premium account but does not include reserves credited out of the revaluation of the assets, write back of depreciation provision and amalgamation. Further, any debit balance of Profit and Loss account and miscellaneous expenses to the extent not adjusted or written off, if any, shall be reduced from Reserves and Surplus.
- ii) Other income shall not be considered for arriving at annual turnover.
- iii) For unutilized line of credit for fund based and non fund based limits and turnover indicated in foreign currency, the exchange rate as on seven days prior to the date of bid opening shall be used.
- iv) The term 'date of bid opening' would mean the date of Techno- Commercial bid opening.
- v) A firm can be a partner in only one Consortium; bids submitted by Consortium including the same firm as partner will be rejected.
- vi) The Consortium shall necessarily identify one of the partners as lead partner.
- vii) The Consortium Bidder shall provide, along with the bid, a Consortium Agreement, as per the format enclosed in the bid documents in which the partners of the Consortium are jointly and severally liable to the Owner to perform all the contractual obligations. The Consortium Agreement shall be submitted along with the bid, failing which the Bidder shall be disqualified and his bid shall be rejected.
- viii) In case of consortium, the bid security, and in the event of award to consortium the performance Bank Guarantee shall be in the name of all the partners of the consortium.
- ix) Dry (bulk) solid commodity mentioned at A above means dry solid bulk cargo covered in Appendix 4 (page 352 to 358) of International Maritime Solid Bulk Cargoes (IMSBC) code MSC 84/24/Add.3

C. Notwithstanding anything stated above, the Owner reserves the right to assess the capabilities and capacity of the Bidder / its collaborators/associates/subsidiaries/group companies to perform the contract, should the circumstances warrant such assessment in the overall interest of the Owner.

- 25.1 The above terms and conditions shall be considered in totality and bids received without complying with the above conditions shall be summarily rejected.
- 25.2 The supply of imported coal against this tender is for IGSTPP Jhajjar of APCPL and is having a very critical nature. Hence the bidder shall make himself/itself, well conversant to all the costs/financial exposure involved and all the operational matters involved to supply the imported coal as per the requirement. Neither MMTC nor its client M/s APCPL will be at any point of time responsible for any costs incurred by the bidder for fulfillment of the contractual conditions.
- 25.3 During evaluation and comparison of bids, MMTC may, at his discretion ask the bidder for clarification on its bid. The request for clarification shall be in writing and no change in prices or substance of the bid shall be sought, offered or permitted. No post bid clarification at the initiative of the bidder shall be entertained as all such clarification would have been obtained prior to the submission of the bid.
- 25.4 The tender will be rejected during the tender opening itself if the tender is :
- i) Not submitted in prescribed form
 - ii) Not fulfilling any of the above qualifying conditions.
 - iii) Bids received from a bidder whose past performance or vendor rating is not satisfactory.
 - iv) The bidder who has been blacklisted/With Hold/Banned of business dealing by any government organization.
 - v) The bidder is not offering the required validity.
 - vi) The bidder is not accepting any conditions in the bid.
 - vii) The Bid with deviations.
 - viii) Any offer for partial/lesser quantity than specified in the tender terms.
 - ix) The bids not in conformity with MMTC's requirement as per tender terms and conditions.

VOLUME – II
CONDITIONS OF CONTRACT

1. **DEFINITIONS**

Unless the context otherwise requires, the following terms whenever used in the Contract have the following meaning:

- (a) **"Coal"** wherever used in these tender documents shall mean and include "Imported Non- Coking (steam) Coal of origin other than India".
- (b) **Contract or Agreement** means the Contract entered into between the Successful Bidder and MMTC, covering the Scope of work and terms & conditions of contract etc together with all the documents referred to therein such Contract or Agreement.
- (c) **Contract Price** means the price to be paid for the performance of the Services, subject to such additions and adjustments thereto or deductions there from, as may be made pursuant to the Contract.
- (d) **Bidder** means the party to whom the Invitation for Bid is issued and who submits its Bid.
- (e) **Successful Bidder** means the person(s) whose bid to perform the Contract or Agreement has been accepted by MMTC and is named as such in the Agreement, and includes the legal successors or permitted assigns of the Successful Bidder.
- (f) **Government** means the Government of India.
- (g) **Local Currency** means the currency of the Government of India i.e. Indian Rupees.
- (h) **Party** means MMTC or Bidder, as the case may be, and "Parties" means both of them.
- (i) **Personnel** mean persons hired by the Successful Bidder as employees and assigned to the performance of the Services or any part thereof.
- (j) **Services** means the work to be performed by the Successful Bidder pursuant to the Contract, as detailed in the Bidding Documents, Agreement or Contract.
- (k) **MT or Ton or Tonne** means Metric Tonne which is equivalent to 1000 Kg. MMT means Million Metric Tonne.
- (l) **Quarter** - A continuous period of 90 days reckoned from the day 1 shall be treated as one quarter and subsequent period of 90 days after completion of previous quarter shall be treated as following quarter.

'Day' means calendar day of the Gregorian Calendar

'Month' means calendar month of the Gregorian Calendar

'Site' means the power plant where the supplies of imported coal are to be made.

- (m) **Language** - English shall be the binding and controlling language for all matters relating to the meaning or interpretation of the Contract.

ACRONYMS of INCOTERMS: The following terms/ acronyms shall be governed by the rules prescribed in the current edition of INCOTERMS, published by the International Chamber of Commerce, 38, Cours Albert 1er, 75008, Paris, France.

EXW	Ex factory, ex works or ex warehouse
C&F	Cost & Freight
CIF	Cost, Insurance and Freight
FOR	Free On Rail
FOB	Free on Board
CFR	Cost and Freight

FAS Free Alongside Ship
ICC International Chamber of Commerce
INCOTERMS International Rules for Interpreting Trade Terms.

2. NOTICES

Any notice to be given under the Contract shall be in writing and shall be sent by personal delivery, speed post, telex, telegram, or telefax to such Party i.e. MMTC or Bidder to the address of the said party.

3. GOVERNING LAWS

The contract/Agreement shall be governed and interpreted in accordance with laws in force in India. The Courts of Delhi shall have exclusive jurisdiction in all matters arising under the contract.

4. TAXES AND DUTIES

4.1 For the purpose of the Contract, it is agreed that the Contract Price shall be based on applicable taxes and duties prevailing at the date seven days prior to the last date of submission of Techno- commercial bid. Except for total Custom Duty [i.e. Basic Customs duty, Counter Veiling Duty (CVD), Cess and surcharge if any], CST/VAT & Entry Tax, all other statutory taxes, duties & levies, Stamp duty, Service Tax, to be included in their "Price Schedule". While quoting, the Bidder is to take into account all the rules, regulations & notifications of Government of India, currently in vogue. For avoidance of doubt, it is clarified that for payment/re-imbursalment purpose, variation in Service Tax on Total Port Charges, Railway Freight and Trip Charges, if any, shall be dealt with in line with the provisions under clause 4.3.

4.2 The total Customs Duty shall be reimbursed in accordance to term of Payments to the Successful Bidder based on the rates of Basic Customs duty, CVD, Cess and surcharge etc. if any, at the rates prevailing at the time of receipt of consignment at Indian Port.

4.2.1 In the event of any variation in structure of duties and/ or concessional duties applicable in respect of supplies falling within the purview of trade agreements entered into by Government of India with the Country of origin from where the coal is being imported during performance of the Contract, the Successful Bidder shall be solely responsible for availing any such concessional duty, if the same becomes due and the impact of the same is beneficial to MMTC, irrespective of the fact that whether the Successful Bidder has considered the same in his bid or not and incase of failure to receive such benefits, the Successful Bidder shall bear the liability of differential amount for not availing such benefits and MMTC shall make recovery of such amounts from the amounts becoming due to the Successful Bidder.

In such an event, the Successful Bidder will be solely responsible in all manner including completion of formalities such as making application, documentation etc. to all concerned authorities in order to obtain concession in Customs Duty so that such benefit shall be passed on to MMTC.

4.2.2 Further, in accordance with Circular No. 41/2013- Customs, Ref. No: F.No. 354/58/2013-TRU dated 21.10.2013, issued by Tax Research Unit, Department of Revenue, Ministry of Finance, Government of India on the subject "Applicable CVD

on Steam Coal imported from Indonesia under FTA notification No. 46/2011-Customs - reg.", Bidders may note that in case of importing coal from Indonesia they shall be required to avail the concessional custom duty, provided the impact of the concessional duty is beneficial to the Owner. As per the Circular dated 21.10.2013 the prevailing Basic Customs Duty (BCD) @ 'Nil' and corresponding Counter veiling Duty (CVD) @ 2% (two percent) are applicable and same shall be considered for the payment/ reimbursement of customs duty.

For avoidance of doubt, it is clarified that for payment/reimbursement of Customs Duty/CVD, Cess etc shall be dealt in line with the provisions brought out at clause 4.2, 4.2.1, 4.2.2, read in conjunction with 4.3.

4.2.3 CST/VAT & Entry Tax shall be payable at actual.

4.3 If any rates of Tax and Duties are increased or decreased, a new Tax / Duty is introduced, an existing Tax / Duty is abolished, or any change in interpretation or application of any Tax / Duties occurs in the course of the performance of Contract, which was or will be assessed on the Successful Bidder in connection with performance of the Contract, an equitable adjustment of the Contract price shall be made to fully take into account any such change by addition to the Contract Price or deduction there from, as the case may be.

4.4 For the purpose of payment/reimbursement to the Successful Bidder on account of Taxes, duties & levies (Custom Duty, CST/ VAT & Entry Tax), the impact of Indexation on C&F Coal Price on "Component of Price Sheet", on which Taxes/Duties/Levies are leviable shall be considered.

4.5 The total Customs Duty including Basic Customs duty, CVD, Cess and surcharge etc. if any, shall be reimbursable, as detailed hereinabove at Para 4.2, upon submission of documentary evidence. Further, notwithstanding the aforesaid, any increase in Customs duty including Basic Customs duty, CVD, Cess and surcharge etc. if any, Service Tax etc. included in the Contract Price and Sales tax/ VAT, Entry tax shall not be payable or reimbursable, if such increase is on account of delayed delivery by the Successful Bidder.

4.6 Entry Tax: The applicable Entry Tax, leviable by the State Govt. on the Imported coal shall be paid directly by MMTC/APCPL to the concerned State Tax Authorities, unless otherwise required by the prevailing laws/Act/ Notification. In the eventuality of Entry tax to be paid directly by the Successful Bidder to the concerned State Tax authorities, the same shall be paid by the Successful Bidder and the amount shall be reimbursed/ adjusted by MMTC/APCPL.

4.7 CST/VAT: The applicable CST/VAT, applicable on the imported coal shall be paid directly by MMTC to the concerned tax Authorities. However, any liability of account of CST/VAT due to delayed delivery of the Successful Bidder or otherwise shall be the liability of the Successful Bidder.

4.8 Any refunds received by Successful Bidder on any of these accounts from concerned authorities shall be passed on by Successful Bidder to MMTC within three (3) working days of receipt of such refunds.

The Bidder and their personnel shall pay such taxes, duties, levies, fees and other impositions as may be levied under the Applicable Law, the amount of which is deemed to have been included in the Bid Price.

Further all levies and duties payable under subject package shall be the liability of the Bidder.

MMTC shall be authorized to deduct applicable tax at source from the Successful Bidder's payment becoming due.

The successful bidder shall be required to submit the PAN details to the MMTC before the submission of the first bill.

In case of Bidder availing concessional rate of Customs duty, as applicable for supplies from ASEAN countries, the Bidder shall quote the Custom Duty accordingly.

5. EFFECTIVENESS, COMMENCEMENT AND MODIFICATION OF CONTRACT

Effectiveness of Contract: The Contract/Agreement shall come into force with effect from the date of signing of the Agreement.

Commencement of Services: The Successful Bidder shall begin carrying out the Services immediately after the date of Agreement becomes effective.

Modification: Modification of the terms and conditions of the Contract, including any modification of the Scope of work or of the Contract Price may only be made by written Agreement between the parties.

6. PAYMENTS TO THE SUCCESSFUL BIDDER

6.1 Payment will be made to the account of the Successful Bidder only after the same is received from MMTC's client i.e. APCPL, according to the payment terms stated at Clause 9, 10 & 11 of Volume III, based on the certification of Engineer-in-Charge at IGSTPP, Jhajjar. The payments shall be processed by respective MMTC office after the conditions listed for such payment have been met, and the Successful Bidder has submitted an invoice to respective MMTC Regional office specifying the amount due.

6.2 Bidder shall furnish the details of Bank Account in a prescribed format (Annexure-Q) along with the Bid in order to facilitate the MMTC to release payments electronically through Electronic Fund Transfer System, wherever technically feasible. These payments shall be made electronically only as per details of bank Account indicated in the contract, wherever technically feasible. In case of any changes to the bank account indicated in the Bidding documents, the Bidder shall immediately inform MMTC. The Bidder shall hold MMTC harmless and MMTC shall not be liable for any direct, indirect or consequential loss or damage sustained by the Bidder on account of any error in the information or change in bank details provided to MMTC in the prescribed form without intimation to MMTC duly acknowledged.

6.3 Further, at the time of release of payment towards C&F value, successful Bidder shall furnish 'Trust Deed' as per MMTC's format for acting as Trustees of MMTC for handling the imported coal cargo

6.4 Also, Successful Bidder shall ensure that every Bill of Lading is prepared with notify party as "MMTC Limited cargo A/C APCPL", or as advised by MMTC.

6.5 Successful Bidder shall furnish a letter of undertaking that the tenderer shall keep the entire material in trust for MMTC at the designated yard.

- 6.6 An Indemnity Bond indemnifying MMTC against any loss or shortage of material including losses/shortages incurred during discharge, intercarting, transportation;
- 6.7 Performance Bank Guarantee as per Annexure-E.
- 6.8 The bidder should note that the payment shall be released only after receipt of same from APCPL.
- 6.9 MMTC's customer, APCPL, shall make CIF payment in INR. MMTC, however, shall remit the payment of CIF value of coal to Successful Bidder in USD. There may be some shortfall or excess amount payable in USD owing to difference in exchange rate at which MMTC receives the payment from APCPL and remits the payment to Successful Bidder. The shortfall/excess on account of such variation and the differences shall be settled through credit note or debit note of appropriate value on vessel to vessel basis or at the end of contract while remitting payment for the last shipment.
- 6.10 Payment to successful bidder shall become due to the extent realized by MMTC from APCPL and will be made to the successful bidder upon receipt of clean and unqualified payment by MMTC from APCPL on due basis.

7. SUSPENSION OF OBLIGATIONS

The obligation stipulated in the bidding documents can only be suspended in the case of any particular item of work, in the event of Force Majeure as defined in Clause 8.0 below or as the result of an Agreement between the parties. In the event of Force Majeure, neither of the parties may be considered in default of its obligations under the terms of the Contract/Agreement.

8. FORCE MAJEURE

Force Majeure is herein defined as any cause which is beyond the control of either party to the Agreement as the case may be, which they could not foresee or with a reasonable amount of diligence could not have foreseen or which when foreseen could not have prevented and which materially and adversely affected the performance by either party (the Affected Party) of its obligation under the Agreement such as but not limited to:

- (a) Act of God, natural phenomena including but not limited to floods, droughts, earthquakes epidemics, lightening and cyclone;
- (b) Acts of any Government (domestic or foreign) including but not limited to war, declared or undeclared, hostilities, priorities, quarantines, embargoes;
- (c) Civil disturbances including riot, civil commotion, sabotage or terrorism; revolution, rebellion, insurrection;
- (d) Strikes and lock outs.

Burden of Proof: The burden of proof as to whether a Force Majeure event has occurred shall be upon the party claiming the Force Majeure event.

If operation of such circumstances exceed three months, either party will have the right to refuse further performance of the agreement, in which case, neither party shall have the right to claim eventual damages.

The party, which is unable to fulfill its obligations under this agreement, shall within 15 days of occurrence of any of the causes mentioned in this clause shall inform the other party in writing of the existence or termination of the circumstances preventing the performance of the contract. Certificate issued by Chamber of Commerce or any other competent authority connected with the case in the country of Successful Bidders or the buyers shall be sufficient proof of the existence of the above circumstances and their duration. The contract shall be

deemed to have been cancelled either partially or wholly, without any compensation to either party.

9. HANDLING OF DOCUMENTS / CONFIDENTIALITY

- 9.1 All documents, data and specifications etc prepared by the Successful Bidder in connection with the services to be provided by the Successful Bidder shall be property of MMTC. This stipulation applies to them and shall continue to apply even after the execution of such work(s) under the Contract. As and when required before final acceptance of work or upon termination of the Contract, the aforesaid documents, data and specifications etc. prepared specifically for this engagement (including originals) shall be handed over to MMTC.
- 9.2 The Successful Bidder shall take all necessary steps to ensure confidential handling of all information received, developed or acquired by them from MMTC under terms of the Contract or in performance thereof.
- 9.3 The Successful Bidder shall not prepare articles or photographs for publication or speeches about the work and/or plant and installation in which APCPL/MMTC has an interest without prior written consent of MMTC.
- 9.4 The Successful Bidder shall take necessary steps to ensure that all persons employed on any work in connection with this engagement are fully aware that the Indian Official Secrets Act 1923 (XIX of 1923) applies to them and shall continue to apply even after execution of such works under contract.

10. SUCCESSFUL BIDDER RESPONSIBILITIES

The Successful Bidder shall conduct all Contracted activities with due care and diligence, in accordance with the Contract and with the skill and care expected of a competent provider of services, or in accordance with best industry practices.

The Successful Bidder shall be responsible for timely provision of all resources, information, and decision making under its control that are necessary for execution of the assignment.

The Successful Bidder shall acquire in its name all permits, approvals, and/or licenses from all local, state, or national government authorities or public service undertakings that are necessary for the performance of the Contract.

The Successful Bidder shall comply with all laws in force in India. The laws will include all national, provincial, municipal, or other laws that affect the performance of the Contract and are binding upon the Successful Bidder. The Successful Bidder shall indemnify and hold MMTC and its customer APCPL harmless from and against any and all liabilities, damages, claims, fines, penalties, and expenses of whatever nature arising or resulting from the violation of such laws by the Successful Bidder or its personnel and from any illegal use of any resources by the Successful Bidder.

In particular, the Successful Bidder shall provide and employ only such personnel who are skilled and experienced in their respective areas and supervisory staff who are competent to adequately supervise the work at hand.

The Successful Bidder assumes primary responsibility for all the jobs for the execution of the contract in accordance with relevant provisions in Volume III of this Bidding document.

11. CHANGE IN LAW

If, after the date seven (7) days prior to the date of Bid submission, in the country where the Site is located, any law, regulation, ordinance, order or by-law having the force of law is enacted, promulgated, abrogated or changed (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the costs and expenses of the Successful Bidder and/or the supply period, the Contract Price shall be correspondingly increased or decreased, and/or the supply period shall be reasonably adjusted to the extent that the Successful Bidder has thereby been affected in the performance of any of its obligations under the Contract. However, these adjustments would be restricted to direct transactions between MMTC and the Successful Bidder.

12. NO WAIVER OF RIGHTS

Neither the inspection by MMTC/APCPL or any of their agents nor any order by MMTC/APCPL for payment of money or any payment for or acceptance of, the whole or any part of the Works by MMTC/ APCPL, nor any extension of time, nor any possession taken by MMTC/APCPL shall operate as a waiver of any provision of the Contract, or of any power reserved to MMTC/APCPL, or any right to damages herein provided, nor shall any waiver of any breach in the Contract be held to be a waiver of any other or subsequent breach.

13. CERTIFICATE NOT TO AFFECT RIGHT OF MMTC AND LIABILITY OF SUCCESSFUL BIDDER

Neither the payment made by MMTC nor any extension of time for execution of the Works granted by MMTC shall affect or prejudice the rights of MMTC against the Successful Bidder or relieve the Successful Bidder of his obligations for the due performance of the Contract, or be interpreted as approval of the Works done or discharge the liability of the Successful Bidder for the payment of damages whether due, ascertained, or certified or not, or any sum against the payment of which they are bound to indemnify MMTC, nor the acceptance by them of any sum paid affect or prejudice the rights of the Successful Bidder against MMTC.

14. GRAFTS, COMMISSIONS, GIFTS ETC

Any graft, commission, gift or advantage given, promised or offered by or on behalf of the Successful Bidder or their partner, agent, officers, director, employee or servant or any one on their behalf in relation to the obtaining or to the execution of this or any other Contract with MMTC, shall, in addition to any criminal liability which it may incur, subject the Successful Bidder to the cancellation of this and all other contracts and also to payment of any loss or damage to MMTC resulting from any cancellation. MMTC shall then be entitled to deduct the amount so payable from any monies otherwise due to the Successful Bidder under the Contract.

15. ENFORCEMENT OF TERMS

The failure of either party to enforce at any time any of the provisions of the Contract or any rights in respect thereto or to exercise any option here in provided, shall in no way be construed to be a waiver of such provisions, rights or options or in any way to affect the validity of the Contract. The exercise by either party of any of its rights herein shall not preclude or prejudice either party from exercising the same or any other right it may have.

16. SUSPENSION OF WORK

MMTC reserves the right to suspend and reinstate execution of the whole or any part of the Works without invalidating the provisions of the Contract. Orders for suspension or reinstatement of the Works will be issued by the authorized officer of MMTC or its nominee from time to time to the Successful Bidder in writing. The time for completion of the Works will be extended for a period equal to duration of the suspension. MMTC shall not be responsible for any liability on this/or any other account.

17. LIMITATION OF LIABILITY

Except in cases of criminal negligence or willful misconduct,

- 17.1 the Successful Bidder shall not be liable to MMTC/APCPL, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Successful Bidder to pay liquidated damages to MMTC/APCPL and
- 17.2 the aggregate liability of the Successful Bidder to MMTC/APCPL, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to any obligation of the Successful Bidder to indemnify MMTC/APCPL with respect to patent infringement.

18. DEFENSE OF SUITS

If any action in court is brought against MMTC and / or APCPL for the failure or neglect on the part of the Successful Bidder to perform any acts, matter, covenants or things under the Contract, or any damage or injury caused by the alleged omission or negligence on the part of the Successful Bidder, their agents, representatives or their Sub Contractors, Suppliers or employees, the Successful Bidder shall in all such cases indemnify and keep MMTC and/or APCPL or their representatives, harmless from all losses, damages, expenses or decrees arising of such action.

19. JURISDICTION

The courts in Delhi shall have the exclusive jurisdiction in matters arising under the Contract.

Volume – III

Technical Specifications

TECHNICAL SPECIFICATIONS

1. INTRODUCTION

Our client, Aravali Power Company Private Limited, a Joint Venture Company of NTPC, HPGCL & IPGCL (hereinafter referred to as APCPL) have requirement of 1.0 MMT (+/- 10%) imported Steam Coal on "FOR Destination" basis at IGSTPP Jhajjar through Indian Ports. MMTC, therefore, intends to engage a supplier for the procurement of imported coal for APCPL's power station with detailed Technical Specifications including Scope of Work and terms and conditions contained in this bidding document. Total quantity of imported coal shall be delivered to IGSTPP in 5 (five) months period, as per delivery schedule to be given to the Successful Bidder by MMTC.

2. SCOPE OF WORK

Bidders shall declare the coal mine(s) outside India as per Annexure- V from where they are intending to supply coal as per specification, as per format enclosed in the bidding documents the Successful Bidder shall supply imported steam coal sourced from identified mine(s) as declared by him at Indian Ports, arranging vessels, stevedoring, handling, storage, port clearances, arranging Railway rakes, loading, transportation and delivery at IGSTPP Jharli, district Jhajjar, Haryana. All other activities for clearing and forwarding of the consignments like customs clearance, coordination with Port, Railways and any statutory authorities shall also be part of Scope of Work of bidder. All liasioning, coordination at load port, discharge port, Railways, Handling agents etc. shall also be part of Scope of Work of bidder. Unloading of Coal at Power Station end from Railway Wagons shall be arranged by APCPL.

The successful bidder(s) shall have to arrange for requisite plots at port in MMTC's name for storage of coal imported by MMTC. The successful bidder shall be responsible and liable for all berthing delays arising out of non-availability of adequate plots at port or port congestion. MMTC in no circumstances shall be responsible for such delay and/or be liable for any claim on such account. Also the successful bidder shall not hold MMTC responsible for any berthing delays under any circumstances.

The successful bidder shall alone be responsible for watch and ward of the coal stock at such plots at port. They shall be responsible for preventing theft of cargo, quality deterioration for any reason including due to mixing of cargo with inferior coal, extraneous material, etc. All costs and penalties arising out of such happenings shall be borne by and to the account of successful bidder.

3. QUANTITY

- A. The Successful Bidder shall supply 1.0 MMT (+/- 10%) of imported Steam Coal on "FOR Destination" basis at IGSTPP Jharli, District Jhajjar, Haryana through various discharge ports in India. The supply shall start as per Delivery schedule to be given to the Successful bidder(s) by MMTC/IGSTPP. Delivery schedule may be extended by three months at the sole discretion of APCPL.
- B. The Successful Bidder shall arrange vessels in suitable sizes to deliver a total quantity of 1.0 MMT (+/- 10%) Imported Steam Coal. The shipments shall be evenly distributed over the schedule furnished by IGSTPP or as advised by MMTC at its sole discretion with provisions for ordering preponement of supplies of the contracted quantities of Imported Steam Coal. The successful bidder shall import this coal through various discharge ports in India, however, MMTC/APCPL shall make payments based on the rates quoted by the bidder, except for the Railway freight and trip charges, if any. Railway freight and Trip charges will be payable as per Clause 5 (viii).

- C. MMTC will furnish to the Successful Bidder a schedule of quantity with a tentative month-wise breakup proposed to be delivered at power station of APCPL.
- D. "MMTC reserves the right for pre-pone/post-pone/divert the scheduled deliveries. However, MMTC shall provide notice of at-least 25 days for any such pre-ponement/post-ponement of deliveries. The other provisions, terms & conditions of the Agreement and Suppliers obligations shall, however, remain unaltered".
- E. APCPL may provide schedule for supply for specific periods i.e. monthly/quarterly, etc. MMTC shall provide schedule and dispatch instructions on receipt of same from APCPL.
- F. MMTC may change the delivery schedule and final destination, at its sole discretion as well as on account of any changes made by APCPL. The successful bidder(s) shall have no objection or reservations, claim of any nature whatsoever on MMTC/APCPL for such changes in schedule.
- G. The first consignment is to reach IGSTPP Jhajjar within thirty (30) days of Agreement or as advised by MMTC and the subsequent deliveries as per schedule to be furnished by MMTC on receipt of the same from APCPL.
- H. The total quantity shall be subject to a variation of +/- 10% at the discretion of APCPL/MMTC.
- I. Net adjusted quantity to be supplied to IGSTPP shall be within +/- 10% of allocated quantity.
- J. Under exceptional circumstances , MMTC reserves the right to award bare minimum quantity required to meet the essential operations of its client APCPL.

4. SPECIFICATIONS OF COAL

The Coal to be imported will be as per specifications furnished in **Annexure-B** of Vol. IV of bidding documents. The Coal of specifications beyond specified range of the technical parameters shall not be loaded in the vessel at the load port. The coal of specification beyond the specified range of technical parameters as per the specifications shall be liable for rejection by MMTC/APCPL.

The imported coal to be supplied under this tender could be of any origin except India. Further APCPL has specified range for each parameter of coal and also linked the FOB prices to CERC index as well as Indonesian Coal index ICI 3 (5000 Kcal/kg GAR) as detailed in Pricing Methodology. Base parameters for price basis shall be as under:

Total Moisture (ARB)	: 25%
Ash (ADB)	: 15%
Sulphur (ADB)	: 0.90%
Gross Calorific Value (ADB)	: 5700 Kcal/Kg
Size(less than 2.36 mm)	: Not exceeding 25% of quantity received at power plant

5. PRICES & PRICING METHODOLOGY

Base C&F price of the imported coal is to be quoted in two components of FOB Coal Price & Ocean Freight upto respective Indian port. Base FOB Coal Price & Ocean Freight quoted shall be subject to variations for payment purposes, considering the specified indices on base date and weekly basis based on indexation; as per following methodologies and further detailed in Annexure-A:

A.1 FOB Coal Price

- i. For coal imported from Indonesia – Indonesian Coal index ICI 3 , elaborated in the Pricing Methodology

- ii. For coal imported from other countries- CERC methodology, elaborated in the Pricing Methodology

For the purpose of payment, the lower of the prices worked out based on the above two methodologies, i.e. A.1 (i) & A.1 (ii), shall be considered. Further, the indices as on base date are to be quoted upfront, along with the name of the Indices & details of publication, for both the methodologies above.

A.2 Ocean Freight

- i) CERC Methodology, elaborated in the Pricing Methodology including Indexation.

The indices as on base date are to be quoted upfront, along with name of the Indices & the details of publication for the methodology at A.2 (i) above.

A.3 Total C&F Coal Price

Total C&F Coal Price for the purpose of payment shall be the sum of the FOB Coal Price and Ocean Freight, worked out as above.

iii) The other component of price i.e. Stevedoring & Handling and all other charges shall be as follows:

Other components of Total Price like Port charges including Wharfage, Stamp Duty, Pollution Cess , terminal Charges, Wagon Haulage, Siding Charges, Stevedoring, Handling, Clearing & Forwarding Charges , Insurance Charges etc. shall be included in the bid price and shall remain firm during the currency of the contract. For avoidance of doubt, it is clarified that for payment /reimbursement purpose , variation in Service Tax on Total Port Charges shall be dealt with in line with the provisions under clause 4.3 Vol-II

- iv) The price of Coal to be supplied shall comprise of C&F Coal Price arrived at based on the concept and formulae for arriving at price for supply of imported coal to APCPL, linking the FOB Coal Price & Ocean Freight as per Pricing Methodology including Indexation, detailed in Annexure-A. The price, arrived at as per Pricing Methodology, will be with respect to guaranteed parameters specified in the document and it shall be ensured that the quality is within the range specified in the document. The C&F price, arrived at as detailed in the Pricing Methodology at Annexure-A, is convertible to Indian Rupees as per the reference exchange rate prevailing on the date of BL.
- v) Bidder should ensure that bid price is based on taxes and duties prevailing at the date seven days prior to the last date of bid submission. Except for total Custom Duty [i.e. Basic Custom Duty, CVD, Cess and Surcharge if any],CST/VAT & Entry Tax, Bidder shall include all other statutory taxes , duties & levies, stamp duty, Service Tax, in their Price Bid. While quoting , the bidder is to take into account all the rules, regulations & notifications of Government of India, currently in vogue. For avoidance of doubt, it is clarified that for payment/reimbursement purpose, variation in Service Tax on Total Port Charges, Railway Freight and Trip Charges, if any, shall be dealt with in line with the provisions under clause 4.3 Vol-II
- vi) For the purpose of payment / reimbursement to the bidder on account of

- taxes, duties and levies (Customs Duty, CST/VAT and Entry tax) , the impact of indexation of C&F coal price shall be considered.
- vii) The Successful Bidder has to ensure that there is no under loading of wagons. However, in case of under loading, the charges on proportionate basis shall be recovered from the Successful Bidder's dues. All other charges like Demurrage/ Dispatch, Wharfage, Overloading/Under loading charges etc. as applicable for Ports and Railways shall be to the account of Successful Bidder. Any delay/ detention charges of Rakes at IGSTPP Jhajjar shall be to the account of APCPL.
 - viii) Railway freight and Trip charges will be payable as per actuals, limited to the quoted charges. However, variation in railway freight tariff , if any, shall be dealt for the purpose of payment / adjustment as follows :

The bidders to quote basis the railway freight prevailing as on 7 (seven) days prior to bid submission date. An equitable adjustment shall be made on the variation in railway freight on account of any change in tariff by railways. It is clarified that for payment /re-imbusement purpose, variation in Service Tax on Railway freight and Trip Charges, if any, shall be dealt with in line with the provisions under clause 4.3 Vol-II

- xi). All elements of Price including C&F Coal price, Customs Duty, CVD, Cess & surcharge, if any, Port & handling charges, CST/VAT etc. shall be based on received and adjusted Net Quantity at APCPL, Power Plant. The payments made shall be reconciled and settled during the joint monthly reconciliation.

6. QUANTITY DETERMINATION

- i) Net Adjusted Quantity of coal received at APCPL Jhajjar Power Station, i.e. quantity worked out after carrying out adjustments due to quality variations with respect to the guaranteed parameters, if any, (as per Clause 8), will be final for the purpose of assessment of executed quantity and payment.
- ii) Quantity determination of imported coal shall be at APCPL Jhajjar Power Station, subject to adjustment due to variations over the quality parameters (as per Clause 8), if any and payments thereof shall be based on such determination at Power Station.
- iii) The Coal delivered shall be weighed at IGSTPP Jhajjar. The weight recorded by the system at IGSTPP Jhajjar having an electronic print-out facility shall be taken as final after consideration of empty rake weight. For measuring the empty rake weight, tare weight of each wagon shall be taken. In case Weigh Bridge at IGSTPP Jhajjar is out of order, weight as determined by Railways Weigh Bridge at near by station shall be final for determining the weight at IGSTPP Jhajjar. If rake weight can not be determined by the above two process, actual RR weight will be considered as final for determination of quantity at IGSTPP Jhajjar.
- iv) The coal will be measured/ weighed rake-wise/wagon-wise for the determination of quantity. In case of partial weighing of rake, the weight of un-weighed wagons shall be considered as per the nearest railway weighbridge/ RR weight as described above. The quantity so determined shall also be subjected to adjustment due to quality variations.
- v) It will be the responsibility of the Successful Bidder to inform the rake arrival time at power station well in advance.
- vi) It shall be responsibility of the successful bidder to dispatch rakes under clear identification tags and distinct identification should appear in all documents so that the rake at the destination can be identified. No claim on MMTC/APCPL can

be made or be admissible if there is any error in determination of weighted average quality parameters due to erroneous or non-identification of rakes at power station.

- vii) The successful bidder shall ensure that imported coal rakes are delivered to IGSTPP Jhajjar only. In case the rakes are diverted by Railways, for any reason(s), beyond the control of the Successful Bidder, Successful Bidder shall furnish advance intimation and RR and other necessary details to IGSTPP Jhajjar immediately on diversion of rake.
- viii) The Successful Bidder has to ensure that there is no under loading of wagons. However, in case of under loading, the charges on proportionate basis shall be recovered from the Successful Bidder's dues. All other charges like Demurrage/Dispatch, Wharfage, Overloading/underloading charges etc. as applicable for Ports and railways shall be to the account of Successful Bidder. Any delay/detention charges of Rakes at APCPL power station shall be to the account of APCPL/MMTC.

7. QUALITY INSPECTION

Quality determination of imported coal shall be done at Load Port, Discharge port and at IGSTPP. However Quality of coal will be final based on the Inspection results of the samples taken at IGSTPP Jhajjar and payments thereof will be based on such determination at IGSTPP Jhajjar.

The Successful Bidder shall be responsible for draft survey, sampling and testing of coal samples at Load Port. List of agencies for Load Port is enclosed at Annexure W of Volume - IV

The Successful Bidder shall be responsible for draft survey, sampling and testing of coal samples at discharge Port. List of agencies for Discharge Port/Transfer Point is enclosed at Annexure W1 of Volume - IV

The costs towards draft survey, coal-sampling analysis and testing at various points i.e. Load Port and Discharge Port/Transfer Point shall be borne by the Successful bidder.

MMTC/APCPL either directly or through its authorized representative or through an Independent Inspection agency appointed by it at its discretion and cost can carryout random checking of the Sampling & analysis process at Load Port and/or Discharge Port and validate the quantity and quality parameters established by Successful Bidder as above.

i) Sampling and Testing of coal samples drawn at Load Port/ Discharge Port:

Coal samples at Load Port and Discharge Port shall be drawn, prepared and analyzed in accordance with relevant ASTM Standards.

ii) Sampling and Testing of coal samples drawn at IGSTPP end:

The sample of imported coal and testing shall be carried out as per the relevant ASTM (ASTM D3175, D3302 M-10, D3174-04).

Sampling Guidelines:

The sample should be representative sample, means it should have coal of all sizes (small, medium, large), all grades (dull, shine) etc. The collected sample should represent the wagon,

rake.

The sample quantity of 3-4 Kg is to be collected from every 3rd wagon of a rake but it should be in random. The randomness can be achieved by following:

With the sample to be collected from every 3rd wagon, one can have 3- set of option in each rake, either start the collecting sample from-1st wagon or 2nd wagon or 3rd wagon. This can be decided by drawing of chit containing the wagon no 1,4,7,10,13----- or 2,5,8,11,14----- or 3,6,9,12,15,18----- on arrival of wagon at **IGSTPP**.

Coal samples at IGSTPP end, shall be drawn from each rake/ barge and prepared for analysis by IGSTPP or Independent Inspection Agency (IIAN) appointed by IGSTPP, in the presence of Successful Bidder in accordance with the relevant ASTM Standards. In case the Successful Bidder is not getting involved, while collecting of coal sample and preparing protocol for collection of coal sample, the activity of collection of coal sample should be continued and in such cases the coal sample collected by APCPL or IIAN shall be binding on the Successful Bidder.

Do the coning of sample, till the sample quantity is reduced to 4-5 Kg.

Eg-Suppose one collects 3 Kg sample from 18 wagons, then the total coal sample collected will be around 54 Kg.

Prepare a cone (heap) of 54 Kg and divide the cone from top to bottom and remove the half portion (left or right). Further, prepare the cone for remaining 27 Kg of coal and divide the heap and remove the coal of side opposite to the side of previous removal. Now, the balance available qty of coal is 13.5 Kg and continue this process till the coal sample is reduced to 4-5 Kg. Out of this one (1) sample of at least 1 Kg in weight and without grinding shall be taken by APCPL for separate testing.

Also out of coal sample which has been reduced to 4-5 Kg as above prepare three (3) samples of Coal of adequate quantity without grinding and distribute as follows:

- a. 1st sample - IGSTPP Sample for **IGSTPP or IIA_N** for analysis at their end for determination of Total moisture and Size.
- b. 2nd sample -Sample to Successful Bidder for testing at his end for determination of Total moisture and Size - this Sample should be taken by Successful Bidder through material exit gate pass from the plant.
- c. 3rd sample - Referee Sample for determination of Total moisture and Size. Such Referee Sample shall be kept under joint lock and joint custody of Successful Bidder and IGSTPP, to be used for future reference and/or testing.

For determining the Total Moisture and Size, IGSTPP or IIAN shall undertake analysis at their Laboratory immediately on receipt of imported coal. In case the analysis for Total Moisture and Size is not carried out immediately, such sample(s) shall be kept under joint lock and joint custody of IGSTPP and Successful Bidder in IGSTPP Lab till determination of Total Moisture & Size.

Successful Bidder shall analyze his coal sample for Total Moisture and Size, at the laboratory (ies) as may be identified by him.

Grind the remaining coal sample coal and sieve it.

Prepare three (3) samples of ground Coal of adequate quantity within one (1) day of its collection and distribute as follows:

- a. 1st sample – IGSTPP Sample for IGSTPP or IIA_N for analysis at their end
- b. 2nd sample -Sample to Successful Bidder for testing at his end- this Sample should be taken by Successful Bidder through material exit gate pass from the plant
- c. 3rd sample - Referee Sample. Such Referee Sample shall be kept under joint lock and joint custody of Successful Bidder and IGSTPP, to be used for future reference and/or testing.

IGSTPP or IIA_N shall analyze its portion of the coal sample, distributed as above, for the balance parameters namely Ash, GCV, Sulphur, Fixed Carbon, Volatile Matter, HGI and IDT under reducing atmosphere.

Successful Bidder shall analyze his coal, distributed as above, for the balance parameters namely Ash, GCV, Sulphur, Fixed Carbon, Volatile Matter, HGI and IDT under reducing atmosphere at the laboratory (ies) as may be identified by him.

iii) For corrections on quality variations:

For correction of GCV for landed price, Total Moisture, Ash & Size for quantity and Sulphur for penalty, test results of IGSTPP or IIA_N shall be considered and in case of any dispute, test results of referee sample, if admissible, shall be considered.

IGSTPP will submit its report to the representative of the Successful Bidder at site. In case of any dispute, due to variance in test results of Successful Bidder and IGSTPP or IIA_N beyond the limits permissible under the relevant ASTM and subsequent claim by the Successful Bidder for testing of referee sample, the report of Successful Bidder should be provided to IGSTPP within 5(five) working days after receipt of IGSTPP report by the Successful Bidder or 10(ten) working days after distribution of sample whichever is later. In such an event, Referee Sample shall be forwarded by IGSTPP to Third Party Inspection Agency nominated by IGSTPP i.e. Central Institute of Mining and Fuel Research (CIMFR). The cost of testing of the Referee Sample at CIMFR shall be borne by the Successful Bidder.

If no dispute is raised by Successful Bidder within five (5) working days after receipt of IGSTPP report by the Successful Bidder or ten (10) working days after distribution of sample whichever is later, no request for consideration of referee sample shall be accepted subsequently. In such cases, analysis report of IGSTPP shall be binding. Referee Samples shall be retained upto five (5) months from the date of start of supply as per the delivery schedule and thereafter destroyed.

8. ADJUSTMENT ON QUALITY VARIATIONS

In the event of variations over the quality parameters from base parameters, adjustments shall be carried out as per the formula provided hereinafter:

a) Total Moisture {As Received Basis (ARB)}

For correction of quantity due to Total Moisture, IGSTPP's test results at power station shall be considered and in case of any dispute, if admissible as per clause 7, test results of Third Party Inspection Agency nominated by IGSTPP/MMTC i.e. CIMFR shall be considered.

Corrections will be done as follows:

(i) For Total Moisture {As received Basis(ARB)} $25 < TM \leq 32$

Weight of Coal to be reduced (For $25 < B \leq 32$) = $A \times 1.10 \times (B - (C \times (100 - B) / (100 - C))) / 100$

(ii) For Total Moisture {As received Basis(ARB)} $TM > 32$

Weight of Coal to be reduced (For $B > 32$) = $2 \times A \times 1.10 \times (B - (C \times (100 - B) / (100 - C))) / 100$

(Where A is Coal received weight, B is percentage value of Total Moisture of coal received. C is the base parameter value of Total Moisture)

No correction shall be applied in case of decrease in Total Moisture below the base parameter value.

b) Gross Calorific Value {Air Dried Basis (ADB)}

For correction of contracted landed price, APCPL's test results at power station shall be considered and in case of any dispute, if admissible as per clause 7, test results of third party Inspection Agency nominated by MMT/PCPL i.e. CIMFR shall be considered., shall be considered.

Corrections will be done as follows:

(i) For Gross Calorific Value {Air Dried Basis (ADB)} $5700 > GCV \geq 5300$ kcal/kg

Corrected landed price (Per Metric Tonne) (for $5700 > GCV \geq 5300$) =

$$\frac{\text{(Contracted landed Price at APCPL station Per Metric Tonne)} \times \text{(GCV(ADB) at APCPL Power Station)}}{\text{(Contracted base GCV (ADB))}}$$

(ii) For Gross Calorific Value {Air Dried Basis (ADB)} $GCV < 5300$ kcal/Kg

Corrected landed price (Per Metric Tonne) (for $GCV < 5300$) =

$$A - 2 \times A \{1 - (GCV (ADB) \text{ at IGSTPP}) / (\text{Contracted base GCV (ADB)})\}$$

Where A= Contracted landed Price at IGSTPP Per metric tones.

For above calculation, Contracted landed price of coal shall imply the landed price of coal arrived at based on the Pricing Methodology at Annexure-A and shall be excluding Custom Duty, Sales tax / VAT and Entry tax.

No correction shall be applied in case of increase in measured GCV (ADB) above the base parameter value.

c) Ash Content (ADB)

For correction of quantity due to Ash, APCPL's test results at power station shall be considered and in case of any dispute, if admissible as per clause 7, test results of third party Inspection Agency nominated by IGSTPP i.e. CIMFR shall be considered

Corrections will be done as follows:

(i) For ASH {Air Dried Basis (ADB)} $15 < \text{ASH} \leq 20$

Weight of Coal to be reduced (for $15 < \text{ASH} \leq 20$) = $A \times 1.05 \times [B - \{C \times (100-B)/(100-C)\}]/100$

(ii) For ASH {Air Dried Basis(ADB)} $\text{ASH} > 20$

Weight of Coal to be reduced ($\text{ASH} > 20$) = $2 \times A \times 1.05 \times [B - \{C \times (100-B)/(100-C)\}]/100$

(Where A is Coal received weight, B is percentage value of Ash in coal received, C is the base parameter value of Ash)

No Correction shall be applied in case of decrease in ash content below the base parameter value.

d) Sulphur (ADB)

For Sulphur, APCPL's test results at power station shall be considered and in case of any dispute, if admissible as per clause 7, test results of third party Inspection Agency nominated by MMTC/APCPL i.e CIMFR shall be considered.

(i) For Sulphur {Air Dried Basis (ADB)} $0.9 < \text{Sulphur} \leq 1.0$

A penalty at the rate of Rs 200/- Per Metric Tonne for every increase of 0.1% in Sulphur or part thereof shall be levied.

(ii) For Sulphur {Air Dried Basis (ADB)} $\text{Sulphur} > 1.0$

A penalty at the rate of 2 X Rs 200/- Per Metric Tonne (i.e. Rs 400/- per Metric Tonne) for every increase of 0.1% in Sulphur or part thereof shall be levied.

Sulphur content below the base parameter value of Sulphur shall be ignored.

e) Size

If the size as per sampling/analysis through analysis process at IGSTPP as determined by ASTM-D4749-87 (re-approved 2002) or its latest version in air-dried sample for 0-2.36 mm size particles exceeds 25% of the sample coal by weight received at power station, then the weight of coal shall be reduced as per following formula:

Weight of Coal to be reduced = $(A \times B/100) \times 0.1$

(Where A is quantity of coal received at power station, B is increase of the fines particles above 25% in percentage value)

(Example-If fines particles is 30%, then $B = (30-25) = 5$)

- f) After adjusting the received quantity at Power Station for quality parameters as above, if it is found that the net adjusted quantity is higher than the net Bill of Lading quantity (i.e. quantity worked out after carrying out adjustments due to quality variations at Load Port with respect to the base parameters), the payment shall be restricted to net Bill of Lading quantity. In case the net adjusted quantity at power stations is lower than the net Bill of Lading quantity, the net adjusted quantity at power stations shall prevail for the purpose of payment.
- g) For the purposes of adjustment of coal quality the samples shall be taken from each rake. The weighted average results of such analysis of rakes received in fifteen days i.e. rakes received between 1st to 15th and rakes received between 16th to last day of the month at power station shall be applied for carrying the necessary adjustment
- h) Rejection : Utmost precaution is to be exercised by the Successful Bidder at the time of delivery of each ship to ensure that the Technical Parameters as provided in the specifications are strictly complied with.

If the values of Technical Parameters are reported outside the absolute minimum/maximum tolerance limit then MMTC/APCPL reserve the right to either reject the rake or accept the supplied quantity with double the penalty as mentioned above.

9. PAYMENTS TO SUCCESSFUL BIDDER

Payment shall be processed on submission of invoice in quadruplicate along with supporting documents pursuant to the Agreement through Bank (for CIF Payment) and directly for handling and other parts of Scope of Work, to respective branches of MMTC which shall be notified. Payment to successful bidder shall become due to the extent realized by MMTC from APCPL and will be made to the successful bidder upon receipt of clean and unqualified payment by MMTC from APCPL on due basis. The payments shall be released to bidder only after adjusting bank charges and after document related expenses etc. incurred by MMTC in the process of coal supplies to APCPL. The successful bidder shall furnish Performance Bank Guarantee and Trust Deed as per format at Annexure-E & Annexure-P respectively.

The format of RI to be submitted by MMTC to APCPL is enclosed for reference and information at Annexure-O.

APCPL shall be releasing the payment to MMTC through a specified procedure which is reproduced below for information of the bidders as Clause 11. MMTC shall comply with the procedures to get payment from APCPL but the successful bidder shall comply with all the documentary requirements (except supporting document for exchange rate) for release of payments by APCPL to MMTC. The successful bidder shall submit the rake-wise invoice promptly and within ten (10) working days of receipt of rake at IGSTPP Jhajjar. The successful bidder(s) shall not raise any claim on MMTC for any delay in payment from APCPL on account of any procedural delay.

10. PROCEDURE OF PAYMENT

- i) Payment shall be released on submission of invoice in quadruplicate along with supporting documents, including that for indices used for the calculation based on formulae for fixation of price for supply of imported coal to IGSTPP Jhajjar, linking the FOB prices & Ocean Freight with the details of indices along with the details of publication, to IGSTPP Jhajjar, verifiable by the IGSTPP Jhajjar.

- ii) The payment shall be released to the successful bidder upon receipt of clean and unqualified payment by MMTC LIMITED from APCPL on due basis. Payment to successful bidder shall become due to the extent realized by MMTC LIMITED from APCPL.
- iii) Bidder to note that MMTC LIMITED shall not extend any financial facility in any form at any stage.
- iv) Further, at the time of release of payment towards C&F value, Successful Bidder shall furnish 'Hypothecation Deed' covering the payment towards cost of coal being released by MMTC for the subject consignment. Further, Successful Bidder shall ensure that every Bill of Lading is prepared with consignee as 'MMTC Limited Cargo A/C APCPL'.

11. PAYMENT TERMS

Payment to successful bidder shall be released to the extent and within 3 days after receipt of clean and unqualified payment by MMTC from APCPL, However MMTC shall receive payment in three stages i.e. Initial Payment, Interim Payment and the Balance Payment. The payment terms as specified by APCPL shall be as under:

11.1. Initial Payment

➤ 85% of C&F Coal Price of each shipment shall be released (as advance to be adjusted subsequently at the time of Interim Payment) upon shipment of vessels from Load Port, based on quantity and quality parameters of coal as specified in Technical Specification, Volume –III of Bidding documents at Load Port, on fulfillment of the following conditions:

- i. Submission of Proforma Invoice in quadruplicate along with related coal price indices (Exchange rate, if applicable, for coal price shall be based on Reference Exchange Rate as on the date of Bill of Landing).
- ii. Submission of supporting document for Exchange Rate for conversion from US Dollar to Indian Rupees.
- iii. Submission of hypothecation Deed for having hypothecated the Coal under the subject invoice to APCPL.
- iv. Submission of Corporate Guarantee valid for the tenure of the agreement for an amount equivalent to C&F value of the coal scheduled to be supplied in a month i.e 2,00,000 MT, as guarantee for release of C&F value by APCPL on shipment of Coal.
- v. Submission of unconditional Bank Guarantee towards Contract Performance Security. Subsequent to submission of the same initially, the copies of the BG shall be submitted along with subsequent Invoices.
Fax/photocopy of shipping documents which shall include (1) Bill of Lading ; (2) Certificate of Origin ;(3) Insurance certificate for the cargo; (4) Load port Analysis certificate of IIA; (5) Certificate of quantity. (6) Submission of certificate indicating the Mine(s) from which coal has been sourced [the name of mine(s) shall be from the list of mine(s) as declared by the contractor in their agreement].

In case importing coal from ASEAN Countries, ASEAN India Free Trade Area Preferential Tariff Certificate of Origin (Form A1) shall be submitted.

- vi. Submission of Compliance Certificate Regarding (ICB) process by MMTC.

Initial payment shall be interest free for the first 30 days from the date of release of the initial payment for delivered quantity of coal beyond which interest shall be levied. Interest shall be levied for the quantity of coal received beyond the 30 days period, separately for each consignment received at the power Station and shall be reckoned from 31st day of the date of release of the initial payment for the corresponding shipment till the date of receipt of such entire consignment at the power station and interest shall be recovered from the corresponding bill.

Initial payment corresponding to the undelivered quantity of coal at Power Station after supply of the last consignment of the corresponding shipment shall be deducted along with interest thereon from the subsequent payments. It is clarified that interest period for such undelivered quantity of coal shall be reckoned from the date of release of initial payment till the actual date of adjustment of initial payment corresponding to the undelivered quantity. Once the whole of initial payment along with the applicable interest, if any, against a shipment of vessel is fully adjusted, the corresponding BG shall be discharged.

Any event of Force Majeure conditions or otherwise, of whatsoever nature, shall not entitle the successful bidder to claim any exemption or rebate in payment of interest beyond the 30 days exemption period as stated hereinabove. The applicable rate of interest shall be @ 14.0 % per annum for payment made in Indian Rupees and/or 6% per annum for payment made in USD.

If the amount payable under any interim bill is not sufficient to cover the due deduction, the deductions for the balance outstanding interest amount and other deductibles there from, shall be recovered from the next payment immediately becoming due.

In case the Successful Bidder is not opting for initial payment and/or does not provide Corporate Guarantee, Initial Payment shall be released upon receipt of coal at the power station end for the quantity of coal received, along with Interim Payment hereinafter.

11.2. Interim payment

5% of C&F Coal Price, 100% of Customs duty, including CVD with Cess & Surcharge, if any, 100% of Marine Insurance charges, 100% of Sales Tax/VAT & Entry Tax and 90% of Port & Inland handling charges including Service tax and 90% of Railways Freight & Trip Charges, if any (The Port & Inland handling charges comprise, inter-alia, Port Charges, Stevedoring, handling, clearing and forwarding charges & insurance charges, as detailed in Price Schedule) shall be released after adjusting any outstanding dues including interest on initial payment on receipt of consignment by APCPL at Power Station and on fulfillment of the following conditions:

- i. Submission of Regularizing Invoice in quadruplicate based on the actual quantity of coal determined at Power Station, after making adjustments for C&F payment already made as per the format given in **Annexure-O** of Vol IV of bidding document. The consignment at Power Station shall imply the Rake quantity.

(Exchange rate, if applicable, for CIF Coal Price, for the purpose of payment, shall be based on Reference Exchange rate as on the date of receipt of such consignment by APCPL at IGSTPP.)

In case actual date of receipt of consignment(s) at IGSTPP is beyond the Delivery Schedule for the entire quantity, the Referenced Exchange rate as applicable on the last day of Delivery Schedule for the entire quantity or the Reference Exchange rate as applicable on the actual date of receipt of consignment(s), whichever is lower, shall be applicable for the purpose of payment.

Initial Payment made to the Successful Bidder, as per clause 11.1 shall be considered as advance and shall be adjusted while releasing Interim Payment.

- ii. Documentary evidence for Reference exchange rate conversion from US Dollar to Indian Rupees, if applicable.
- iii. Submission of documentary evidence and original certificate for payment of Customs duty, CVD, Cess & Surcharge, if any, paid along-with calculation thereof and Submission of documentary evidence for payment of Railway freight
- iv. Submission of original documents/certificate of (1) Original Bill of Lading, (2) Certificate of Country of Origin (3) Insurance certificate for the cargo (4) Load Port Coal Quality Analysis certificates of IIA (5) Certificate of quantity (6) Submission of certificate indicating the Mine(s) from which the coal has been sourced [the name of mine(s) shall be from the list of mine(s) as declared by the contractor in the agreement].

[In case importing coal from ASEAN Countries, ASEAN India Free Trade Area Preferential Tariff Certificate of Origin (Form A1) shall be submitted]

- v. Original documents and one certified true copy shall be submitted by Successful Bidder. The original documents will be returned by MMTC/APCPL after due verification

11.3 Balance Payment

Balance payment i.e. 10% of C&F Coal Price, 10% of Port & Inland handling, 10% of Railways Freight & Trip Charges, if any shall be released after receipt of Coal quality results at IGSTPP and carrying out necessary adjustment in quantity due to quality variations on fulfillment of the following conditions:

- i. Submission of Final Invoice in quadruplicate for Final balance payment after carrying out the adjustment for quality results.

(Exchange rate, if applicable, for C&F Coal Price, for the purpose of payment, shall be based Reference Exchange rate as on the date of receipt of such consignment by APCPL at IGSTPP)

In case actual date of receipt of consignment(s) by APCPL at IGSTPP is beyond the Delivery Schedule for the entire quantity (Referred in Volume III), the Exchange rate as applicable on the last day of Delivery Schedule for the entire quantity or the Exchange rate as applicable on the actual date of receipt of consignment(s), whichever is lower, shall be applicable for the purpose of payment.

- ii. Submission of documentary evidence for exchange rate conversion from US \$ to Indian

Rupee,if applicable.

- iii. Submission of original report of APCPL and in case of dispute, report of the third party lab for Coal Quality at IGSTPP, as described in Vol. III and submission of original Discharge Port Coal Quality Analysis Certificates of IIA.
- iv. For adjustment of quantity due to coal quality variations, samples shall be taken from each rake and analyzed for each rake for payment purpose as described in Vol. III. The consignment at Station end shall imply the Rake quantity.
- v. Reconciliation of monthly supplies and payments carried out as described in Vol –III.

All elements of Price including C&F Coal Price , Custom Duty, CVD, Cess & surcharge, if any, Port & handling charges , Sales tax/Vat etc. shall be based on received and adjusted Net Quantity at IGSTPP. The payments made shall be reconciled and settled during the joint monthly reconciliation.

- vi. Any balance adjustment because of quality and quantity shall be settled through debit/credit notes and payment thereof shall be made within 5 working days from the receipt of such debit/credit notes. If the settlements do not take place in the given time frame, MMTC reserves the right to adjust the same in the next available payment.

Reference Exchange Rate: for a day means the RBI Reference Rate in Indian Rupees for US Dollars (\$), as published by Reserve Bank of India or if such rate is not published on such day, the Reference Exchange Rate shall be the comparable rate applicable on the last day before such Day for which such published rate is available.

Regarding lodging of claim with Railways for diverted out rakes/wagons : In such cases where APCPL/MMTC is required to lodge the claim, the claim amount as settled by Railways against these claim will be credited to the Successful Bidder's account by APCPL/MMTC on settlement and receipt of such claim from Railways. MMTC shall not be responsible for amount of claim settled and time taken for settlement by Railways.

12. RECONCILIATION/ADJUSTMENTS

Successful Bidder and MMTC shall jointly reconcile all payments made for the monthly Coal supplies shipment-wise during each month within fifteen (15) working days after end of each month. The parties shall forthwith give credit/debit notes for the amounts falling due, if any, assessed during such reconciliation and payments shall be made within five (5) working days thereafter. The monthly reconciliation statement shall be jointly signed by the authorized representative of Successful Bidder and MMTC which shall be binding on both the parties. Reconciliation of payments shall be completed within one (1) month from the receipt of last consignment. The reconciliation shall invariably be done after reconciliation between APCPL and MMTC.

13. MARINE INSURANCE

The Coal shall be insured by the Successful Bidder under ICC (A) cover from warehouse to warehouse (IGSTPP) for 110% of Total Contract Price including estimated Total Customs Duty (including CVD & Cess) and estimated CST/VAT & Entry Tax. Insurance policy will be taken from any Indian Insurance Company. The Successful Bidder shall be responsible for all claims related to material loaded but

not delivered at IGSTPP and shall file all claims with insurance agency and Railways/IWAI. However, in case of any claim settlement, necessary NOC / discharge voucher shall be issued by MMTC/APCPL in Successful Bidder's favor. The Successful Bidder shall at its expense take out and maintain during the performance of contract such other insurances as may be required including Third Party Liability Insurance with insured amount of Rs. 50.0 lacs for anyone occurrence covering bodily injury or death suffered by third parties (including MMTC/APCPL personnel) and loss of or damage to property occurring in connection with the supply of imported coal.

14. REFUND FROM ANY STATUTORY AUTHORITIES

Any refunds received by Successful Bidder from statutory authorities shall be passed on by Successful Bidder to MMTC within five (5) working days of receipt of such refunds.

15. COMPLIANCE WITH GOVERNMENT ORDERS

Coal to be imported under the Agreement, is meant for the purpose of generation of power at IGSTPP Jhajjar. The Successful Bidder shall ensure compliance of all regulations/ conventions/policies/guidelines/ orders etc. in force related to any or all of the activities covered in the imports, including shipping of the consignments, insurance, clearing, handling & forwarding and inland transportation etc.

In case of any modifications in any of the provisions in respect of supply of imported Coal, during the currency of the Agreement, the same shall become applicable and binding on Successful Bidder and MMTC with immediate effect.

16. ASSIGNMENT

Neither party to the contract shall assign or transfer the contract, or any benefit there under to any person, firm or Corporation without prior consent in writing of the other party.

17. LIQUIDATED DAMAGES (LD)

17.1 As per terms of supply specified by APCPL, they may impose LD for delays beyond delivery schedule in supply of import coal. The provisions stipulated by APCPL are as under:

17.1.1 The Successful Bidder will ensure the delivery of consignment at the IGSTPP Jhajjar as per schedule given by APCPL. In case of any delay, (other than those due to Force Majeure, berthing delay at load port & discharge port due to reasons not attributable to Successful Bidder and delay on account of Railways) the successful bidder shall be liable to pay Liquidated Damages (LD) @ 0.5% (One half of One Percent) of value of delayed consignment for each week's delay or part thereof subject to a ceiling of 5% (five percent) of the total contract value inclusive of estimated Customs Duty, CVD, with Cess and exclusive of Sales Tax/VAT and Entry Tax.

17.1.2 The end date of delivery schedule furnished by MMTC/APCPL for the entire quantity shall be considered for the purpose of levy of LD.

17.2 The Contract quantity shall be considered as 1.0 MMT (+/- 10%).

17.3 In case any amount is detained towards LD or the LD is imposed by APCPL on MMTC, the same shall be to the account of the successful bidder and shall be recovered from its due payments.

18. PERFORMANCE GUARANTEE

The Bidder shall furnish a Performance Bank Guarantee to MMTC as per format enclosed at Annexure-E of Bidding Documents for equivalent to 5% of C&F value of awarded quantity of coal from any of the banks acceptable to MMTC, as per list enclosed at Annexure-F of Bidding Documents. The Performance Bank Guarantee shall remain in full force and effect during the period that would be taken for satisfactory performance and fulfillment in all respect of the contract.

The Contract Performance Guarantee furnished by the Successful Bidder shall be irrevocable and unconditional and MMTC shall have the powers to invoke it, notwithstanding any dispute or difference between the Successful Bidder and MMTC pending before any court, tribunal, arbitrator or any other authority. The Contract Performance Guarantee shall be valid for period of 6 months beyond the expiry of validity of the agreement.

In case, Successful Bidder opts for initial payment, the Successful Bidder shall furnish additional Bank Guarantee valid for the tenure of the agreement for an amount equivalent to C&F value of the coal scheduled to be supplied in a month i.e. 2,00,000 MT, as guarantee for release of C&F value on shipment of Coal.

19. PERFORMANCE REVIEW

MMTC reserves the right to review the performance of the work under the Scope of Work described in these documents at any point of time. The contract may be terminated/short closed with forfeiture of Performance Bank Guarantee including but not limited to following circumstances:

- a. Poor performance of the contract.
- b. Delays in augmenting supplies for reasons other than Force Majeure.
- c. Requesting for change of allocation of port, power station, Delivery Schedule/Period, etc after the same has been finalized and it would be deemed to constitute refusal to perform the contract.
- d. Refusal to accept change in schedule made by MMTC on its own or on advice of APCPL.
- e. Failure to create system to identify rakes at power station
- f. Breach of any conditions of the contract.
- g. Holding MMTC responsible for berthing delays, etc

20. TERMINATION

In addition to provisions specified elsewhere in the bidding document, MMTC may terminate the contract at its sole discretion, by giving not less than ninety days written notice of termination to the Successful Bidder. Shipment schedule already finalized and intimated to the Successful Bidder as per Clause 3 shall not be terminated. MMTC shall not be liable to the Successful bidder for any loss , costs, damages or expenses on account of termination of the Contract

21. COMPLIANCE CERTIFICATE REGARDING PRICING

The Successful bidder is required to provide Compliance certificate regarding the applicability of prices covered under the Invoice in line with Annexure A of the Vol. IV with each B/L. The format of Certificate is as enclosed at Annexure-T1.

22. GENERAL

- (i) The holds of each vessel shall be cleaned before loading, to avoid contamination.
- (ii) Immediately on nomination of vessel, the Successful Bidder shall inform MMTC the following details of the vessel(s):
 - (a) Name of the vessel & Steamer Agent
 - (b) Expected Time of Departure
 - (c) Expected Time of Arrival & Port of Discharge
 - (d) Quantity of Coal proposed to be loaded
- (iii) In view that import coal price is linked to indexation and each Shipment may have a different price, it would be essential to link rakes/wagons with each shipment. Successful bidder shall accordingly identify the rakes/wagons with each shipment for the purpose of pricing in line with the agreement.
- (iv) Certain Zonal Railways has recently issued circular stipulating that for Rakes/wagons directed in between the Units of same Power Corporation/Industries will be entertained only when claim cases have been registered against the said NR (Not Received) consignment by the consignee. Accordingly, Successful Bidder or MMTC/APCPL, as the case may be, shall lodge the claim with Railways for any missing/diverted out wagon/rake as per prevailing Railway rules.

In case Successful Bidder is required to lodge the claim with Railways then required authorization from the station shall be taken, if required.

In case APCPL/MMTC is required to lodge the claim with Railways as per extant rules of Railways then MMTC/APCPL's responsibility will be limited to lodging the claim for such missing/diverted Rakes/wagons. However, all the necessary action for the same and liaisoning with Railways for follow up and settlement of such claims shall be the responsibility of the Successful Bidder. Further in such cases where MMTC/APCPL is required to lodge the claim, the claim amount as settled by Railways against these claim will be credited to the Successful Bidder's account by MMTC on settlement and receipt of such claim from Railways. MMTC/APCPL shall not be responsible for amount of claim settled and time taken for settlement by Railways.

- (v) Successful bidder shall maintain separate account for missing /diverted wagons of imported coal if any and shall take up with Railways to ensure that such wagons are delivered at IGSTPP only.

23. CONFIDENTIALITY

The parties to the Agreement shall not either during the term or after the expiration of the validity of the Agreement disclose any proprietary or confidential information relating to the Agreement and the services without the prior written consent of either party.

In addition to above, the documents and handling thereof under the contract shall be subject to clause 9 volume-II of these documents.

24. AGREEMENT

The Agreement, entered into subsequently, shall constitute full and complete understanding between the parties and terms of these presents. The Annexure listed therein shall be deemed to form an integral part of the Agreement. The Agreement, once signed, shall supersede all prior correspondence to the extent of inconsistency or repugnancy to the terms and conditions contained in the Agreement. Any modification of

the Agreement shall be effected only by a written instrument signed by the authorized representative of both the parties. The Agreement with the Successful Bidder is proposed to remain in force for a period of 8 months (Expected supply period of 5 months plus 3 months) from the date of signing and further extendable, in case APCPL advises MMTC, based on the progress of execution of Agreement.

25. SETTLEMENT OF DISPUTE

25.1 If any dispute of any kind whatsoever shall arise between the MMTC and the Successful bidder in connection with or arising out of the Contract, including without prejudice to the generality of the foregoing, any question regarding its existence, validity or termination, or the execution of the Supplies - whether during the Supplies or after their completion and whether before or after the termination, abandonment or breach of the Contract - the parties shall seek to resolve any such dispute or difference by mutual consultation. If the parties fail to resolve such a dispute or difference by mutual consultation, then the dispute shall be referred in writing by either party to Arbitrator.

25.2 Arbitration

Any dispute or difference, whatsoever arising between the parties out of or relating to the construction, meaning, scope, operation or effect of this contract or the validity or the breach thereof shall be settled by arbitration by a sole arbitrator to be appointed by Chairman and Managing Director (CMD) of MMTC. The provisions of Arbitration and reconciliation Act 1996 shall apply to such Arbitration proceedings.

The venue of arbitration shall be New Delhi.

During Arbitration proceedings the parties shall be bound to continue to perform remaining part of the contract. This cost of Arbitration shall be divided equally between MMTC and Successful Bidder.

26.0 DEFAULT / RISK PURCHASE

MMTC may, without prejudice to any other remedy for breach of contract, by written notice of default sent to the Successful Bidder, terminate the contract in whole or part (at the option of MMTC) if:

- 26.1** The Successful Bidder fails to deliver any or all of the goods within the time period(s) specified in the Contract or any extension thereof granted by MMTC/APCPL; or (b) the Successful Bidder fails to perform any other obligation(s) under the Contract.
- 26.2** In the event MMTC terminates the contract in whole or in part, pursuant to above, MMTC/APCPL may procure, upon such terms and in such manner as it deems appropriate, coal of similar specifications and the Successful bidder shall be liable to MMTC/APCPL for any excess costs for such similar coal. However, the Successful Bidder shall continue performance of the Contract to the extent not terminated.

26.3 The aforementioned right of termination shall be without prejudice to any other rights and remedies that MMTC has under the Contract or in law including but not limited to claiming liquidated damages on account of delay in delivery of coal to the Destination TPS. Further any termination of the Contract shall be without prejudice to any rights and remedies that have accrued prior to the termination of the Contract.

27.0 Cap/Ceiling of C&F Coal Prices

In case actual date of receipt of coal by APCPL Power Plant/GSTPP is beyond the 'Delivery Schedule for the entire quantity', due to reasons attributable to successful bidder, the lower of the 'C&F prices as applicable for the date of Bill of Lading' and 'C&F prices as applicable on last day of Delivery Schedule' shall be the ceiling price applicable for the receipts of coal beyond the Delivery Schedule.

In case C&F price applicable on actual date of receipt of coal at station is lower than the ceiling price, the lower price shall be payable.

Volume – IV
ANNEXURES, FORMS & FORMATS

Pricing Methodology

28.0 Base C&F price quoted shall be subject to variations for payment purposes, as detailed below:

28.1 **Proposed Methodology of Base Price and its variation and/or Indexation for supply and payment of imported coal to APCPL.**

C&F Price of the Coal shall be arrived at based on the concept, detailed hereunder, for supply of imported coal to APCPL.

28.1.1 **FOB Coal Price**

FOB price shall be arrived by linking the Base FOB prices with respect to Indices as per following methodologies, as detailed at S.N. 3.0 below :

- a) As per CERC Methodology;
- b) Indices as per Indonesian Coal Index (ICI 3) 5000 GAR.

28.1.2 **Ocean Freight**

Ocean freight shall be arrived at as per Methodology using Singapore 380 CST bunker fuel price index (as per CERC methodology) linking the Base **Ocean freight prices** with respect to Indices as detailed at S.N. 4.0 below :

28.1.3 **Total C&F Coal Price**

Total C&F Price for the purpose of payment shall be the Sum of FOB price and Ocean Freight worked out based on the methodologies described herein.

The indices as furnished by the Successful Bidder shall be verifiable by MMTC/IGSTPP.

29.0 **Concept for the purpose of fixation of Base Price:**

Base Date for the purpose of fixation of Base Price:

Preceding Friday with respect to the bid closing date

Total Coal Price = A+ B

Where,

- A = FOB Coal Price
- B = Ocean Freight

30.0

FOB Coal Price

30.1 **As per CERC Methodology**

The above component A of the price will be subject to variation for payment as per date of Bill of Lading based on the weekly index calculated based on the weekly indices for the Richard Bay API4 for 6000 Kcal/ Kg NCV, Newcastle Export Index (NEX) for 6700 Kcal/ Kg GAD and Global Coal New Castle (GCNEW C) for 6000 Kcal/ Kg NCV with weightage 50:25:25 in line with the methodology adopted by CERC.

For this purpose, the above indices published for the week preceding to the date of Bill of Lading shall be considered. The week for the above purpose shall be a period of 7 days starting from Saturday to Friday. In respect of Newcastle Export Index (NEX), the week starting from Friday to Thursday shall be considered.

Formulae:

A1: Index derived on preceding Friday with respect to the bid closing date of International Competitive bidding, invited by the Successful Bidder. to the Techno-Commercial Bid opening date. A1 shall be calculated based on the weekly indices for the Richard Bay API4 for 6000 Kcal/ Kg NCV, Newcastle Export Index (NEX) for 6700 Kcal/ Kg GAD and Global Coal New Castle (GCNEW C) for 6000 Kcal/ Kg NCV with weightage 50:25:25 in line with the methodology adopted by CERC and to remain constant for the entire duration of Contract.

A2: Index for Richard Bay API4 for 6000 Kcal/ Kg NCV, Newcastle Export Index (NEX) for 6700 Kcal/ Kg GAD and Global Coal New Castle (GCNEW C) for 6000 Kcal/ Kg NCV with weightage 50:25:25 in line with the methodology adopted by CERC published for the week starting from Saturday to Friday preceding to the week of the date of Bill of Lading of the vessels.

A3: FOB component of the quoted price of the Successful Bidder and the same is to remain constant for the entire duration of contract.

Hence, considering the above the FOB price will be calculated as under:

$$\text{FOB Coal Price A} = ((A2/ A1) \times A3)$$

30.2 **As per ICI Index**

The above component A of the price will be subject to variation for payment as per date of Bill of Lading, based on the weekly index calculated based on the weekly indices for the Indonesian Coal Index (ICI 3). For this purpose, the ICI 3 index published for the week preceding to the date of Bill of Lading shall be considered. The week for the above purpose shall be a period of 7 days starting from Saturday to Friday.

Formulae:

A1: Index ICI 3 for 5000 kcal/kg GAR published on preceding Friday with respect to the bid closing date

A2: ICI 3 Index for 5000 kcal/kg GAR published for the week starting from Saturday to Friday preceding to the week of the date of Bill of Lading of the vessels.

A3: FOB component of the quoted price of the Successful Bidder and the same is to remain constant for the entire duration of contract.

Hence, considering the above the FOB price will be calculated as under:

$$\text{FOB Coal Price A} = ((A2/ A1) \times A3)$$

30.3 For the purpose of payment, **the price worked out based on the above two methodologies, as applicable as per 3.1 OR 3.2 shall be considered as follows:**

- (i) **For coal imported from Indonesia** - Indonesian Coal Index ICI 3 as per Clause 3.2 above,
- (ii) **For coal imported from other countries** - CERC methodology, as per Clause 3.1 above.

31.0 **OceanFreight**

The component B, which indicates the Ocean Freight of Imported Coal will vary for payment as per actual date of Bill of Lading, based on the Singapore 380 CST Bunker Fuel Price (Also referred to as IFO 380) ex Singapore Wharf, as per Clarkson Research (publication as mentioned in CERC Methodology) published corresponding to the week preceding the week of date of Bill of Lading.

B1: Index as per Singapore 380 CST Bunker Fuel Price (Also referred to as IFO 380) ex Singapore Wharf, as per Clarkson Research (Publication as mentioned in CERC Methodology) as on preceding Friday with respect to the bid closing date and shall remain constant during entire duration of the contract.

B2: Index as per Singapore 380 CST Bunker Fuel Price (Also referred to as IFO 380) ex Singapore Wharf, as per Clarkson Research (Publication as mentioned in CERC Methodology) published corresponding to the week preceding the week of date of Bill of Lading.

B3: Ocean Freight component of quoted price of the Successful Bidder and the same is to remain constant for the entire duration of contract.

Considering the above, Ocean Freight for payment purpose will be calculated as under:

$$\text{OCEAN FREIGHT B} = ((\text{B2} / \text{B1}) \times \text{B3})$$

32.0 **Total C&FCoalPrice**

Total C&F Price for the purpose of payment shall be the Sum of FOB price worked out as per S.N. 3; and Ocean Freight, worked out as per S.N. 4 above.

33.0 MMTC will intimate through its website indices to be considered i.e. indices as on preceding Friday with respect to bid closing date.

34.0 **Cap/Ceiling of C&F Coal Prices**

In case actual date of receipt of coal by APCPL Power Plant/GSTPP is beyond the 'Delivery Schedule for the entire quantity', due to reasons attributable to successful bidder, the lower of the 'C&F prices as applicable for the date of Bill of Lading' and 'C&F prices as applicable on last day of Delivery Schedule' shall be the ceiling price applicable for the receipts of coal beyond the Delivery Schedule.

In case C&F price applicable on actual date of receipt of coal at station is lower than the ceiling price, the lower price shall be payable.

TECHNICAL SPECIFICATIONS OF IMPORTED COAL

PARAMETER	UNIT	ACCEPTABLE RANGE
Total Moisture (ARB)	%	Upto 32%
Ash (ADB)	%	Upto 20% Max
Fixed Carbon (ADB)	%	30-50 Typical
Volatile Matter (ADB)	%	25-45%
Sulphur (ADB)	%	Upto 1.00% Max.
Gross Calorific Value (ADB)	Kcal/ Kg	5300-5800
HGI	-	45-60
IDT under reducing atom.	Degree Centigrade	1100-1250
SIZE	MM	Up to 50mm However, size of coal less than 2.36 mm shall not be more than 25% of quantity received.

Guaranteed Parameters for coal under this tender for Price Basis are as under:

Total Moisture (ARB)	:	25%
Ash (ADB)	:	15%
Sulphur (ADB)	:	0.90%
Gross Calorific Value (ADB)	:	5700 Kcal/Kg
Size(less than 2.36mm)	:	Not exceeding 25% of quantity received at power plant

1. The bidder shall be free to offer coal of any origin but shall have to ensure and mention that the parameters are within the acceptable range for GCV(ADB), TM (ARB), Ash (ADB) and Sulphur (ADB) at which the prices have been offered.
2. The same Guaranteed Parameters shall be communicated to APCPL along with prices received.

**PROFORMA FOR BANK GUARANTEE FOR EMD
(TO BE STAMPED IN ACCORDANCE WITH THE STAMP ACT)**

BANK GUARANTEE NO.____

DATE_____

REF No.

MMTC Limited,
Core I, SCOPE Complex
Lodhi Road
New Delhi-110003, India

1. WHEREAS, MMTC Limited, Core I SCOPE Complex, Lodhi Road, New Delhi-110003, India, (hereinafter called MMTC) has invited bids vide Tender No. MMTC/Steam Coal/14-15/APCPL/1227 dated _____ (hereinafter referred to as Invitation to Bids) for supply of 1.0 Million MT imported coal.
2. AND WHEREAS, the said Invitation to Bid requires that an eligible bidder intend to make a bid in response thereto shall furnish an irrevocable bid guarantee amounting to Rs...../ US\$..... in favour of MMTC, New Delhi in the form of a Bank Guarantee of Rs...../ US\$..... with a validity of ____ (*in words*) days from the date of submission of bids.
3. AND WHEREAS at the request of M/s _____(Name of the Bidder) We _____(Name & address of the Bank) do hereby unconditionally and irrevocably guarantee and undertake payment to MMTC, New Delhi upto and not exceeding the sum of Rs...../ US\$..... with a validity period upto ____ (*in words*) days and that the Bidder, M/s _____ :-
 - a) Shall keep his bid firm and valid for acceptance by MMTC upto 120 days (One Hundred Twenty days) from the date of submission of bids;
 - b) Shall, in the event of the bid being accepted by MMTC, within Fifteen (15) days from the date of date of issuance of Letter of Intent (LOI) execute an Agreement for supply of imported coal.
 - c) Shall in the event of issuance of LOI by MMTC within 15 days the Bidder shall establish a Performance Guarantee in favour of MMTC Limited, in the form of Bank Guarantee equivalent to Rs 15.0 Crs (Rupees fifteen Crores only), with a validity period of 06 (six) months beyond the expiry of validity of agreement.
4. We _____(Name and Address of the Bank) (hereinafter referred to as the Bank which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns) do hereby guarantee that in the event of the said Bidder failing to abide by any of the conditions referred to in any of the preceding paragraphs, this Bank shall pay to MMTC Limited, New Delhi, India on demand without MMTC having to substantiate its demand and without protest or demur and without any reference to the said Bidder a sum of Indian Rs...../US\$ This Bank further agrees that the decision of MMTC as to whether the said bidder has committed a breach of any of the conditions referred to in the preceding paragraphs shall be conclusive, final and binding.

5. We _____(Bank) undertake to pay the amount demanded by MMTC, not exceeding the sum of Rs._____/US \$_____only without any demur, delay, protest and without any reference or recourse to M/s_____(Bidder) notwithstanding any dispute raised by ____ (Bidder) in any suit proceedings relating there to pending before any court or tribunal our liability under these presents being absolute and unequivocal.
6. The payment shall be made to MMTC, New Delhi across the counter of this bank on the same day of receipt of invocation of this bank guarantee.
7. NOTWITHSTANDING anything to the contrary contained hereinabove, liability under the Guarantee is restricted to Indian Rs./ US\$..... only
8. Your demand in writing may be presented to the Bank by Courier/Fax/Airmail/Speed Post/Registered Post or in person and the same shall be binding on us.
9. This guarantee will not be discharged due to change in the constitution of the Bank or the said M/s _____(Bidder).
10. The liability of this bank shall discharge upon receipt of Rs.____ / US\$_____ only by MMTC
11. This Bank further undertakes that this Guarantee shall remain irrevocably valid and in force initially upto a period of 150 days and shall expire on_____(Date) and that the same shall be extended further according to the provisions contained hereinabove, and shall not be amended or withdrawn without the previous consent of MMTC in writing.
12. This Guarantee is governed by the Laws of India and comes into force forthwith.
13. We have the power to issue this guarantee in your favour under the Charter of our Bank and the undersigned has full power to execute this Guarantee under the Power of Attorney granted by the Bank.

Signature: _____

Name and code: _____

Designation: _____

Seal of the Bank: _____

Annexure-D

CHECK LIST FOR BANK GUARANTEE VERIFICATION BY BIDDER

SL. NO.	GUIDELINES	YES	NO
1.	Is the BG on non-judicial stamp paper of appropriate value, as per Stamp Act?		
2.	Whether date, purpose of purchase of stamp paper and name of the purchasers are indicated on Stamp Paper under the signature of Stamp Vendor? (The date of purchase of stamp paper should be not later than the date of execution of BG and the Stamp Papers should be purchased either in the name of the executing Bank or the party on whose behalf the BG has been issued)		
3.	In case BGs from banks abroad, has the BG been executed on Letter Head of the Bank		
4.	Does the issuing Bank have Net Worth of at least Rs. 500 Crores and Capital Adequacy Ratio of 9%?		
5.	Has the executing Officer of BG indicated his name designation and Power of Attorney No./Signing Power No. etc. on the BG?		
6.	Is each page of BG duly signed/ initialed by executants and whether stamp of Bank is affixed thereon? Whether the last page is signed with full particulars including two witnesses under seal of Bank as required in the prescribed proforma?		
7.	Does the Bank Guarantees compare verbatim with the Proforma prescribed in the Bid Documents?		
8.	Are the factual details such as Bid Document No./NOA/LOA/Contract No., Contract Price, Percentage of Advance, Amount of BG and Validity of BG correctly mentioned in the BG?		
9.	Whether overwriting /cutting if any on the BG have been properly authenticated under signature and seal of executants?		
10.	Does the covering letter of BG issuing bank provides details of next higher authority of the Bank officials who have issued the BG?		
11.	Whether the BG has been issued by a Bank in line with the provisions of Bid/Contract Documents?		
12.	In case BG has been issued by a Bank other than those specified in Bid/Contract Document, is the BG confirmed by a Bank in India acceptable as per Bid/Contract Documents?		

Annexure-E

PERFORMANCE BANK GUARANTEE

Bank Guarantee No..... dated.....

MMTC Ltd.

.....
.....
.....

Dear Sirs,

1. WHEREAS, MMTC Limited, having its registered office at Core-1, SCOPE Complex, 7, Institutional Area, Lodi Road, New Delhi – 110003 India and one of its office at(hereinafter called the MMTC) have entered into Contract No..... dated.....(hereinafter called the CONTRACT) for with M/s.(name)address....., (hereinafter called the 'XX')
2. AND WHEREAS the 'XX' under the CONTRACT is required to furnish a security for the performance of the CONTRACT and MMTC has agreed to accept the Bank Guarantee in lieu of security deposit of the said sum of Rs.....
3. AND WHEREAS at the request of the 'XX', we,, Bank(address), hereby irrevocably and unconditionally guarantee and undertake to payment to the MMTC, immediately on demand upto and not exceeding the sum of Rs.....payable by the 'XX' in the event of failing to perform any or all their obligations under the CONTRACT. The decision of the MMTC that the 'XX' has failed to perform all or any of its obligations under the CONTRACT shall be conclusive, final and binding on us.
4. We,..... Bank, undertake to pay the amount demanded by the MMTC not exceeding the sum of Rs..... only without any demur, delay, protest and without any reference or recourse to the 'XX' notwithstanding any dispute raised by 'XX' in all suit proceedings relating thereto pending before any court or tribunal our liability under these presents being absolute and unequivocal. The payment shall be made to the MMTC across the Counter of the bank on the same day of receipt of invocation of this Bank Guarantee.
5. NOTWITHSTANDING anything to the contrary contained hereinabove, liability under the Guarantee is restricted to Rs..... Our Guarantee shall remain in force until(.....date).
6. ALL your rights under the Guarantee shall be forfeited and we shall be relived and discharged from all liability thereunder unless a claim under

the Guarantee is made on our Bank in writing on or before
(expiry date).

7. Your Letter of Demand in writing may be presented to the Bank by Registered Post or in person and the same shall be binding on us.
8. This guarantee comes into force forthwith.
9. We further agree that MMTC shall have the fullest liberty without our consent and without effecting in any manner, our obligations hereunder to vary any of the terms and conditions of the delivery or extend time of performance by the said 'XX' from time to time or to postpone for any time or from time to time, any of the powers exercisable by MMTC against the said 'XX' and to forbear or enforce any part of the terms and conditions relating to the said CONTRACT and we shall not be relieved from our liability by reason of any such variation or extension being granted to the said M/s. 'XX'.
10. The liability of the Bank under this Guarantee shall be discharged on receipt of Rs..... only by MMTC
11. We (Bank) lastly undertake not to revoke this guarantee during its currency except with the previous consent of MMTC Limited in writing.
12. This guarantee will not be discharged due to change in the constitution of the Bank of the said 'XX'.
13. We have the power to issue this guarantee in your favour under the Charter of our Bank and the undersigned has full power to execute this Guarantee under the Power of Attorney granted to him by the Bank.

SIGNED AND DELIVERED THIS DAY OF 20....

Yours faithfully
For and on behalf of
.....Bank
(Address)

(Banker's Seal)

'XX' - Name of successful bidder

Annexure-F

THE BANKS FROM WHICH BANK GUARANTEES FOR CONTRACT PERFORMANCE GUARANTEE (CPG) CAN BE ACCEPTED		
Scheduled Commercial Banks		
Nationalized/Public Sector Banks/Other Public Sector Banks		
State Bank of India	Bank of Maharashtra	Syndicate Bank
State Bank of Bikaner & Jaipur	Canara Bank	Union Bank of India
State Bank of Hyderabad	Central Bank of India	United Bank of India
State Bank of Mysore	Corporation Bank	UCO Bank
State Bank of Patiala	Dena Bank	Vijaya Bank
State Bank of Travancore	Indian Bank	IDBI Ltd.
Allahabad Bank	Indian Overseas Bank	
Andhra Bank	Oriental Bank of Commerce	
Bank of India	Punjab National Bank	
Bank of Baroda	Punjab & Sind Bank	
Scheduled Foreign Banks		
Bank of America NA	The Hongkong and Shanghai Banking Corpn Ltd.	Credit Agricole Corporate and Investment Bank
Bank of Tokyo Mitsubishi UFJ Ltd.	Standard Chartered Bank	DBS Bank Limited
BNP Paribas	Societe Generale	
Citi Bank N.A	Barclays Bank	
Deutsche Bank A.G	Bank of Nova Scotia	
Scheduled Private Banks		
ING -Vysya Bank Ltd.	ICICI BANK LTD	HDFC BANK LTD
Axis Bank limited	Yes Bank	

Annexure –G

END-USER CERTIFICATE FOR IMPORTED & SUPPLIES MADE FOR BIDDER/LEAD PARTNER/CONSORTIUM PARTNER

(ON THE LETTER HEAD OF END-USER / PSU)

NO.

DATED :

[TO WHOMSOEVER IT MAY CONCERN]

This is to certify that, M/s _____(bidder/Lead Partner/Consortium Partner) have imported/exported and supplied any dry bulk (solid) commodity, like coal, Iron ore, Fertilizers, Chemicals, Cement etc of origin other than India to us under contract(s) mentioned below as under:

S.NO	Type of Dry Bulk (Solid) Commodity, like coal, Iron Ore, Fertilizers, Chemicals ,Cement, etc	Contract (s) ref no. and dated	Period of Supply (From – to)	Quantity Imported/Exported and supplied (MMT)

This certificate is issued at the request M/s _____ (bidder/Lead Partner/Consortium Partner) for the purpose of participating in tender/s.

(Signature Of Authorised Person
With Full Address)

PLACE:

DATE:

Note: In case supplies have been made through PSU/s, the certificate from PSU must indicate the name of the end-user.

CERTIFICATE FROM STATUTORY AUDITORS OF THE BIDDER FOR IMPORTED & SUPPLIES MADE
(On the Letter Head of Statutory Auditors)

NO.

DATED :

[TO WHOMSOEVER IT MAY CONCERN]

We have examined the books of accounts, records and other relevant documents, alongwith other necessary information and explanations furnished by M/s._____having office at _____. We hereby certify that M/s_____ (bidder/Lead Partner/Consortium Partner) have imported/exported and supplied any dry bulk (solid) commodity, like coal , Iron ore, Fertilizers, Chemicals, Cement etc of origin other than India to any firm under the contract(s) mentioned below:

S.NO.	NAME OF THE END-USER / PSU(S)	Type of Dry Bulk (Solid) Commodity, like coal, Iron Ore, Fertilizers, Chemicals ,Cement, etc	Contract (s) ref no. and dated	Period of Supply (From – to)	Quantity Imported/Exported and supplied (MMT)

PLACE :
DATE :

SIGNATURE
NAME OF THE PARTNER / PROPRIETOR
MEMBERSHIP NO.
SEAL OF STATUTORY AUDITORS

Annexure-I

**HANDLING EXPERIENCE CERTIFICATE FROM END-USER FOR HANDLING
OF DRY BULK (SOLID) COMMODITY INCLUDING PORT OPERATIONS AND
LOADING FOR DISPATCH THROUGH INDIAN RAILWAYS (FOR BIDDER/LEAD
PARTNER/CONSORTIUM PARTNER)**

(ON THE LETTER HEAD OF END USER /PSU)

NO.

DATED :

[TO WHOMSOEVER IT MAY CONCERN]

This is to certify that M/s _____(Bidder/Lead Partner/Consortium Partner) have handled any of Dry Bulk (Solid) Commodity like Coal, Iron Ore, Fertilizers, Chemicals, Cement etc including port operations and loading for dispatch through Indian Railways, under the contract(s) mentioned below :

S.NO.	Type of Dry Bulk (Solid) Commodity, like coal, Iron Ore, Fertilizers,Chemicals ,Cement, etc	Contract (s) ref no. and dated	Period (From – To)	QUANTITY HANDLED, INCLUDING PORT OPERATIONS AND LOADING FOR DISPATCH THROUGH INDIAN RAILWAYS(MMT)

This certificate is issued at the request of M/s _____for the purpose of participating in tender/s.

PLACE :
DATE :

SIGNATURE OF AUTHORISED PERSON
WITH FULL ADDRESS

**HANDLING EXPERIENCE CERTIFICATE FROM STATUTORY AUDITORS FOR
HANDLING OF DRY BULK (SOLID) COMMODITY INCLUDING PORT
OPERATIONS AND LOADING FOR DISPATCH THROUGH INDIAN
RAILWAYS**

(ON THE LETTER HEAD OF STATUTORY AUDITORS)

NO.

DATED:

[TO WHOMSOEVER IT MAY CONCERN]

We have examined the books of accounts, records and other relevant documents, alongwith other necessary information and explanations furnished by M/s._____ having office at _____. We hereby certify that M/s _____ (Bidder/Lead Partner/ Consortium partner) have handled any of dry bulk(solid) commodity, like coal , iron ore , fertilizers, Chemicals, Cement etc in India, including port operations and loading for dispatch through Indian Railways , under the contract(s) mentioned below:

S.NO.	NAME OF THE END-USER / PSU(S)	Type of Dry Bulk (Solid) Commodity, like coal, Iron Ore, Fertilizers, Chemicals ,Cement, etc	Contract (s) ref no. and dated	Period (From – to)	Quantity Handled including port operations and loading for dispatch through Indian Railways (MMT)

PLACE :
DATE

SIGNATURE
NAME OF THE PARTNER / PROPRIETOR
PARTNERSHIP NO._____
SEAL OF STATUTORY AUDITORS

CERTIFICATE REGARDING NO DEVIATIONS
(On the letter of the Bidder)

TENDER NO. MMTC/Steam Coal/14-15/APCPL/1227 dated _____

To,

MMTC Limited,
Core I, SCOPE Complex
Lodhi Road
New Delhi-110003, India

Sub: Invitation for Bid Package for Procurement of 1.0 MMT (+/- 10%) of imported coal for IGSTPP Jhajjar.

Dear Sir,

1.0 With reference to our Bid Proposal No: _____ dated _____ for [insert Name of the Package], Bid Document No. [insert Bid Document No.], we hereby confirm that we comply with all terms, conditions and specifications of the Bidding Documents read in conjunction with Amendments(s)/Clarification(s) /Addend/Errata (if any) issued by the Employer prior to opening of Techno- Commercial Bids and the same has been taken into consideration while making our Techno-Commercial Bid & Price Bid and we declare that we have not taken any deviation in this regard.

2.0 We further confirm that any deviation, variation or additional condition etc. or any mention, contrary to Bidding Documents and its Amendments(s)/Clarification(s) /Addend/Errata (if any) as mentioned at 1.0 above found anywhere in our Techno-Commercial Bid and/ or Price Bid, implicit or explicit shall stand unconditionally with drawn, without any cost implication whatsoever to Employer, failing which the bid security shall be forfeited.

Date :

Signature of Authorized Person
(Name & Designation)
Official Seal/Stamp

TENDER NO. MMTC/Steam Coal/14-15/APCPL/1227 dated _____

FORM OF ACCEPTANCE OF FRAUD PREVENTION POLICY

To,

MMTC Limited,
Core I, SCOPE Complex
Lodhi Road
New Delhi-110003, India
Dear Sir/(s)

As advised in your tender document, we have read the contents of the Fraud Prevention Policy of APCPL/NTPC displayed on its website <http://www.ntpctender.com> and undertake that we along with our associates/collaborators/ sub-contractors /sub-vendors / consultants/ service providers shall strictly abide by the provisions of the Fraud Prevention Policy of APCPL.

Yours faithfully,

Date:

Place:

Signature.....

Printed name.....

Designation.....

Common Seal.....

TENDER NO. MMTC/Steam Coal/14-15/APCPL/1227 dated _____

DECLARATION FOR HAVING SUBMITTED SINGLE OFFER

To,

MMTC Limited,
Core I, SCOPE Complex
Lodhi Road
New Delhi-110003, India Dear sir/(s)

We have submitted our offer against your TENDER NO. MMTC/Steam Coal/14-15/APCPL/1227 dated _____ for supply of 1.0 MMT (+/- 10%) of imported coal to you account APCPL.

We hereby confirm that we have submitted only 1 bid and have not submitted price in conjunction with any other bidder or have submitted bid in any other name either directly or indirectly.

Yours faithfully,

Date:

Place:

Signature.....

Printed name.....

Designation.....

Common Seal.....

Annexure-N

TENDER NO. MMTc/Steam Coal/14-15/APCPL/1227 dated _____

FORMAT FOR DECLARATION ON POLICY FOR WITHHOLDING AND BANNING OF BUSINESS DEALING

(TO BE STAMPED IN ACCORDANCE WITH THE STAMP ACT)
TO BE NOTARIZED BY A NOTARY PUBLIC

Affidavit of Shri _____ S/O _____ Aged about _____
R/O _____

I, the above named deponent do hereby solemnly affirm and declare as under: -

1. That I am working as _____ (Designation) in _____ (Name and address of the bidder) since _____
2. That I am duly authorized by _____ (name of the bidder) to submit this affidavit of its behalf.
3. That bidder is submitting a bid in response to invitation for bid for supply of 1.0 Million Metric Ton +/- 10% of imported steam coal for IGSTPP Jhajjar.
4. That bidder is not Black listed or Banned as on date of submission of bid in any of the power utilities/Government/ Semi Government/ Government Undertaking Organizations in India.
5. The bidder has not employed any public servant dismissed/removed or person convicted for an offence involving corruption or abetment of such offences.
6. Our Director(s)/Owner(s) Proprietor/Partner(s) have not been convicted by any court of law for offences involving corrupt and fraudulent practices including moral turpitude in relation to business dealings with Government of India or APCPL or NTPC or NTPC's group companies during the last five years.
7. That bidder has successfully fulfilled all the contractual obligations in all organizations, referred to in Para 4 above, including supply of coal from given origin.
8. That if at any point of time the declarations given above are found to be incorrect, MMTc Limited, New Delhi shall have the full right to terminate the contract and take any action as per applicable laws for breach of contract including forfeiture of EMD/Performance Bank Guarantee

DEPONENT

Verification :

Verified at _____ on _____ day of _____ 2013 that the contents of my above affidavit are true to best of my knowledge. No part of it is false and nothing material or relevant has been concealed there from.

DEPONENT

**FORMAT OF REGULARIZING INVOICE TO BE SUBMITTED BY MMTC
(enclosed for information only)**

S. No.	Particulars	Unit	Amount
1.	C&F Coal price per MT	US Dollar	
1A	C&F price in Indian Rupees Per MT (With Exchange rate of US\$ to Indian Rupees as on date of receipt of such consignment at IGSTPP) <i>[Documentary evidence to be provided for exchange rate conversion]</i>	INR	
2.	Marine Insurance Charges per MT	US Dollar	
2A.	Marine Insurance Charges per MT (INR) (With Exchange rate of US\$ to Indian Rupees as on date of receipt of such consignment at IGSTPP)	INR	
3.	CIF Price per MT(INR) (1A + 2 A)	INR	
4.	Custom Duty paid per MT (Documentary evidence for duty paid and statement for converting total value of duty paid to MT rate are to be enclosed)	INR	
4a	CVD, Cess & Surcharge Per MT (Detailed calculation sheet & Documentary evidence for payment of above to be annexed)	INR	
5	MMTC trade margin (per MT)	INR	
6.	CIF Coal Price including Customs Duty, CVD, Cess, Surcharge if any, and MMTC's trade Margin (per MT) (3+4+4A+5)	INR	
7	Quantity received at IGSTPP – (Rake-wise through Railways) <i>(Quantity measurement details are to be enclosed)</i>	In MT	
8.	Total CIF Coal Price including Customs Duty, CVD, Cess, Surcharge if any, and MMTC's trade Margin (per MT) (6X7)	INR	
9.	Total Port & handling charges @ Rs ____ PMT , including service tax.	INR	
10.	Railway freight <i>(copy of RR to be enclosed) (copy of documentary evidence to be attached) Trip charges to be indicated separately, if applicable)(copy of documentary evidence to be attached)</i>	In MT	
11.	Sales tax/ VAT @ --- %age on ____	INR	
12.	Any other Tax, Duty or levy, payable as per contract	INR	

13.	Total Coal Price of quantity determined at IGSTPP (8+9+10+11+12)	Rs.	
14	Initial payment towards C&F Coal Price, already released by APCPL.	Rs.	
15.	Interest on Initial payment , if any, and/or ant other amount payable to APCPL.	Rs.	
16.	Total amount Due {13-(14+15)}	Rs.	
17.	Amount due at present towards Interim Payment (Statement for amount due to be enclosed)	Rs.	

FORMAT OF TRUST DEED
(Rs 100/- stamp paper)

This deed of Trust is executed on this _____ day of _____ between M/s. MMTC LTD., a Company incorporated under Companies Act, having its registered office at Core I, SCOPE Complex, Lodhi Road, New Delhi-110003, India, hereinafter called MMTC which expression shall, unless excluded by or repugnant to the context, be deemed to include its legal heirs, successors and permitted assigns) of one part and _____ **(NAME OF SUCCESSFUL BIDDER)**, having its registered office at _____, hereinafter referred to as the **SUCCESSFUL BIDDER** or **TRUSTEE** which expression shall, unless excluded by or repugnant to the context, be deemed to include its legal heirs, successors and permitted assigns).

Whereas the SUCCESSFUL BIDDDER and MMTC have entered into an agreement vide Ref No. _____ on _____ (herein after referred to as the Said Agreement) for import, supply and delivery of 1.00 MMT (+/- 10%) of imported Coal at APCPL Jhajjar Power Station on FOR destination basis over a period of five months. Whereas trustee intends to supply imported coal to MMTC at Indian Ports, arranging vessels, stevedoring, handling, storage, port clearance, arranging Railways Rakes, loading, transportation and delivery at APCPL, all other activities for clearing and forwarding of the consignments like custom clearance, co-ordination with port, Railways, statutory authorities and all liaison, co-ordination at load port, discharge port, Railways, handling agent etc.

Now, therefore, this Trust Deed witnesseth and is hereby declared by all between the parties thereto as follows:-

1. That the _____ (Name of SUCCESSFUL BIDDER) act as trustee for import, supply and delivery of 1.00 MMT (+/- 10%) of imported steam Coal at APCPL Jhajjar Power Station on FOR destination basis over a period of five months.
2. That with the arrival of each Rake with goods as per the aforesaid agreement, the Trustee shall inform MMTC of the same and shall handle the goods as per the agreement and hold the same in trust in favour of MMTC until the cargos are delivered at the destination plant of APCPL.
3. That the Trustee shall permit MMTC, their agents and servants from time to time and at all times to enter upon any go-downs or premises where material or any part thereof may be stored and to view, inspect and value the same and take inventory thereof and to render to MMTC and to their servants/authorized agents all facilities as may be required for any of the purpose aforesaid.
4. That the goods under the above mentioned agreement shall be stored or kept at the trustees go-downs and/or hired premises in good condition and shall be fully insured upto 110% value of the goods.
5. That the Trustees shall make and furnish to the MMTC all statements and records of material and produce such evidence in support thereof as MMTC may require, from time to time.
6. That the Trustees hereby agree and undertake to comply with all the provisions of the orders/laws already promulgated or that may be promulgated thereafter by the Government and shall see that MMTC's interests are not in any way affected or prejudiced by informing the provisions thereof, and keep MMTC absolved of all the losses and consequences in this context.

7. That the Trustees shall give acknowledgement of receipt of material on their letter heads duly signed by their authorized signatories, to MMTC as and when the material is delivered to APCPL.
8. That with each of the consignment having received, Trustees shall issue a receipt giving the date, stating that the cargo will be handled as per agreement and keep MMTC informed on daily basis regarding unloading of cargo from the vessel, receipt, dispatch and that the cargo will be handled, stored, moved, loaded under trust under MMTC's intimation and full knowledge of MMTC.
9. That all necessary precautions and measures will be undertaken by the Trustee to safeguard the interest of MMTC.
10. That trustee acknowledges that the title of the goods would remain with MMTC until the entire transaction is completed by the Trustee.
11. That trustees also undertake to abide by all terms of this Trust Deed along-with the terms incorporated hereinafter.
12. Any violation above conditions will be treated as Breach of Trust on the part of Trustee and MMTC may take any action to safeguard its interest.

In witness whereof the Trustees have hereunto set their hands at _____ on the _____ day of _____

AUTHORISED SIGNATORIES

AUTHORISED SIGNATORIES

WITNESS:

(1)

(2)

**DETAILS OF BANK ACCOUNT FOR RELEASE OF PAYMENT THROUGH ELECTRONIC
FUND TRANSFER SYSTEM**

**(TO BE FURNISHED BY THE BIDDER ON ITS LETTER HEAD)
VENDOR CODE _____(TO BE FILLED IN BY MMTC)**

THE BANK ACCOUNT DETAILS ARE FURNISHED AS BELOW :

We _____(Name of the Bidder) hereby request you to give our payments by crediting our bank account directly by E-Payment mode as per account details given below. We hereby undertake to intimate MMTC Limited in case of any change in particulars given below and will not hold MMTC Limited responsible for any delay/default due to any technical reasons beyond control of MMTC Limited :-

Bank Account Number : _____
RTGS/NEFT/IFSC CODE : _____
NAME OF THE BANK : _____
ADDRESS OF THE BRANCH : _____
BRANCH CODE : _____
ACCOUNT TYPE : _____
(SAVING/CURRENT/OTHERS : _____
E-MAIL/FAX NO.OF THE : _____
BRANCH OF THE BANK : _____

A BLANK CHEQUE (CANCELLED) IS ENCLOSED HEREWITH.

I/WE hereby declare that the particulars given above are correct and complete. If the transaction is delayed or credit is not affected at all for reasons of incomplete or incorrect information, I/We would not hold MMTC Limited responsible.

Date :

Signature of Authorized Signatory

BANK CERTIFICATION

It is certified that above mentioned beneficiary holds a bank account No. _____with our branch and the bank particulars mentioned above are correct.

Date

Authorised Signatory
Authorisation No. _____
Name
Official Seal/Stamp

BID SUBMISSION FORM

Procurement of 1.0 MMT (+/- 10%) of Imported Coal for IGSTPP Jhajjar.

Bid Ref No. and Date : MMTC/Steam Coal/14-15/APCPL/1227 dated _____
Bidder's Name and Address:

To,

General Manager
MMTC Limited
Core I, SCOPE Complex
Lodhi Road
New Delhi-110003

Sub: Tender for procurement of 1.0 Million Metric Ton +/-10% of Imported Coal for IGSTPP Jhajjar.

Dear Sirs,

1. We hereby submit bids for **"supply of 1.0 Million Metric Ton +/-10% of Imported Coal for IGSTPP of APCPL Limited as outlined in bidding documents of MMTC Limited.**

We have thoroughly examined and understood the instructions, Scope of work and the terms and conditions etc. covered in the bidding documents issued by MMTC Limited, being fully aware of nature and Scope of Work required.

We hereby confirm our acceptance and compliance to the entire provisions of Technical specifications, Scope of Work, and terms and conditions covered in the bidding documents. We declare that the work will be executed strictly in accordance with the requirement and bidding documents provisions.

2. We hereby confirm that we have submitted the following as per the provisions of the Bidding Document:
 - i. Signed copy of the original Bid Document as token of acceptance of the terms including Specifications of imported coal and Pricing methodology laid down therein.
 - ii. Certificates from End-User for Supplies of Quantities
 - iii. Certificate from statutory auditors for experience of imported coal supplies
 - iv. Certificate from End-User for Handling of bulk commodities
 - v. Certificate from Associate for Handling (if applicable)
 - vi. Certificate from Statutory Auditors of Bidder/Associate for Handling
 - vii. Declaration for no deviation
 - viii. Form of Acceptance of Fraud Prevention Policy
 - ix. Declaration for No multiple bid
 - x. Affidavit for not having been blacklisted
 - xi. Bank details for transfer of payments electronically
 - xii. Power of Attorney

- xiii. Bank Guarantee No.____Dated____issued by____ (Name & Address of issuing bank) for Rs.____/US \$ Valid upto _____ towards "Earnest Money Deposit" (EMD).
- xiv. Check List for Bank Guarantee verification for EMD
- xv. Price Bid

3. We further confirm the following:

- (a) That in case of placement of award, while invoicing, C&F Price of the Coal shall be arrived at based on the Pricing Methodology as detailed in Clause 5 – Vol. III and Annexure A – Vol. – IV covering concept and formulae for fixation of price, linking the FOB prices and Ocean Freight with CERC's methodology of indexation and the indices for the preceding week, shall be used for the purpose.
- (b) Issuance of Letter of Intent, along with signing of Agreement with the Successful bidder subsequently, only will constitute the formation of the contract.

4. We hereby submit our Bid and undertake to keep our Bid valid for a period of 120 days from the due date of submission of Bid i.e. upto _____. We hereby further undertake that during the said period we shall not vary/alter or revoke our Bid.

Date_____

Signature_____

Place_____

Name_____

Designation_____

Seal_____

ENQ.NO. MMTC/Steam Coal/14-15/APCPL/1227

dated _____

PRICE SCHEDULE FORM

Bidder's Name and Address: _____

PACKAGE: "PROCUREMENT OF 1.00 MMT (+/- 10%) OF IMPORTED COAL FOR IGSTPP,JHAJJAR"

S. No.	Particulars/ Plants	Currency	IGSTPP
X	Quoted Quantity in MT		10,00,000
I.	VARIABLE COMPONENTS - SUPPLY PORTION		
A.	FOB Price (PMT)	US\$	
B.	Ocean Freight (PMT)	US\$	(In figure) (In words)
C.	C&F Price (PMT) (Component of FOB Price at row 'A' + Ocean freight at row 'B')	US\$	
D.	Marine Insurance Charges (PMT)	US\$	(In figure) (In words)
E1	CIF Price (PMT) (C+D)	US\$	
E1A	CIF Price for Indicative Qty mentioned at Row 'X' above 'E1A'='E1' * 'X'	US\$	
E1B	Total of CIF Price 'E1B'='E1A' (1)+'E1A' (2)	US\$	
E2	CIF Price (PMT) ('E2'='E1'* exchange rate)	INR	
E3	Total CIF Price for indicative Quantity mentioned at row 'X' 'E3'='E2'* 'X'	INR	
F	CUSTOMS DUTY	INR	
F1	Customs Assessable Value 'F1'=101% of 'E2'	INR	
F2	Rate of Basic Customs Duty	Rate (%)	

S. No.	Particulars/ Plants	Currency	IGSTPP
F3	Total Basic Customs Duty (PMT) 'F3'=('F2'% of 'F1')	INR	
F4	Counter Veiling Duty (CVD) (PMT)	INR	
F5	Clean Energy Cess (CEC) (PMT)	INR	
F6	Customs Educational Cess on Basic Customs Duty ,CVD and CEC (PMT)	INR	
F7	Customs Secondary & Higher Educational Cess on Basic Customs Duty , CVD and CEC (PMT)	INR	
F8	Total Customs Duty (PMT) 'F8'= ('F3' + 'F4' + 'F5' + 'F6'+ 'F7')	INR	
II.	FIXED COMPONENTS - SERVICE PORTION	INR	
G	Total Port Charges (including Port Charges, Stamp Duty, Wharfage, Pollution Cess, Terminal Charges, Wagon Haulage charges, Siding Charges, etc.), Total Handling Charges (including Stevedoring & Handling Charge, Clearing & Forwarding charges etc.) and Insurance including third party Insurance (PMT) [excluding Service Tax]	INR	(In figure) (In words)
H	Service Tax on 'G' above	INR	(In figure) (In words)
I	Sub Total of Port & Inland Handling Charges (PMT) ('I'='G' + 'H')	INR	
III	TRANSPORTATION		
K	Railway Freight (PMT), Excluding Service Tax	INR	(In figure) (In words)
K1	Service Tax on Railway Freight, if any	INR	(In figure) (In words)
K2	Trip charges, if any (PMT) excluding Service Tax	INR	(In figure) (In words)
K3	Service Tax on Trip charges, if any	INR	(In figure) (In words)
L	Sub Total of Railway Freight with Trip charges (PMT) ('L'='K'+ 'K1'+ 'K2'+ 'K3')	INR	
M	Port & Inland Handling Charges, Railway Freight & Total Customs Duty {including CVD & Cess} in INR ('M'= 'F8'+ 'I'+ 'L'). (PMT)	INR	
N	Port & Inland Handling Charges, Railway Freight & Total Customs Duty {including CVD & Cess } for total Indicative Quantity (in INR) 'N'='M' * 'X'	INR	
O	TOTAL LANDED COAL PRICE, INCLUDING PORT & INLAND HANDLING, RAILWAY FREIGHT & TOTAL CUSTOMS DUTY {INCLUDING CVD & CESS} FOR INDICATIVE QTY 'O'= 'E3'+ 'N'	INR	

1. Validity of the Offer to remain **120 days** from the date of submission of Technical Bid.
2. The prices are to be quoted as per format above. However the same shall be evaluated as elaborated in the tender documents.
3. MMTC will intimate through their website / government tender website the indices to be considered i.e. index as on preceding Friday with respect to the bid closing date.
4. Payment shall be made as per the price methodology detailed in Annexure A.

(Name & Signature of Authorised Signatory)

Date :

Place:

POWER OF ATTORNEY

**(In favour of the Partner authorized to sign/execute documents)
To be submitted by all partners of Joint Venture/Consortium**

TO BE STAMPED AS PER THE STAMP ACT

We, (Name of the Partner) partner in Joint Venture/Consortium participating in the invitation for bid for supply of 1.0 MMT (+/- 10%) of imported coal, existing under the laws of (name of Partner's country) having its principal office at (address of Partner's office) hereby appoint and authorize (name of the Partner authorized) existing under the laws of (name of Partner's country), and having its principal office at (address of Partner authorized) as its lawful attorney to do, in the name of aforesaid joint venture/consortium company, any acts mentioned below, concerning the tender for supply of coal to MMTC LIMITED.

- 1) To participate in the tender/bid No.....
- 2) To enter into the contract and
- 3) To receive instruction for and on behalf of any or all the partners of Joint Venture/Consortium.
- 4) To take all the action for entire execution of the contract on behalf of all the partners of the Joint Venture/Consortium; and
- 5) To do any other act related thereto.

This Power of Attorney comes into effect forthwith and shall remain in full force as per the terms of the bid documents and the subsequent contract, in case of the successful bidder.

Signature of Partner Authorized

Yours faithfully,

Name

Name

Designation

Designation

Address

Seal of Partner company

Seal of Partner authorized.

CERTIFICATE OF COMPLIANCE

(To be furnished by Successful Bidder)

TO WHOM IT MAY CONCERN

_____ (Name of the Successful Bidder) confirms that C&F Price of the Coal has been arrived at based on the concept of formulae for fixation of price, linking the FOB Coal Price & Ocean Freight as per Pricing Methodology, as brought out in the Tender no _____, specifically at Annexure A of Vol-III.

It is certified that the coal supplied by _____ (Name of the Successful Bidder) against MMTC's Agreement no. _____ dated _____ vide B/L No. _____ dated _____ is in accordance with quality specification range of imported coal provided by MMTC to _____ (Name of the Successful Bidder) and guaranteed parameters as finalized by _____ (Name of the Successful Bidder) with their overseas suppliers for the procurement of coal requirement for IGSTPP and that the landed cost of coal at IGSTPP is minimum considering the technical viability of coal movement by Railways from Port(s) to Power Station.

For and on behalf of (name of Successful Bidder)

Date :

Place :

PRE CONTRACT INTEGRITY PACT

Between

MMTC Limited (hereinafter, referred to as "MMTC")

And

M/s. (hereinafter referred to as "The Seller/Vendor/Bidder")

Preamble

WHEREAS, MMTC is an international trading company dealing in export/import/sale/purchase of various commodities.

WHEREAS, MMTC values full compliance with all relevant laws of the land, rules, regulations and the principles of economic use of resources and of fairness/transparency in its relation with its Seller/Vendor/Bidder. In pursuance, thereto, the following clauses of the Integrity Pact will be applicable and this document shall deem to be an integral part of the Agreement/Contract between us.

In order to achieve the goals, MMTC has appointed Shri Bijoy Chatterjee and Shri D.R.S Chaudhary as an Independent External Monitors (IEM), who will monitor the tender/auction/e-auction/e-sale/sale/purchase process and the execution of the contract for compliance with the principles mentioned above.

Section 1 – Commitments of MMTC

1. MMTC commits itself to take all necessary measures to prevent corruption and to observe the following principles.
 - a) No employee of MMTC, personally or through family members will in connection with the tender for or the execution of a contract, demand, take a promise for or accept, for himself/herself or third person, any material or non-material benefit which he/she is not legally entitled to.
 - b) MMTC will during the tender/auction/e-auction/e-sale/sale/purchase process, provide to all Seller(s)/Vendor(s)/Bidder(s) the same information and will not provide to any Seller/Vendor/Bidder any confidential/additional information through which the Seller(s)/Vendor(s)/Bidder(s) could obtain an advantage in relation to the tender/auction/e-auction/e-sale/sale/purchase process or the contract execution.
 - c) MMTC will exclude from the process all known prejudiced persons.
2. If MMTC obtains information on the conduct of any of its employees which is a criminal offence under the relevant Anti-Corruption Laws of India or if there be

substantive suspicion in this regard. MMTC will inform its Chief Vigilance Officer and in addition can initiate disciplinary action.

Section 2 – Commitments of the Seller(s)/Vendor(s)/Bidder(s)

1. The tender/auction/e-auction/e-sale/sale/purchase commits himself to take all measured necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender/auction/e-auction/e-sale/sale/purchase process and during the contract execution.
 - a) The Seller(s)/Vendor(s)/Bidder(s) will not, directly or through any other person or firm, offer, promise or give to any of MMTC's employees involved in the tender/auction/e-auction/e-sale/sale/purchase process or the execution of contract or to any third person any material or non-material benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.
 - b) The Seller(s)/Vendor(s)/Bidder(s) will not enter with other Seller(s) into any illegal agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
 - c) The Seller(s)/Vendor(s)/Bidder(s) will not commit any criminal offence under the relevant Anti-Corruption Law of India., further the Seller(s)/Vendor(s)/Bidder(s) will not use improperly, for purposes of completion or personal gain, or pass on to others, any information or document provided by MMTC as part of the business relationship regarding proposals, plans business details including information contained or transmitted electronically.
 - d) The Seller(s)/Vendor(s)/Bidder(s) of foreign origin shall disclose the name and address of the Agents/representatives in India, if any. Similarly the Seller(s)/Vendor(s)/Bidder(s) of Indian Nationality shall furnish the name and address of the foreign principals, if any. Further, all the payments made to the Indian agents/representative have to be in Indian Rupees only.
 - e) The Seller(s)/Vendor(s)/Bidder(s) will, when presenting has bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the Contract.
2. The Seller(s)/Vendor(s)/Bidder(s) will not instigate third persons to commit offences outlined above or be necessary to such offences.

Section 3 – Disqualification from tender process and exclusion from future contracts

If the Seller(s)/Vendor(s)/Bidder(s), before award of contract, has committed a serious transgression through a violation of Section 2 above or in any other form such as to put his reliability or credibility as Seller(s)/vendor(s)/bidder(s) into question. MMTC is entitled to disqualify the Seller(s)/Vendor(s)/Bidder(s) from the tender/auction/e-auction/e-sale/sale/purchase process or to terminate the contract, if already signed, for such reason.

- a) If the Seller(s)/Vendor(s)/Bidder(s) has committed a serious transgression through a violation of Section 2 above or in any other form such as to put his reliability or credibility as Seller(s)/vendor(s)/bidder(s) into question. MMTC is entitled to also exclude the Seller(s)/Vendor(s)/ Bidder(s) from the future contract award processes. The imposition and duration of the exclusion will be determined by the severity of the transgression. The severity will be determined by the circumstances of the case, in particular the number of transgression, the position of the transgressors within the company, hierarchy of the buyer and the amount of the damage. The exclusion will be imposed for a minimum of 6 months and maximum of 3 years.
- b) If the Seller(s)/Vendor(s)/Bidder(s) can prove that he has restored/recouped the damage cause by him and has installed a suitable corruption prevention system. MMTC may at its sole discretion revoke the exclusion prematurely.
- c) A transgression is considered to have occurred if in light of available evidence no reasonable doubt is possible.

Section 4 – Compensation for Damages

1. If MMTC has disqualified the Seller(s) from the tender/auction/e-auction/e-sale/sale/purchase process prior to the award according to Section 3, MMTC is entitled to demand and recover the damages equivalent to Earnest Money Deposit/Bid Security.
2. If MMTC has terminated the contract according to Section 3, or if MMTC is entitled to terminate the contract according to Section 3, MMTC shall be entitled to demand and recover from the Vendor liquidated damages equivalent to 1% of the Contract value or the amount equivalent to Performance Bank Guarantee whichever is higher.
3. If the Seller(s)/Vender(s)/Bidder(s) can prove that the exclusion of the Seller(s)/Vendor(s)/Bidder(s) from the tender/auction/e-auction/e-sale/sale/purchase process or the termination of the contract after the contract award has caused no damage or less damage than the amount of liquidated damages, the Seller(s)/Vendor(s)/Bidder(s) may compensate only the damage in the amount proved. If MMTC can prove that the amount of the damage caused by the disqualification of the Seller(s)/Vendor(s)/Bidder(s) before Contract Award or the termination of the Contract after the Contract Award is higher that the amount of the liquidated damages, it is entitled to claim compensation for the higher amount of the damages.

Section 5 – Previous transgression

1. The Seller(s)/Vendor(s)/Bidder(s) to declare that no previous transgressions occurred in the last 3 years with any other Company in any country conforming to the anti corruption approach or with any other Public Sector Enterprise in India that could justify his exclusion from the tender process.
2. If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or the contract, if already awarded and can be terminated for such reason.

Section 6 – Equal treatment of all Seller(s)/Vendor(s)/ Bidder(s)

1. MMTC will enter into agreements with identical conditions as the one with all Seller(s)/Vendor(s)/Bidder(s) without any exception.
2. MMTC will disqualify from the tender process all Seller(s)/Vendor(s)/Bidder(s) who do not sign the Pact or violate its provisions.

Section 7 – Criminal charges against violating Seller(s)/ Vendor(s)/ Bidder(s)

If MMTC obtains knowledge of conduct of Seller(s)/ Vendor(s)/Bidder(s) or of an employee or a representative or an associate of Seller(s)/Vendor(s)/Bidder(s), which constitutes corruption, or if MMTC has substantive suspicion in this regard, MMTC will inform the same to its Chief Vigilance Officer and/or appropriate Govt. authorities such as CBI.

Section 8 – Independent External Monitor(s)

1. MMTC appoints competent and credible Independent External Monitor (IEM) for this pact. The task of the IEM is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.
2. The IEM is not subject to instructions by the representative of the parties and performs his functions neutrally and independently. He reports to the CMD, MMTC.
3. The IEM has the right to access without restriction to all trade/project related documentation of MMTC. The Seller(s)/Vendor(s)/Bidder(s) will also grant the IEM, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his trade/project documentation. The IEM is under contractual obligation to treat the information and documents of the Seller(s)/Vendor(s)/Bidder(s) with confidentiality.
4. MMTC will provide the IEM sufficient information about all meetings among the parties related to the project/contract provided as meetings could have an impact on the contractual relations between MMTC and the vendor. The parties offer to the IEM the obtain to participate in such meetings.
5. As soon as the IEM notices, or believes to notice, a violation of this agreement, he will so inform the Management of MMTC and request the Management to

discontinue or take corrective action, or to take other relevant action. The IEM can in this regard submit NON-BINDING RECOMMENDATIONS. Beyond this, the IEM has not right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.

6. The IEM will submit a written report to the CMD, MMTC within 4 to 6 weeks from the date of reference or intimation to his by MMTC and, should the occasion arise, submit proposals for correcting problematic situations.
7. If the IEM has reported to the CMD, MMTC, substantiate suspicion of an offence under relevant Anti Corruption Laws of India and the CMD, MMTC, has not, within the reasonable time taken visible action to proceed against such offence or reported it to its Chief Vigilance Officer, the IEM may also transmit this information directly to the Central Vigilance Commissioner, Govt. of India.
8. The word "IEM" would include both singular and plural.

Section 9 – Pact Duration

1. This Pact begins when both parties have legally signed it. It expires for the Vendor 12 months after the last payment under the contract, and for all other Bidders, 6 months after the Contract has been awarded.
2. If any claim is made/lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified above, unless it is discharged/determined by CMD, MMTC.

Section 10 - Other Provisions

1. This agreement is subject to Indian Law. Place of performance and jurisdiction is the Registered Office of MMTC, i.e. New Delhi.
2. Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.
3. If the Vendor is partnership or a consortium, this agreement must be signed by all partners or consortium members.
4. Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

(For & on behalf of MMTC)

(For & on behalf of Seller/Vendor/bidder)

(Official Seal)

(Official Seal)

Place:.....

Date :.....

Witness 1.....

Name :

Address:

Witness 2.....

Name :

Address:

Format for Declaration of Source of Imported Coal as per Clause 2 of Volume III of the Bidding document

Bid Document No. _____

Date: _____

Bidder's Name and Address

To
 General Manager (Coal)
 MMTC Limited
 Core-1 , Scope Complex
 Lodhi Road
 New Delhi

As required under Clause 2 of Vol-III- Technical Specification of the Bidding Document no _____, we give below the following details of coal mine(s) , from where we shall be sourcing imported coal for supply to the above power stations complying strictly to Clause 4 4 of Volume III – Technical Specifications and Annexure B of volume IV of aforementioned Bidding documents as per the awarded quantity in case of consideration of award:

Name of mine(s)	Location	Country	Name of Mine Owner/Lease Holder/Off take Holder

Date:

Signature.....

Place:

Printed name.....

Designation.....

Company Seal.....

List of Agencies for Load Port Testing

Sl. No.	Name
1	PT. Surveyor Indonesia Graha Surveyor Indonesia Jl. Gatot Subroto Kav. 56 Jakarta 12950-Indonesia Tel: 62-21 526 5526 Fax: 62-21 526 5525
2	PT. IOL Indonesia (part of Bureau Veritas group) Menara Bidakara 2, 11th Floor Jl. Jend. Gatot Subroto Kav. 71-73 Jakarta Selatan 12870 Indonesia
3	PT Artha Buana Inspektindo 31, Bailai Rakyat No.3, Utan Kayu Utara, Jakarta Timur -13120, Indonesia
4	PT Geoservices Jl. Minangkaban, Barat No. 34 Jakarta Selatan-12970
5	PT Sucofindo Graha Sucofindo, I Floor, Jl. Raya Pasar Minggu Kav, 34, Jakarta 12780 Phone : (021) 7983666 Ext, 1116, 1124 Fax : (021) 7986473, 7983888 E-mail : customer.service@SUCOFINDO.co. id
6	PT. SGS Indonesia Cilandak Commercial Estate #108C Jl. Raya Cilandak KKO Jakarta Selatan 12560 Indonesia
7	GEO-CHEM FAR EAST PTE LTD Blk 47, Ayer Rajah Crescent, # 05-01, Ayer Rajah Industrial Estate Singapore – 139947 Tel :- +65 67774620, Fax :- +65 67774650 Email :- singapore@geochemgroup.com
8	ACIRL Pty Ltd (Australia Coal Industry Research Laboratory) ACTEST (ACIRL Quality Testing Services Pty. Ltd) PO Box 242, Booval QLD 4304 1, ACIRL Street Riverview QLD 4303, Australia
9	Bureau Veritas - Western Australia 6 Gauge Circuit Canning Vale Perth Western Australia 6155 Australia
10	SGS Australia 10 Reid Road, Perth International Airport Newburn, Western Australia 6105 Australia
11	SGS SOUTH AFRICA (PTY) LTD 58 Mellville Street, Booyens P.O. Box 82582, Southdale Johannesburg 2135 South Africa
12	Inspectorate M&L (Pty) Ltd (part of Bureau Veritas group) 40 Modulus Road Ormonde Johannesburg 2190 South Africa

List of Agencies for Discharge Port / Transfer Point Testing

Sl. No.	Party Name	Address
1	Central Institute Power Research	Prof. Sir. C.V. Raman Road Sadashivnagar Post, Bangalore-560 080 Tel: 09844012844, 080-3602329/3601263 Fax: 020-23601213 Email: Sudhi@cpri.in Contact Person: Mr. C.P. Jairam,
2	Intertek India Pvt. Ltd., Kolkata	Laboratory, Plot No. P-27, Phase-I, Kasba Industrial Estate, Kolkata- 700 107 Phone : 033-24433229 Fax:033-24436932 Mob: 09836181291, E-mail: ashis.mallick@intertek.com Contact Person: Mr. Ashis Baran Mallick
3	Shriram Institute For Industrial Research	19, University Road, Delhi-110007 Tel: 9818360622 Contact Person : Dr. K.M.Chako
4	SGS India Pvt. Ltd.	Plot No. 64, G.I.D.C Main Road, Dharampur, Porbandar-360575 Tel: 0286-6454501 to 6454516 Fax: 0286-2220177 Mobile : 09724326973/ 09825916785 E-mail: ashish_bagkar@sgs.com Contact Person: Mr. Vipul Jadeja
5	SGS India Private Limited,	C/o-Pioneer Paper Plast (P) Ltd., H.O.S-3/12, Sector-A, Zone-B, Mancheswar Ind. Estate, Bhubaneswar- 751010, Odisha Tel :674 2580879 Fax 674-2580879 E-mail: padmanava.panda@sgs.com
6	Cotecna Inspection India Pvt. Ltd.-Testing	Laboratory Old No. 51, New No. 53 A, First Floor, Pillaiyar Koil Street, Tondiarpet, Chennai-600081 Tel : 044-25985028, 09962525464 Email: Chennai.lab@cotecna.co.in Contact Person : Mr.M.Gopi, Lab In-Charge
7	Material Testing Group (MTG), Defence, Bioengineering and Electromedical Laboratory (DEBEL),	DRDRO, Ministry of Defence, C.V. Raman Nagar, Bangalore-560093, India Tel-080-25058432, Fax No. 080-25282011 E-mail: mtgdebel@gmail.com Contact Person: Dr. N.S. Kumar, Scientist-E

8	Independent Testing Laboratories National	Council for Cement & Building Materials, Baliabgarh-121 004 Telefax 0129-2212525 Mobile- 9958998060 E-mail: mmancb@gmail.com Contact Person : Dr. M M Ali
9	Testing Laboratory Ahmedabad Textile Industry's Research Association (ATIRA)	P.O. Ambawadi Vistar, Ahmedabaad-380015 Tel: 079-26307921-2-3 Mob: 09825326966 Fax: 079-26304677/26301969 E-mail: chem.@atria-rnd-tex.org Contact Person: Dr. Md. S. Rahman, Assistant Director & Head Chemistry Division
10	Inspectorate Griffith India Pvt. Ltd. Chennai Laboratory	Fourth Floor, P.T. Lee Chengalvaraya Naicker Maaligai 23, Rajaji Salai (Opp. Beach Railway Station), Chennai, Tamilnadu- 600001 Tel: 044-25243201, 2: 09874026463 E-mail: chennaiab@inspectorate.co.in
11	MIA Test Lab & Research Centre, (TLC) (An Enterprise of MIDC Industries Association)	P-26, MIA House, MIDC Industry Area, Hingna Road, Nagpur-440028 Email: mia_midc@yahoo.com Contact Person : Mr. G L Neema