

**MMTC LIMITED, SCOPE COMPLEX, LODHI ROAD, NEW DELHI, INDIA**

<b><u>NOTICE INVITING TENDER NO. MMTC/FERT/ UREA/2014-15/1 DATED 14.08.2014 FOR SUPPLY OF PRILLED UREA</u></b>		
1.	COMMODITY	SUPPLY OF PRILLED UREA IN BULK/BAG
2.	QUANTITY	20000 MT +/- 10%. MMTC RESERVES THE RIGHT TO DECIDE EXACT QUANTITY TO BE PURCHASED EITHER IN FULL OR PART AND ALSO RESERVES THE RIGHT TO BUY PART QUANTITY OUT OF THE OFFERED QUANTITY BY A BIDDER.
3.	SHIPMENT PERIOD/ARRIVAL	SHIPMENT TO SUIT ARRIVAL BY FIRST HALF OF SEPTEMBER
4.	SPECIFICATIONS	AS PER INDIAN FCO 1985 AND SUBSEQUENT AMENDMENTS. THE SPECIFICATIONS ARE AS UNDER:  UREA – 46% N(WHITE FREE FLOWING)  MOISTURE % BY WEIGHT, MAX – 1.00  TOTAL NITROGEN, % BY WEIGHT, (ON DRY BASIS), MIN – 46  BIURET % BY WEIGHT, MAX – 1.5  PARTICLE SIZE – NOT <90% OF THE MATERIAL SHALL PASS THROUGH 2.8 MM IS SIEVE AND NOT < 80% BY WEIGHT SHALL BE RETAINED ON 1 MM IS SIEVE
5.	PACKAGING (BUYER HOLDS THE RIGHT TO DECIDE THE FINAL FORM OF PACKAGING)	<b>EITHER</b>  IN 1 MT BAGS IN SLINGS WITH MARKING AS DATE OF IMPORT, PURPOSE/USE (UREA FOR INDUSTRIAL/TECHNICAL/NPK GRADE FERTILIZERS) AND NOT FOR SALE ETC AND SHOULD HAVE TWO INCHES RED COLOR BORDER ON FRONT SIDE  <b>OR</b>  BULK
6.	DISCHARGE PORT	ANY INDIAN PORT ON EITHER WEST COAST OR IN EAST COAST
7.	DISCHARGE RATE AND DESPTACH/ DEMURRAGE	TO BE INDICATED BY BIDDERS

	RATE (FOR BULK SHIPMENT)	
8.	ORIGIN	TO BE INDICATED BY BIDDERS BUT NOT FROM NEGATIVE LIST.
9.	PRICE	<p>TO BE INDICATED BY BIDDERS IN U.S. DOLLARS PER METRIC TONNE ON FOBT LOADPORT INDICATING LOAD RATE AND LOADPORT RESTRICTIONS, IF ANY, AND C&amp;F FO ABOVE PORT INDICATING DISCHARGE RATE.</p> <p>PLEASE NOTE THE BIDDERS ARE REQUIRED TO QUOTE BOTH FOB/LOADPORT AND C&amp;F/DISCHARGE PORT PRICES. OFFERS MADE ONLY ON C&amp;F BASIS ARE LIABLE FOR REJECTION.</p> <p>IN CASE THE OFFER PRICE IS QUOTED IN CURRENCY OTHER THAN US DOLLARS, FOR PURPOSE OF EVALUATION ONLY, THE SBI CARD RATE ON THE DATE OF TENDER CLOSING WILL BE USED FOR CONVERSION OF THE OFFERED PRICE INTO US DOLLARS EQUIVALENT.</p> <p>THE PRICE SHOULD BE INCLUSIVE OF AGENCY COMMISION, IF ANY, INDICATING THE PERCENTAGE OF AGENCY COMMISION.</p> <p>IN ADDITION, THE BIDDERS MUST QUOTE THE INTEREST RATE APPLICABLE FOR AVAILING CREDIT UPTO 180 DAYS. BUYER MAY OPT FOR AVAILING CREDIT FOR 30/60/90/180 DAYS FROM THE DATE OF BILL OF LADING.</p> <p>TAXES AND DUTIES, IF ANY, PAYABLE OUTSIDE INDIA SHALL BE TO SUPPLIER'S ACCOUNT AND IN INDIA TO BUYER'S ACCOUNT. INDIGENOUS SUPPLIER SHOULD INDICATE ALL TAXES AND DUTIES WHEREEVER APPLICABLE AND SHALL ALSO SPECIFY THEIR SALES</p>

		TAX REGISTRATION NUMBER.
10.	PAYMENT	<p>BY LETTER OF CREDIT PAYABLE AT SIGHT OR ON 30/60/90/180 DAYS BASIS. REIMBURSEMENT WILL BE MADE WITHIN 5 BANKING DAYS OF RECEIPT OF ORIGINAL DOCUMENTS AT THE COUNTER OF THE LC OPENING BANK IF THE PAYMENT IS MADE THROUGH LETTER OF CREDIT AT SIGHT BASIS.</p> <p>IN CASE SHIPMENT FROM IRAN PAYMENT WILL BE IN AED ON CAD BASIS.</p>
11.	VALIDITY	VALID UPTO 1700 HRS IST ON 01-09-2014.
12.	INSPECTION	CARGO SHALL BE INSPECTED AT LOADPORT FOR QUANTITY AND QUALITY BY AN INTERNATIONALLY REPUTED INSPECTION AGENCY APPOINTED BY THE BUYER
13.	EMD/ BID BOND	<p>CATEGORY- I “PRODUCERS” WHO SUBMIT THE BIDS DIRECTLY (OR THROUGH AUTHORIZED REPRESENTATIVE/AGENT IN INDIA) AND OFFERING UREA FROM THEIR OWN PRODUCTION UNITS ARE EXEMPT FROM SUBMISSION OF BID BOND. ONLY THOSE PRODUCERS WILL BE TREATED AS “PRODUCERS” WHOSE NAMES ARE LISTED IN IFA PUBLICATION “SURVEY OF UREA CAPACITIES 1995” OR ANY UPDATED EDITION.</p> <p>CATEGORY - II “ACCREDITED SUPPLIERS” AS RECOGNIZED BY MMTC SHALL SUBMIT A BID BOND AT THE RATE OF US \$ 4.00 PMT OF THE QUANTITY OFFERED. THEY SHALL ALSO SUBMIT A LATEST BANK REFERENCE ALONG WITH THE OFFER.</p> <p>CATEGORY- III ALL OTHER BIDDERS WHO ARE NOT COVERED ABOVE SHALL SUBMIT A BID BOND @ US \$ 10.00 PMT OF THE QUANTITY OFFERED. THEY SHALL ALSO SUBMIT D&amp;B REPORT OF THE BIDDER(NOT MORE THAN 12 MONTHS OLD) AS ON DATE OF SUBMISSION OF BID. REPORT SHOULD BE OF MINIMUM ‘SATISFACTORY’ OR EQUIVALENT RATINGS.</p>
14.	PERFORMANCE GURANTEE BOND	IN THE EVENT OF AN OFFER BEING ACCEPTED, PERFORMANCE GUARANTEE BOND SHALL HAVE TO BE

		<p>SUBMITTED BY THE OFFERER STRICTLY AS PER MMTC'S FORMAT ONLY (ANNEXURE-II) WITHIN 7 DAYS FROM THE DATE OF ISSUANCE OF ACCEPTANCE OF OFFER. CONDITIONAL PG BONDS ARE NOT ACCEPTABLE. THE PG BOND SHOULD BE ESTABLISHED THROUGH ANY INDIAN SCHEDULED BANK IN NEW DELHI. THE VALUE OF THE PG BOND IN US DOLLARS SHALL BE AS FOLLOWS:</p> <p>CATEGORY-I(PRODUCERS) 1% VALUE OF THE CONTRACT</p> <p>CATEGORY-II(ACCREDITED SUPPLIERS) 3% VALUE OF THE CONTRACT</p> <p>CATEGORY- III OTHER BIDDERS 10% VALUE OF THE CONTRACT</p> <p>PLEASE NOTE THAT PG BOND SHOULD BE KEPT VALID FOR A MINIMUM PERIOD OF ONE YEAR FROM THE LAST DATE OF VALIDITY OF OFFER.</p>
15.	GENERAL	<p>(I) PLEASE NOTE THAT THE FORM OF MATERIAL SHOULD BE STRICTLY AS PER SPECIFICATIONS AS MENTIONED ABOVE.</p> <p>(II) INDIAN AGENT'S COMMISSION, IF ANY, WILL BE PAID ONLY IN INDIAN RUPEES AND DEDUCTED FROM THE INVOICE VALUE. PAYMENTS ARE SUBJECT TO STATUTORY DEDUCTIONS.</p> <p>(III) IN CASE BIDDERS WHO ARE NOT MANUFACTURERS MUST FURNISH THE NAME OF THE MANUFACTURER WHO SHALL SUPPLY THE PRODUCT AND THE COUNTRY OF ORIGIN TOGETHER WITH SUPPORT LETTER IN ORIGINAL FROM THE MANUFACTURER.</p> <p>(IV) BIDDER WILL SIGN THE INTEGRITY PACT AS PER ENCLOSED ANNEXURE III WHICH IS THE INTEGRAL PART OF THE TENDER DOCUMENTS, FAILING WHICH THE TENDERED/BIDDER WILL STAND DISQUALIFIED FROM THE TENDERING PROCESS AND THE BID OF THE BIDDER WOULD BE REJECTED.</p> <p>(V) MMTC RESERVES THE RIGHT TO ACCEPT OR REJECT ANY OR ALL TENDERS OR TO RE-TENDER AT MMTC'S SOLE DISCRETION WITHOUT ASSIGNING ANY REASONS.</p> <p>(VI) CONTRACT SHALL BE CONSTRUCTED</p>

		<p>(VII) AND GOVERNED BY INDIAN LAW. IN CASE BIDDERS ARE FINDING IT DIFFICULT TO PROVIDE FOR US \$ BID BOND/ PG, BIDDERS MAY SUBMIT THE SAME IN EQUIVALENT RUPEES</p> <p>(VIII) QUALITY SHOULD BE CONFIRMED AT DISCHARGE PORT BY RFCQL/CFCQL AND FINDINGS OF THE SAME WILL BE BINDING ON BOTH PARTIES. IN CASE OF ANY VARIATION IN QUALITY, THE ENTIRE LOT WILL BE REJECTED.</p> <p>(IX) DISCHARGE PORT JOINT DRAFT SURVEY QUANTITY SHALL BE FINAL.</p> <p>(X) THE PAYMENT FOR SHORT LANDED QUANTITY, IF ANY, AS PER DISCHARGE PORT DRAFT SURVEY SHALL BE COMPENSATED BY THE SELLER TO MMTC.</p> <p>(XI) SELLER SHOULD NOT CHARTER VESSEL OF MORE THAN 15 YEARS OF AGE. IN CASE OF NECESSITY, SHOULD TAKE PRIOR APPROVAL OF MMTC. OVERAGE INSURANCE PREMIUM SHALL BE TO SELLER'S ACCOUNT.</p> <p>(XII) VESSEL SHOULD BE SINGLE DECKER, FITTED WITH CRANES OF MINIMUM 25 MT SWL. HATCH COVERS SHOULD BE HYDRAULICALLY OPERATED.</p> <p>(XIII) THE SCALE OF PANALTIES FOR DEVIATION IN QUALITY AND DEFAULT IN PERFORMANCE BY THE SELLER SHALL BE AS PER OUR STANDARD UREA IMPORT CONTRACT.</p> <p>(XIV) OTHER TERMS WILL BE SIMILAR TO THE CONTRACT FOR FERTILIZER IMPORTS BY MMTC.</p>
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THE BIDS (BOTH TECHNICAL AND PRICE) ARE TO BE SUBMITTED PHYSICALLY IN SEALED ENVELOPES TO BE DROPPED IN TENDER BOX, LATEST BY 1100 HRS IST ON 21.08.2014, PLACED AT MMTC LIMITED, FERTILIZER DIVISION, 7TH FLOOR, CORE 1, SCOPE COMPLEX, LODHI ROAD, NEW DELHI.

GENERAL MANAGER (FERT.)

BID BOND PROFORMA

(ON A STAMP PAPER OF RS. 100/- TO BE EXECUTED BY A  
DELHI/NEW DELHI BRANCH OF ANY SCHEDULED BANK OF INDIA)

M/S. MMTC LTD.,  
FERTILIZER DIVISION, CORE NO.1  
"SCOPE COMPLEX"  
7- INSTITUTIONAL AREA, LODI ROAD,  
NEW DELHI-110 003. INDIA.

DEAR SIRs,

WHEREAS M/S. \_\_\_\_\_ (OFFEROR) HAS  
OFFERED TO SUPPLY A QUANTITY OF \_\_\_\_\_ MTS OF PRILLED UREA TO  
MMTC AND THE OFFEROR IS REQUIRED TO SUBMIT A BID BOND IN US  
DOLLARS AT THE RATE OF USD ..... PMT FOR THE QUANTITY OFFERED  
ALONGWITH THE OFFER AS A GUARANTEE FOR FULFILLMENT OF ALL THE  
TERMS AND CONDITIONS OF SUBSEQUENT SALE, WE (BANK WITH FULL  
ADDRESS) HEREBY GUARANTEE AND UNDERTAKE TO PAY IMMEDIATELY  
ON DEMAND BY MMTC LTD., NEW DELHI THE AMOUNT OF US\$  
\_\_\_\_\_ IN CASE THE OFFEROR FAILS TO PERFORM ANY OR ALL THE  
OBLIGATIONS, UNDERTAKEN BY HIM AS PER MMTC'S ACCEPTANCE  
WITHOUT RESERVATION, PROTEST, DEMUR AND RECOURSE TO SAID  
OFFEROR. ANY SUCH DEMAND IN WRITING MADE BY MMTC SHALL BE  
CONCLUSIVE AND BINDING ON US IRRESPECTIVE OF ANY DISPUTE OR  
DIFFERENCE RAISED BY THE OFFEROR.

NOTWITHSTANDING ANYTHING MENTIONED HEREIN BEFORE, OUR  
LIABILITY UNDER THE GUARANTEE IS RESTRICTED TO US\$ \_\_\_\_\_  
(US DOLLARS \_\_\_\_\_ ONLY) AND IT WILL  
REMAIN IN FORCE UPTO \_\_\_\_\_ UNLESS A CLAIM UNDER THE  
GUARANTEE IS FILED AGAINST US ON OR BEFORE \_\_\_\_\_ ALL YOUR  
RIGHTS UNDER THE SAID GUARANTEE SHALL BE FOREFEITED AND WE  
SHALL BE RELIEVED AND DISCHARGED FROM ALL THE LIABILITIES  
THEREUNDER. WE, \_\_\_\_\_ BANK FURTHER AGREE  
THAT THE GUARANTEE HEREUNDER CONTAIN SHALL NOT SO AFFECTED  
BY CHANGE IN THE TERMS OF PURCHASE ORIGINALLY OFFERED BY THE  
OFFEROR.

DATED:

FOR

PLACE:

BANK

ANNEXURE II

PERFORMANCE GUARANTEE BOND PROFORMA

(TO BE ISSUED BY ANY SCHEDULED BANK OF INDIA ON STAMP PAPER OF  
RS. 100/-)

M/S. MMTC LTD.,  
FERTILIZER DIVISION  
CORE NO.1,  
SCOPE COMPLEX,  
7, INSTITUTIONAL AREA,  
LODI ROAD,  
NEW DELHI-110 003 (INDIA)

1. AGAINST CONTRACT NO. \_\_\_\_\_  
DATED \_\_\_\_\_ (HEREINAFTER CALLED THE SAID "CONTRACT")  
ENTERED INTO BETWEEN THE MMTC LTD., (HEREINAFTER CALLED THE  
BUYERS) AND M/S. \_\_\_\_\_ (HEREINAFTER CALLED  
THE SELLERS) THIS IS TO CERTIFY THAT AT THE REQUEST OF THE SELLERS,  
WE \_\_\_\_\_ BANK ARE HOLDING IN TRUST IN FAVOUR OF THE  
BUYERS, THE AMOUNT OF US\$ \_\_\_\_\_ PAYABLE TO THE BUYERS  
ON DEMAND IMMEDIATELY WITHOUT PROTEST OR DEMUR OR REFERENCE  
TO THE SELLERS IF THE SELLERS FAIL TO PERFORM ALL OR ANY OF THEIR  
OBLIGATIONS UNDER THE SAID CONTRACT OR SUPPLY MATERIAL SHORT  
THAN THE CONTRACTED QUANTITY AS REVEALED BY DRAFT SURVEY AT  
THE DISCHARGE PORT OR IF PENALTIES ARE LEVIED DUE TO QUALITY  
DEVIATIONS (NUTRIENTS/ MOISTURE/PARTICLE SIZE ) FROM CONTRACTUAL  
SPECIFICATIONS AS REVEALED BY DISCHARGE PORT ANALYSIS REPORT OR  
LIABILITY TOWARDS DEAD FREIGHT AND DESPATCH/DEMURRAGE NOT  
SETTLED. THE DECISION OF THE BUYERS DULY COMMUNICATED IN  
WRITING TO THE BANK THAT THE SELLER HAVE FAILED TO PERFORM ALL  
OR ANY OF THE OBLIGATIONS UNDER THE CONTRACT OR HAVE DELIVERED  
SHORT QUANTITY AT THE DISCHARGE PORT AS PER SURVEY REPORT AT  
THE DISCHARGE PORT/OR PENALTIES HAVE BEEN LEVIED DUE TO QUALITY  
DEVIATIONS (NUTRIENTS/MOISTURE/PARTICLE SIZE) FROM CONTRACTUAL  
SPECIFICATIONS AS PER ANALYSIS REPORT AT THE DISCHARGE PORT OR  
HAVE NOT SETTLED DESPATCH/DEMURRAGE. AND DEAD FREIGHT SHALL  
NOT BE QUESTIONED AND SHALL BE FINAL AND CONCLUSIVE  
(IRRESPECTIVE OF THE STAND THAT MAY BE TAKEN BY OR ON BEHALF OF  
THE SELLERS). THE SAID AMOUNT OF US\$ \_\_\_\_\_ WILL ACCORDINGLY  
FORTHWITH BE PAID WITHOUT ANY CONDITIONS OR PROOF WHATSOEVER.

2. IT IS FULLY UNDERSTOOD THAT THIS GUARANTEE IS EFFECTIVE FOR A PERIOD OF ONE YEAR FROM THE DATE OF THIS GUARANTEE AND THAT WE \_\_\_\_\_ BANK UNDERTAKE NOT TO REVOKE THIS GUARANTEE DURING ITS CURRENCY WITHOUT THE CONSENT IN WRITING OF THE BUYERS.

3. WE, \_\_\_\_\_ BANK, FURTHER AGREE THAT THE BUYERS SHALL HAVE THE FULLEST LIBERTY, WITHOUT AFFECTING IN ANY MANNER OUR OBLIGATIONS HEREUNDER TO VARY ANY OF THE TERMS AND CONDITIONS OF THE SAID CONTRACT OR TO EXTEND TIME OF PERFORMANCE BY THE SELLERS FROM TIME TO TIME OR TO POSTPONE FOR ANY TIME OR FROM TIME TO TIME ANY OF THE POWERS EXERCISABLE BY THE BUYERS AGAINST THE SAID SUPPLIERS AND/OR FOREBEAR TO ENFORCE ANY OF THE TERMS AND CONDITIONS RELATING TO THE SAID CONTRACT AND WE, \_\_\_\_\_ BANK, SHALL NOT BE RELEASED FROM OUR LIABILITIES UNDER THIS GUARANTEE BY REASON OF ANY SUCH VARIATIONS OR EXTENSION BEING GRANTED TO THE SAID SELLERS OR FOR ANY FORBEARANCE AND/OR OMISSION ON THE PART OF THE BUYERS, OR ANY INDULGENCE BY THE BUYERS, TO THE SAID SELLERS OR BY ANY OTHER MATTER OR THING WHATSOEVER WHICH UNDER THE LAW RELATING TO THE SURETIES WOULD, BUT FOR THIS PROVISION HAVE THE EFFECT OF SO RELEASING US FROM OUR LIABILITY UNDER THIS PERFORMANCE GUARANTEE.

4. WE, \_\_\_\_\_ BANK, FURTHER AGREE THAT THE GUARANTEE HEREIN CONTAINED SHALL NOT BE AFFECTED BY CHANGE IN THE CONSTITUTION OF THE SAID SUPPLIER/ IMPORTER/CONSIGNEE.

FOR \_\_\_\_\_ BANK

ACCEPTED



## INTEGRITY PACT

Between

MMTC Limited hereinafter, referred to as “MMTC”,

And

..... hereinafter referred to as “The Buyer/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 Buyer/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 may appoint an Independent External Monitor (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 Buyer(s)/Vendor(s)/Bidder(s) the same information and will not provide to any Buyer/Vendor/Bidder any confidential/additional information through which the Buyer/Vendor/Bidder 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 a substantive suspicion in this regard, MMTC will inform its Chief Vigilance Officer and in addition can initiate disciplinary action.

## **Section 2 – Commitments of the Buyer(s)/Vendor(s)/Bidder(s)**

1. The Buyer(s)/Vendor(s)/Bidder(s) 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 Buyer(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 the 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 Buyer(s)/Vendor(s)/Bidder(s) will not enter with other Buyer(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 Buyer(s)/Vendor(s)/Bidder(s) will not commit any criminal offence under the relevant Anti-Corruption Laws of India; further the Buyer(s) /Vendor(s)/Bidder(s) will not use improperly, for purposes of competition 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 Buyer(s)/Vendor(s)/Bidder(s) of foreign origin shall disclose the name and address of the Agents/representatives in India, if any. Similarly the Buyer(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 Buyer(s)/Vendor(s)/Bidder(s) will, when presenting his 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 Buyer(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 Buyer(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 buyer/vendor/bidder into question, MMTC is entitled to disqualify the Buyer(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 Buyer(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 buyer/vendor/bidder into question, MMTC is entitled to also exclude the Buyer(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 Buyer(s) /Vendor(s)/Bidder(s) can prove that he has restored/recouped the damage caused 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 Buyer(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 5% of the Contract value or the amount equivalent to Performance Bank Guarantee whichever is higher.
3. If the Buyer(s) /Vendor(s)/Bidder(s) can prove that the exclusion of the Buyer(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 Buyer(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 Buyer(s)/Vendor(s)/Bidder(s) before Contract Award or the termination of the Contract after the Contract Award is higher than 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 Buyer(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 Buyer(s) /Vendor(s)/Bidder(s)**

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

#### **Section 7 – Criminal charges against violating Buyer(s)/Vendor(s)/Bidder(s)**

If MMTC obtains knowledge of conduct of Buyer(s)/Vendor(s)/Bidder(s) or of an employee or a representative or an associate of Buyer(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 representatives 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 Buyer(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 Buyer(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 option 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 him by MMTC and, should the occasion arise, submit proposals for correcting problematic situations.
7. If the IEM has reported to the CMD, MMTC, a substantiated 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 a 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)  
(Office Seal)

.....  
(For & on behalf of Buyer/Vendor/Bidder)  
(Office Seal)

Place : .....

Date : .....

Witness 1 : .....

Name :

Address :

Witness 2 : .....

Name :

Address :