

**CORRIGENDUM-06 DATED 5.8.2015**

**TO**

**TENDER NO. MMTc/Steam Coal/15-16/CIL/1236 (R2) date 24.6.2015**

**1) PURCHASE OF TENDER DOCUMENTS :**

Extended date and time for purchase of tender document	10 <sup>th</sup> Aug, 2015 till 17:00 hrs
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**2) LAST DATE OF OBTAINING CLARIFICATION ON TENDER DOCUMENT**

Extended date and time for obtaining clarification on tender document	10 <sup>th</sup> Aug, 2015 till 17:00 hrs
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**3) SUBMISSION OF BIDS:**

Extended date and time of submission	12 <sup>th</sup> Aug, 2015 till 14:30 hrs
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**4) OPENING OF TECHNICAL BIDS :**

Extended date and time of Opening	12 <sup>th</sup> Aug, 2015 till 15:00 hrs
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**ALL OTHER TERMS AND CONDITIONS OF THE TENDER REMAIN THE SAME.**

THIS CORRIGENDUM BECOMES AN INTEGRAL PART OF THE TENDER NO. MMTc/Steam Coal/15-16/CIL/1236 (R2) date 24.6.2015

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**CORRIGENDUM-05 DATED 28.7.2015**

**TO**

**TENDER NO. MMTc/Steam Coal/15-16/CIL/1236 (R2) date 24.6.2015**

**5) SUBMISSION OF BIDS:**

Existing date and time of submission	28 <sup>th</sup> July, 2015 till 14:30 hrs
Extended date and time of submission	5 <sup>th</sup> Aug, 2015 till 14:30 hrs

**6) OPENING OF TECHNICAL BIDS :**

Existing date and time of Opening	28 <sup>th</sup> July, 2015 till 15:00 hrs
Extended date and time of Opening	5 <sup>th</sup> Aug, 2015 till 15:00 hrs

**ALL OTHER TERMS AND CONDITIONS OF THE TENDER REMAIN THE SAME.**

THIS CORRIGENDUM BECOMES AN INTEGRAL PART OF THE TENDER NO. MMTc/Steam Coal/15-16/CIL/1236 (R2) date 24.6.2015

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**CORRIGENDUM-04 DATED 22.7.2015**

**TO**

**TENDER NO. MMTc/Steam Coal/15-16/CIL/1236 (R2) date 24.6.2015**

**7) SUBMISSION OF BIDS:**

Existing date and time of submission	24 <sup>th</sup> July, 2015 till 14:30 hrs
Extended date and time of submission	28 <sup>th</sup> July, 2015 till 14:30 hrs

**8) OPENING OF TECHNICAL BIDS :**

Existing date and time of Opening	24 <sup>th</sup> July, 2015 till 15:00 hrs
Extended date and time of Opening	28 <sup>th</sup> July, 2015 till 15:00 hrs

**ALL OTHER TERMS AND CONDITIONS OF THE TENDER REMAIN THE SAME.**

THIS CORRIGENDUM BECOMES AN INTEGRAL PART OF THE TENDER NO. MMTc/Steam Coal/15-16/CIL/1236 (R2) date 24.6.2015

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**CORRIGENDUM-03 DATED 17.7.2015**

**TO**

**TENDER NO. MMTc/Steam Coal/15-16/CIL/1236 (R2) date 24.6.2015**

**9) SUBMISSION OF BIDS:**

Existing date and time of submission	20 <sup>th</sup> July, 2015 till 14:30 hrs
Extended date and time of submission	24 <sup>th</sup> July, 2015 till 14:30 hrs

**10) OPENING OF TECHNICAL BIDS :**

Existing date and time of Opening	20 <sup>th</sup> July, 2015 till 15:00 hrs
Extended date and time of Opening	24 <sup>th</sup> July, 2015 till 15:00 hrs

**ALL OTHER TERMS AND CONDITIONS OF THE TENDER REMAIN THE SAME.**

THIS CORRIGENDUM BECOMES AN INTEGRAL PART OF THE TENDER NO. MMTc/Steam Coal/15-16/CIL/1236 (R2) date 24.6.2015

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**CORRIGENDUM-02 DATED 15.7.2015**

TO

**TENDER NO. MMTC/Steam Coal/15-16/CIL/1236 (R2) date 24.6.2015**

S.n	Bid Doc/ Section Ref	Instead of	Read as
1	Clause 25.0, Agreement, Volume-III, Technical Specifications, last line	The Agreement with the Successful Bidder is proposed to remain in force for 6 months supply period + two months from the date of signing and further extendable, in case CIL advises MMTC, based on the progress of execution of Agreement.	The Agreement with the Successful Bidder is proposed to remain in force upto Nov'2015 from the date of signing and further extendable by CIL/MMTC based on the progress of execution of Agreement.
2	Annexure-L, Section-1 (1), page-58	MMTC commits itself to take all necessary measures to prevent corruption and to observe the following principles.	MMTC commits itself to take all necessary measures to <b>prevent</b> corruption and to observe the following principles.
3	Annexure-S, S.no. 4 "Period of Shipment"	Quarter-II (2014-15) or as per requirement of MMTC/CIL.	Quarter-II ( <b>2015-16</b> ) or as per requirement of MMTC/CIL.

**ALL OTHER TERMS AND CONDITIONS OF THE TENDER REMAIN THE SAME.**

THIS CORRIGENDUM BECOMES AN INTEGRAL PART OF THE TENDER NO. MMTC/Steam Coal/15-16/CIL/1236 (R2) date 24.6.2015

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**CORRIGENDUM-01 DATED 10.7.2015**

**TO**

**TENDER NO. MMTC/Steam Coal/15-16/CIL/1236 (R2) date 24.6.2015**

**11) PURCHASE OF TENDER DOCUMENTS :**

Existing date and time for purchase of tender document	9 <sup>th</sup> July, 2015 till 17:00 hrs
Extended date and time for purchase of tender document	14 <sup>th</sup> July, 2015 till 17:00 hrs

**12) LAST DATE OF OBTAINING CLARIFICATION ON TENDER DOCUMENT**

Existing date and time for obtaining clarification on tender document	9 <sup>th</sup> July 2015 till 17:00 hrs
Extended date and time for obtaining clarification on tender document	14 <sup>th</sup> July, 2015 till 17:00 hrs

**13) SUBMISSION OF BIDS:**

Existing date and time of submission	15 <sup>th</sup> July, 2015 till 14:30 hrs
Extended date and time of submission	20 <sup>th</sup> July, 2015 till 14:30 hrs

**14) OPENING OF TECHNICAL BIDS :**

Existing date and time of Opening	15 <sup>th</sup> July, 2015 till 15:00 hrs
Extended date and time of Opening	20 <sup>th</sup> July, 2015 till 15:00 hrs

**ALL OTHER TERMS AND CONDITIONS OF THE TENDER REMAIN THE SAME.**

THIS CORRIGENDUM BECOMES AN INTEGRAL PART OF THE TENDER NO. MMTC/Steam Coal/15-16/CIL/1236 (R2) date 24.6.2015

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**Clarification no. 01 dated 15.7.2015**

**Tender no. MMTC/Steam Coal/15-16/CIL/1236 (R2) date 24.6.2015**

<b>S. No</b>	<b>Clause No.</b>	<b>Observations of prospective bidders</b>	<b>Divisions Reply/Observation</b>
1	19	Please refer to clause no. 19 last para "Based on the lowest landed cost of imported coal at plant and indicated quantity for concerned plant, the weighted average of lowest landed costs for all plants shall be considered for determining L-1 offer in the bid." Please clarify if the L-1 bidder will be placed work order for supply to the plants on the basis of the rates quoted by the bidder for each of the plants individually and will not be asked to match L-1 price received for each of the plant separately.	The award criteria for determining L-1 bidder is very clear. In this regard please also refer to S.No. 'Q' of Annexure-S (Price Sheet).
2		Please refer to tender no. MMTC/steam coal/ 15-16/CIL/1236 dated 9.4.2015 which had submission date of 19.05.2015. We had participated in the same package and submitted self attested copy of all experience certificates. As this tender is a repeat of the same exercise having similar quantity and terms and conditions and the fact that the earlier tender was opened on 26.5.2015 at 15:30, we request you to kindly accept the copies of the experience certificates already submitted towards qualifying requirement in the earlier tender as the originals have been submitted to you a month and a half back	As per tender
3		For the plant of APPDCL kindly confirm that the supplier will not be required to transport the coal by road/rail or any other mode .The price to be quoted is only for supply of coal on Ex-port basis.	<p>In case of APPDCL, the unloading of coal from ship and movement through port conveyor system upto a terminal point (Silo) is also in the scope of work of bidder.</p> <p>APPDCL pipe conveyor will feed the SDSTPS plant from terminal point (silio). The in line weighing scales (Belt Weighers) will be on the feeding conveyor just before the Silo.</p> <p>Transport of coal to APPDCL</p>

			plant by rail/road or by any other mode is not part of the scope of work of bidder.
4	clause no 1 sub clause (iii)	<p>Please refer to clause no 1 sub clause (iii) of location of delivery points of volume-1 instruction to bidders which is “M/s APPDCL, Krishnapatnam TPS: Sri Damodaram Sanjeevaiah TPS, Krishnapatnam , Nellore, Andra Pradesh . The delivery of coal shall be made at Krishnapatnam Port, The plant will accept the weight as measured on their weightometer for billing purpose”</p> <p>Since the delivery will be on Ex-Krishnapatnam port basis , for billing purpose weight of coal as measured on the weightometer of the plant will be considered. Please clarify how the transit loss will be attributed to the supplier when coal will be in possession of APPDCL.</p>	Kindly refer to clarification at s.no. 3
5	Vol-III – Clause 9 Page 32	<p>“MMTC shall remit the payment of C&amp;F 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 CIL and remits the payment to Successful bidder. MMTC shall not bear the loss/gain 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.”</p> <p>Requested to kindly provide clarity on the mechanism of the above mode of settlement of differences in exchange rate variations?</p>	<p>The Scope of Work in the said tender comprises broadly of two parts i.e., supply of imported coal of requisite specifications on C&amp;F basis at Indian ports; and handling, clearing, forwarding, transportation, delivery of coal at TPS/Point of Delivery .</p> <p>MMTC need to fulfill the requirement of importer in procurement and supply of coal. For completion of the entire scope of work, MMTC will enter into a tripartite agreement with successful bidder and overseas supplier/ JV partner. MMTC shall make the C&amp;F payment to the overseas supplier in USD.</p> <p>Kindly refer to Vol-III, Clause 5 which stipulates that CIL would make payment of C&amp;F basis RBI exchange rate prevailing on B/L date where as the payment will be released by CIL to MMTC in INR after delivery of coal. There may be difference in exchange rate at</p>

			which MMTC receives the payment from CIL and remits the same to Overseas supplier of Successful bidder in USD basis the prevailing exchange rate. Any loss/gain on account of such variation will be passed on to Successful bidder/ Overseas supplier.
6	Vol-II Clause 6 page -19	Please clarify whether the INR and USD payments from MMTC can be made to two different members of the JV/Consortium and in two different geographies (including overseas)	MMTC will make USD payment for C&F component to overseas JV partner/ overseas supplier declared by bidder in its bid. However, all payments towards other charges will be made to Successful bidder/Indian JV partner acting as handling agent.  Kindly also refer clarification at s.no. 5 above.
7	Vol-1 Clause 24.1 & Clause 25.2 page 15	<p>“The Bidder should have working capital of more than INR 100 Cr. (including access to lines of credit from nationalized bank/scheduled bank and availability of other financial resources to meet requirements). Such certificate shall be dated within three months before the date of tender opening.”</p> <p>“The Bidders must submit documentary proof such as copy of work order/contract agreement as well as completion certificates for technical qualification criteria and copy of balance sheet for last three years and letter certifying working capital from Statutory Auditor for financial qualification criteria.”</p> <p>Is the working capital certificate to indicate the lines of credit ?</p> <p>Also please clarify if the Working Capital Certificate is to be issued by the Auditor or by the bank?</p>	The certificate should be provided from statutory auditor apart from Bank letter.
8		Will MMTC provide format for “Power of attorney” and “Consortium agreement”?	No
9	Vol-III Clause – 3 (vii) Page	For, APPDCL “the quantity of coal to be supplied by bidder to be on vessel load basis.” Please Clarify Procedure	In case of APPDCL the consignment of coal will be on vessel load quantity whereas in

	24 & Vol-III Clause 6.2.3 page 29	In case of APPDCL please confirm if the Conveyor system from unloading port to Station fully operational. If not, how is the imported coal envisaged to be dispatched to the APPDCL power station from the port and what would be the scope of responsibility of the Supplier in this case.	all other cases the consignment will be rake load quantity.  As regard to conveyor system, kindly refer to clarification at Sl.no. 3
10	Vol-1 Clause 14.1 Envelope IV Page9	“ Name of the Overseas Supplier”  Please confirm format or documentation (if any) required to be submitted for the Name of Overseas supplier?	No prescribed format or documentation is asked for submission of name of overseas supplier. Bidder has to provide name of overseas supplier along with address on its letter head along with price bid in annexure-4
11	Clause No. 24.1, Volume I, Instruction to bidders	After Clause 24.1, Clause 25.2 is listed in the tender. Kindly clarify if there are any other clauses between clauses 24.1 and 25.2	No.
12	Clause 1.0, Introduction, Volume-I, ITB	We wish to state that the table containing TPS-wise tentative break-up of quantities indicated that the tentative supply period for this contract is 2 <sup>nd</sup> Quarter 2015-16 (as per the table header), whereas, the Clause 25.0, Agreement, Volume-III, Technical Specifications, mentions the supply period as 6 months.  These two clauses are in conflict, hence, we request you to kindly clarify on the same.	Kindly refer s. no. 1 of Corrigendum no. 2
13	Clause 1.0, Introduction, Volume-I, ITB	The clause states that “The Scope of Work includes procurement of 0.353 MMT (+2%buyer’s option) foreign origin coal (meeting quality requirements) to Indian Ports, arranging vessels, stevedoring, handling, storage, port clearances, arranging railway rakes for inland transportation in India, loading, transportation and delivery of coal at delivery points by investing its own wrking capital.” As mentioned in the tender documents, delivery points are the TPSs except for M/s. APPDCL where it is Krishnapattnam Port.  However, this clause is not very clear on the scope of work in case of APPDCL, i.e., which activities out arranging vessels, stevedoring, handling, storage, port clearances, arranging Railway rakes	Kindly refer to clarification at s.no. 3

		<p>for inland transportation in India, loading, transportation and delivery of coal at delivery points are part of the scope of work. A bidder would need a clear and unequivocal understanding of the scope of work in order to be efficient in offering the prices.</p> <p>Hence, we request you to kindly incorporate a clear and detailed scope of work for M/s. APPDCL to avoid any confusion amongst bidders at the bidding stage and disputes and disruption at supply stage.</p>	
14	Clause 24.1 D & 25.2 Qualifying Requirement, Volume-I, ITB	<p>The above mentioned clauses state that the working capital certificate should be dated within 3 months from the date of tender opening. 3 months window from the date of tender opening, i.e. 15<sup>th</sup> July 2015 is between 15<sup>th</sup> April and 15<sup>th</sup> July.</p> <p>We wish to state that since at the time of bid opening, auditing of financial statements would not have been finished, please consider the submission of certificate as on 31<sup>st</sup> Mar 2015 (as per the latest audited financial statements).</p>	Kindly refer to clarification at s.no. 7
15	Annexure S, Price Schedule Form	<p>As per the Price schedule form, the landed price for evaluation shall be arrived after considering basic custom duty of 2.5%.</p> <p>We wish to state that tender stipulates the compulsion of availing any concession in custom duty, if applicable. As per the ASEAN India Free Trade Agreement (AIFTA), concession of 2.5% of BCD is available in case the importer produces Form A1 certificate in case of import from ASEAN nations. By considering the BCD of 2.5% for evaluation of lowest bidder, owner shall be providing an advantage to the suppliers from other geographies (South Africa / Australia etc.) compared to the suppliers from ASEAN countries.</p> <p>Therefore, we request you to give option to bidders to quote Custom Duty as per prevailing norms. It shall be beneficial to the purchaser and also lead to parity in pricing.</p>	As per tender.

**TENDER FOR PROCUREMENT & SUPPLY OF  
0.353 (+ 2% buyer's option) MMT OF  
IMPORTED COAL TO POWER PLANTS**



**TENDER NO. MMTC/Steam Coal/15-  
16/CIL/1236(R2) Dated- 24.6.2015**

**GENERAL MANAGER  
MMTC Limited  
CORE-1, SCOPE COMPLEX,  
7, Institutional Area, Lodhi Road  
New Delhi - 110003, India  
Tel.No.011-24366305/24381345  
Fax: 011 - 2436 6362 /24362773**

**Volume – I**

**INSTRUCTIONS TO BIDDERS**

## 1.0 INTRODUCTION

MMTC invites competitive offers in two bid system from eligible bidders for Procurement & Supply of 0.353 MMT (+ 2% buyer's option) of Imported Coal for Power Plants, as per specifications mentioned at Annexure- B, to be supplied to Power generating companies a/c CIL on 'FOR Delivery Point basis', through various discharging Ports in India. The delivery schedule and timely supply is essence of the contract.

The Scope of Work includes procurement of 0.353 MMT (+ 2% buyer's option) foreign origin coal (meeting quality requirements) to Indian Ports, arranging vessels, stevedoring, handling, storage, port clearances, arranging Railway rakes for inland transportation in India, loading, transportation and delivery of coal at delivery points by investing its own working capital. All other peripheral activities incidental to delivery of imported coal upto the delivery point at Power Plants such as 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 Purchaser at its own cost.

The Successful Bidder shall have to arrange for requisite plots at port for storage of imported coal procured for Power Plants a/c CIL. 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 / CIL or power generation company 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 /CIL or power generating company responsible for any berthing delays under any circumstances.

The detailed Scope of Work shall be as per the Bidding Documents.

The Plant-wise tentative quantities covered under this tender are as under :

Name of Thermal Power Station	IInd Quarter 2015 -16 (Qty in MT)
M/s APGENCO, Vijaywada TPS	94,000
M/s APGENCO, Rayalseema TPS	41,000
M/s APPDCL, Krishnapatnam TPS	2,18,000
<b>Total</b>	<b>3,53,000</b>

## LOCATION OF DELIVERY POINTS

- i) **M/s APGENCO, Vijaywada TPS** : Dr Narla Tata Rao TPS (Vijaywada) Ibrahimpatnam – 521456, Andhra Pradesh
- ii) **M/s APGENCO, Rayalseema TPS** : VV Reddy Nagar, Kadapa, Andhra Pradesh
- iii) **M/s APPDCL, Krishnapatnam TPS** : Sri Damodaram Sanjeevaiah TPS, Krishnapatnam, Nellore, Andhra Pradesh. The delivery of coal shall be made at Krishnapatnam port. The plant will accept the weight as measured on their weightometer for billing purpose.

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

Bidder has to quote their prices for the quantities mentioned in price schedule, Annexure-S Volume IV of Bidding documents.

### **1.1 GENERAL INFORMATION**

- (i) The prospective bidders are invited to submit their Bid comprising of Technical & Commercial aspects and Bid Prices, 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 and MMTC 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. Decision of MMTC will be final and binding in this regard.
- (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, letter of undertaking, indemnity bond, and trust deed as per MMTC's formats.
- (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.
- (vii) Multiple bids by the same person (individually or as a part of a Consortium/Subsidiary) are not allowed. Any person that controls (directly or indirectly) a bidder or a member of the bidding Consortium/Subsidiary, or any other person(s) which is/are controlled (directly or indirectly) by the aforementioned person, or any person that is controlled (directly or indirectly) by such bidder or member of bidding Consortium/Subsidiary, shall not bid on its own or as a member of a Consortium/Subsidiary for which the bidder or the bidding Consortium/Subsidiary has submitted a bid.

For the purposes of this clause the terms 'person' means any individual, company, corporation, partnership (whether limited or unlimited), proprietorship, trust or any other entity (whether incorporated or not), Hindu undivided family, union or association and in case of a trust shall include the trustee or the trustees for the time being. For the purposes of this clause the terms 'control' as applied to any person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of that person whether through acquisition of shares, voting securities, by contract, or otherwise. Certificate to this effect shall be furnished along with the bid as per Annexure-M.

- (viii) Bidders are required to unconditionally accept the "Integrity Pact (IP)" as per Annexure – L which has been pre-signed by MMTC, and submit the same duly signed on all pages by the Bidder's authorized signatory along with the bid, in line with the Bidding Documents provisions, in a separate sealed envelope. Bidder's failure to comply with the aforesaid requirement regarding submission of 'Integrity Pact (IP)' shall lead to outright rejection of the bid and in such case the bids shall be returned unopened to the bidder.
- (ix) 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 CIL/Purchasers.
- (x) In the event of any clarification required by the Bidders, the same should be sought in writing not later than **09.07.2015, 1700 Hrs IST**. Please note MMTC will not be responsible to respond to any queries sent by bidders after such date.

- (xi) **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 09.07.2015 by depositing the tender fees of Rs. 1,00,000/- or US\$ 1600 by way of Crossed DD/Banker's Cheque in the name of "MMTC Limited, New Delhi"**

## **2 BIDDING DOCUMENTS**

The Bidding documents comprise the following documents:

- |   |                               |   |              |
|---|-------------------------------|---|--------------|
| • | 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.

### **2.1 Clarification on Bidding Documents**

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 [www.mmtclimited.gov.in](http://www.mmtclimited.gov.in) and [www.eprocure.gov.in](http://www.eprocure.gov.in) and will be binding on the bidders.

## **3 PREPARATION OF BID**

- 3.1 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.(i.e. by Authorised Signatory).
- 3.2 A Power of Attorney, duly authorised by a Notary Public, is required to be submitted by the bidder indicating that the person(s) signing the bid has/have the authority to sign the bid and that the bid is binding upon the Bidder during the full period of its validity. Bids submitted by a Consortium firms as partners shall comply with the following requirements:
- All the documents under the bid shall be signed by one of the joint venture/consortium partner who shall be duly authorized by all the partners through a Power of Attorney to execute the documents on behalf of the joint venture/consortium.
  - Duly certified copy of the original agreement entered into by the consortium partners shall be submitted with the bid.
  - A firm can be a partner in only one consortium; bids submitted by Consortium including the same firm as partner will be rejected.
  - All Consortium firms as partners should not have been blacklisted / banned for participation in any of the power utilities / government / semi government companies / PSUs in India as on the due date of submission of bid. Consortium firms as partners shall submit an affidavit duly notarized to this effect as per Annexure-N. Non-submission of affidavit or submitting false affidavit, if found at any stage, shall render the bidder disqualified and their EMD /Performance Bank Guarantee shall be liable to be forfeited.

- 3.3 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.

#### **4 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.

#### **5 BID CURRENCY**

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

#### **6 BID FORM AND PRICE SCHEDULES**

- 6.1 The schedule of quantity to be delivered to clients of CIL, is indicated in the bid document. The bidder has to quote their prices as per the formats provided.
- 6.2 The bidder has to offer prices for all three power plants, not quoting prices for the full quantity shall be treated as non-responsive and the bid shall be treated as non-responsive.
- 6.3 The bidder should not have been blacklisted/banned for participation in tenders issued by any government/semi government companies/PSUs in India as on the due date of submission of bid. The documents furnished by the bidder should be true including the contents thereof. The bidder shall submit an affidavit to this effect, as per Annexure N duly notarized. Non-submission of affidavit or submitting false affidavit, if found at any stage, shall render the bidder disqualified and their Bid Security/Performance Bank Guarantee shall be liable to be forfeited.

#### **7 EARNEST MONEY DEPOSIT (EMD)/ BID SECURITY**

- 7.1 The bidder shall submit EMD separate as per details below :

Name of Thermal Power Station	EMD	
	Rs/Crs	USD
APGENCO, Vijaywada TPS	7.25	1128500
APGENCO, Rayalseema TPS		
APPDCL, Krishnapatnam TPS		

The bidder has to submit requisite EMD alongwith its bid in a separate sealed envelope superscribed with EMD/Bid Security details as Envelope –I, Any bid not accompanied by an acceptable EMD/Bid Security in a separate sealed Envelope-I, superscribed with “EMD details” shall be liable to be rejected by MMTC as being non-responsive.

- 7.2 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) and Scheduled Foreign Banks. 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 90 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.

7.3 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.

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

7.5 The EMD shall not bear any interest.

7.6 The EMD of the unsuccessful bidder will be returned promptly but not until execution of the contract agreement with the successful bidder and submission of Performance Bank Guarantee in accordance with the Tender Document.

## **8. FORFEITURE OF EMD/BID SECURITY**

The EMD /Bid Security may be 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, if MMTC finds any discrepancy during evaluation.
- (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 Intent.
- (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.

## **9. 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 duly signed, dated and stamped by the bidder, is to be furnished in separate sealed envelope, as detailed in clause 11 below. Any bid not accompanied by such certificate shall be rejected by MMTC.

## **10. PERIOD OF VALIDITY OF BID**

The Bids shall remain valid for a period of 80 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.

#### **11. NO DEVIATION/EXCLUSIONS**

Bidders to note that no deviations or suggestive bids are allowed from the terms and conditions as specified in this tender document. A certificate to this effect is to be submitted by the bidder(s) as per format prescribed at Annexure-K.

#### **12. 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.

#### **13. INTEGRITY PACT**

Bidders are required to unconditionally accept the "Integrity Pact (IP)" (executed on plain paper) as per Annexure – L, 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 : <a href="mailto:bijoychat@gmail.com">bijoychat@gmail.com</a>	Shri D.R.S Chaudhary, IAS (Retd.) Address : MMTC Limited , Core-1 , Scope Complex , Lodhi Road, New Delhi Email: <a href="mailto:dilip.chaudhary@icloud.com">dilip.chaudhary@icloud.com</a> .
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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.

#### **14. SUBMISSION OF BIDS**

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

##### **Envelope I – ( *Earnest Money* )**

- Earnest Money Deposit/ Bid Security of requisite value in the form prescribed in this document at Clause 7.0 above.

##### **Envelope II – ( *Integrity Pact* )**

- Integrity Pact (Annexure-L)

##### **Envelope III – ( *Technical Bid* )**

- Certificate regarding No Deviation or Exclusion as per format at Annexure- K.

- 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 24 Volume – I (Annexure G, H, I-1/I-2, & J)
- In the event of a Joint Venture for handling, MOU/Agreement as per clause 24 Volume – I.
- Declarations / confirmations as required in the tender like;
  - Affidavit of not being black listed (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 IV – (Price Bid)**

This envelop shall contain the following:

- Unconditional Bid Submission Form (Annexure-R)
- Bank Account Details Form (Annexure-Q)
- Price Schedule (Annexure-S)
- Name of the Overseas Supplier

14.2 The above said Envelopes Nos. I, II,III,IV should be kept in an outer envelope, which should 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 :

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

Last date for receipt of Bids is upto **1430** hrs on **15.07.2015**. The technical bids shall be opened on **15.07.2015 at 1500** hrs in the office of MMTC at above address.

#### **15. SYSTEM OF MAKING OFFER AND ITS SUBMISSION**

- (a) Bids for Supply of Imported Coal in bulk to clients of CIL for their consumption 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 as required in the tender.
- (d) The second envelope, superscripted as 'Integrity Pact' , shall contain the "Integrity Pact" (executed on plain paper) as required in the tender.
- (e) The third envelope superscripted as 'Technical Bid' shall contain all the documents as elaborated in clause 14.1 for technical acceptance and qualification of the bid, excluding Price Bid, duly filled in and signed by the Authorized representative of the Bidder.
- (f) The fourth envelope, superscripted as "Price Bid" shall contain the Price Bid as per format (Annexure-S) given in Volume – IV of the Tender document.
- (g) The above four envelopes shall be enclosed in an Overall Envelope.
- (h) 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 Integrity Pact and 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.
- (i) Only those bidders who fulfill all the qualifying requirements and submit the requisite EMD will qualify for opening of the price bid.
  - (j) The Bidder's Bid and the documents attached thereto shall be considered as part of the Contract Documents.
  - (k) **Bids must be addressed to General Manager (Coal), MMTC Limited, New Delhi.**
  - (l) 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 :  
**"Tender No. MMTC/ Steam Coal/15-16/CIL/1236 (R2) dated 24.06.2015 for Procurement & Supply of 0.353 MMT (+ 2% buyer's option) of Imported Coal for Power Plants" Last date for receipt of Bids is upto 1430 hrs on 15.07.2015**
  - (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 Steam Coal Division, 7<sup>th</sup> 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.

## **16. BID OPENING AND EVALUATION**

The Bids shall be opened on the specified date and time at the place mentioned above at clause 14.2 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 , Envelope No. II and III as contained in Clause 14 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 the representatives of bidder whose bids are found to be incomplete at any stage of bid evaluation shall not be allowed to continue in the further proceedings of bid opening.

MMTC may however ask for clarifications during evaluation of bids. The request for clarification by MMTC and the response by Bidder shall be in writing. No modification of the bid or submission of any additional documents, not specifically asked for by MMTC, will be allowed and even if submitted, will not be considered by MMTC.

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.

#### **17. 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.

#### **18. 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.

#### **19. EVALUATION & AWARD CRITERIA**

Bidders should make themselves aware of various costs involved in delivering imported coal to Purchasers. 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 as per format at **Annexure-S** of the tender document. However, bidders to ensure that all statutory levies like port dues and railway freight etc. are quoted at actuals, as prevailing at the time of submission of bid. The bidders shall indicate the name of one primary port of supply for each Power Plant in the price bid itself. During the event of any problem/ restrictions in executing the supplies from the primary port of Discharge indicated in the price bid, it

shall be the responsibility of the successful bidder to execute the supplies from alternate suitable port and ensure that there is no deviation in the delivery schedule.

The range for specifications of coal has been specified. Further the prices are linked to CERC Composite Index or country specific indices as has been specified at 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.

Based on the Bid Evaluation carried out by MMTC LIMITED, the technically and commercially responsive and evaluated lowest bids shall be considered for award.

Based on the lowest landed cost of imported coal at plant and indicated quantity for concerned plant, the weighted average of lowest landed costs for all plants shall be considered for determining L-1 offer in the bid.

## **20. 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 25 Volume - III, only will constitute the formation of the contract.

## **21. PERFORMANCE GUARANTEE**

Within five (05) working days after receipt 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

## **22. 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.

## **23. 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 client of CIL, 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/CIL nor its purchasers 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 C&F basis and accordingly in compliance with government guidelines a No Objection Certificate (NOC) is required to be obtained from TRANSHART (Ministry of Shipping, Government of India). The successful bidder shall provide requisite documents and information as may be required by TRANSHART for issuing NOC. Cost, if any, charged by TRANSHART 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.

## **24. QUALIFYING REQUIREMENT**

24.1 The Qualifying Requirement for the bidders for this tender shall be as under:

- A. The Bidder should have minimum three (03) years of experience for supplying imported coal ,on FOB/CFR basis to industrial utility directly or through PSU, during the last seven (7) Financial Years, i.e. between FY 2008-09 to FY 2014-15.

AND

The Bidder should have supplied at least one (01) million tonnes of imported coal (aggregate) ,on FOB/CFR basis to industrial utility directly or through PSU, during the last seven (7) Financial Years i.e. FY 2008-09 to FY 2014-15.

OR

Should have successfully completed one (1) single contract for supply of eight (8) lakh tonnes Imported Coal ,on FOB/CFR basis to industrial utility directly or through PSU, in the last seven (7) Financial Years i.e. FY 2008-09 to FY 2014-15.

OR

Should have successfully completed two (02) contracts for supply of at-least five (5) lakh tonnes Imported Coal each ,on FOB/CFR basis to industrial utility directly or through PSU, in the last seven (7) Financial Years i.e. FY 2008-09 to FY 2014-15.

OR

Should have successfully completed three (03) contracts for supply of three and half (3.5) lakh tonnes Imported Coal each, on FOB/CFR basis to industrial utility directly or through PSU, in the last seven (7) Financial Years i.e. FY 2008-09 to FY 2014-15.

In support of the aforesaid experience, the bidders shall furnish: -

- (i) Performance certificate in original from end users/PSUs in the format prescribed at Annexure G and;
- (ii) Auditor's Certificate in original from their statutory auditors in the format prescribed at Annexure H.

AND

- B. The Bidder or their associate should have minimum three (03) years of experience of handling and transportation of Imported Coal in India by railway system during the last seven (7) Financial Years, i.e. between FY 2008-09 to FY 2014-15.

AND

The Bidder or their associate should have managed or undertaken handling and transportation in India through railway system from unloading port for at least one (01) million tones of imported coal (aggregate) during the last seven (7) Financial Years i.e. FY 2008-09 to FY 2014-15.

OR

The Bidder or their associate should have successfully completed one (1) single contract for imported coal handling and transportation in India through railway system from unloading port for eight (8.0) lakh tones imported coal in the last seven (7) Financial Years i.e. FY 2008-09 to FY 2014-15.

OR

The Bidder or their associate should have successfully completed two (2) contracts for imported coal handling and transportation in India through railway system from unloading port for at-least five (5.0) lakh tones imported coal in the last seven (7) Financial Years i.e. FY 2008-09 to FY 2014-15.

OR

The Bidder or their associate should have successfully completed three (3) contracts for imported coal handling and transportation in India through railway system from unloading port for three and half (3.5) lakh tones imported coal in the last seven (7) Financial Years i.e. FY 2008-09 to FY 2014-15.

AND

- C) The Bidder should have average annual turnover of more than INR 1000 Cr. over the last three years i.e. FY 2014-15, 2013-14, 2012-13.

AND

- D) The Bidder should have working capital of more than INR 100 Cr. (including access to lines of credit from nationalized bank/scheduled bank and availability of other financial resources to meet requirements). Such certificate shall be dated within three months before the date of tender opening.

AND

- E) The bidder should not have been blacklisted / banned for participation in any of the power utilities / government / semi government companies / PSUs in India as on the due date of submission of bid. The bidder shall submit an affidavit duly notarized to this effect as per Annexure-N. Non-submission of affidavit or submitting false affidavit, if found at any stage, shall render the bidder disqualified and their EMD /Performance Bank Guarantee shall be liable to be forfeited.

- F) In case the bid is submitted by two or more firms under a joint venture/consortium, the following requirements shall be complied with:

- i) All partners of the joint venture/consortium shall be liable jointly and severally for discharge of the obligations under the bid and execution of the contract, in case the bid is found to be successful. A copy of the agreement executed among all the partners with relevant clause to this effect shall be submitted along with the bid.
- ii) All the documents under the bid shall be signed by one of the joint venture/consortium partner who shall be duly authorized by all the partners through a Power of Attorney to execute the documents on behalf of the joint venture/consortium. In respect of Power of Attorney or any other document executed outside India, it must be first notarized from a local Public Notary and then an apostille is required to be attached to the document by the designated government official of the country if it is a signatory to the Hague Convention on legalization 1961. Thereafter the said document is required to be stamped as per the Indian Stamp Act after its receipt in India. In case of country from which the document emanates is not a party to the aforesaid Hague Convention then the document has to be notarized first and then attested by the Indian Embassy in that country. Stamping requirement remains the same as above.
- iii) Any one of the partners of joint venture/consortium may fulfill the qualifying criteria at Clause 24.1 (A) & (B) above. However all partners individually shall fulfill the criteria specified at Clause 24.1 (E).

25.2 The Bidders must submit documentary proof such as copy of work order/contract agreement as well as completion certificates for technical qualification criteria and copy of balance sheet for last three years and letter certifying working capital from Statutory Auditor for financial qualification criteria. Such certificate shall be dated within three months before the date of tender opening. The Bidder may also submit any other additional documents in support for its technical and financial eligibility. MMTC reserves the right to seek references from the Bidder's bankers.

25.3 The bids of the bidders not meeting any of the above qualifying criteria shall not be considered for evaluation.

- 25.4 The above terms and conditions shall be considered in totality and bids received without complying with the above conditions shall be summarily rejected.
- 25.5 The supply of imported coal against this tender is for Power Utilities 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 clients will be at any point of time responsible for any costs incurred by the bidder for fulfillment of the contractual conditions.
- 25.6 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.
- 25.7 The bids 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 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 refer to the coal of predefined quality to be imported by supplier and delivered to Purchaser on behalf of MMTC.
- (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.
- (n) **CERC** shall refer to Central Electricity Regulatory Commission of India including its successor and permitted assigns.
- (o) **Delivery Point** in relation to Imported Coal shall mean the point where Imported Coal shall be delivered by supplier to Purchaser of CIL. Unless agreed otherwise , it shall be the Power Plants of the Purchasers for which the coal is consigned.

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**

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 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.

If any rates of Tax are increased or decreased, a new Tax is introduced, an existing Tax is abolished, or any change in interpretation or application of any Tax 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 therefrom, as the case may be, in accordance with change in Laws & Regulations hereof.

**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. CIL, according to the payment terms stated at Clause 9, 10 & 11 of Volume III. 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, 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 (Name of the power plant)", 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 CIL.

## **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**

8.1 Force Majeure for Imported Coal shall mean any event or circumstances or combination of events or circumstances (including effects thereof) beyond the reasonable control of Successful bidder which materially and adversely affects, prevents, delays Successful bidder in the performance of its obligations under this document and which were not reasonably foreseeable and the effect of which the affected party would not have prevented or dismissed or overcome by the exercise of reasonable skill and care. The Force Majeure events for Imported Coal shall include all the Force Majeure events as per Agreement and mean the following events without limitation:

- a) Strikes, work stoppages, work slowdowns or other labour action (including act by Supplier employee)
- b) Acts of war (whether declared or undeclared). Invasion or civil unrest;
- c) Any unusually severe weather conditions, other than those conditions which are reasonably foreseeable including adverse weather conditions during sea transportation
- d) Confiscation, nationalization, mobilization, commandeering or requisition by or under the order of an government or de facto authority or ruler or any other act of any local, state or national government authority of India or source country;

### **8.2. Burden of Proof:**

In the event the Parties are unable to agree in good faith that a Force Majeure Act has occurred; the Parties shall resolve the dispute in accordance with the provisions of this Agreement. The burden of proof as to whether a Force Majeure Act has occurred shall be upon the Party claiming the occurrence or existence of such Force Majeure Act.

### **8.3. Effect of Force Majeure**

If either Party is rendered wholly or partially unable to perform its obligations under the Import Agreement because of any of the Force Majeure Act as mentioned at clause 8.1 above, the supplier is allowed to make good the loss in supplies of Imported coal due to Force Majeure events within the contract period. No extension of time shall be granted on account of loss incurred in Force Majeure period unless agreed to by the Supplier in writing, whose discretion is final.

**9. HANDLING OF DOCUMENTS / CONFIDENTIALITY**

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. Successful bidder shall keep one copy of the documents being submitted by Successful Bidder to MMTC.

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.

The Successful Bidder shall not prepare articles or photographs for publication or speeches about the work and/or plant and installation in which CIL/MMTC has an interest without prior written consent of MMTC.

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'S 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 CIL 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. NO WAIVER OF RIGHTS**

Neither the inspection by MMTC/CIL or any of their agents nor any order by MMTC/CIL for payment of money or any payment for or acceptance of, the whole or any part of the Works by MMTC/ CIL, nor any extension of time, nor any possession taken by MMTC/CIL and its purchaser power plant shall operate as a waiver of any provision of the Contract, or of any power reserved to MMTC/CIL, 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.

**12. 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.

**13. 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.

**14. 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.

**15. 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 Suspension of works will be effective within 30 days from the receipt of such order/notice. 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.

**16. SURVIVAL OF LIABILITY**

Any liability accrued on Successful Bidder or MMTC/CIL before the suspension, termination or closure of this Import Agreement as per the clauses and terms of this

Import Agreement shall survive or continue even after suspension, termination or closure.

**17. DEFENSE OF SUITS**

If any action in court is brought against MMTC and / or CIL 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 CIL or their representatives, harmless from all losses, damages, expenses or decrees arising of such action.

**17. JURISDICTION**

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

## **Volume – III**

### **Technical Specifications**

## **TECHNICAL SPECIFICATIONS**

### **1. INTRODUCTION**

MMTC invites competitive offers in two bid system from eligible bidders for Procurement & Supply of 0.353 MMT (+ 2% buyer's option) of Imported Coal for Power Plants, as per specifications mentioned at Annexure- B, to be supplied to Power generating companies a/c CIL on 'FOR Delivery Point basis' , through various discharging Ports in India. The delivery schedule and timely supply is essence of the contract.

### **2. SCOPE OF WORK**

The Scope of Work includes import of Coal to Indian Ports, arranging vessels, stevedoring, handling, storage, port clearances, arranging Railway rakes, loading, transportation and delivery at CIL designated Delivery Points. 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 Purchaser.

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**

- (i) The Successful Bidder shall supply imported coal quantity as per Award Criteria (Clause 19 Volume – I) of imported Coal on "FOR Delivery point" basis through various discharge ports in India.
- (ii) The Successful Bidder shall arrange vessels in suitable sizes to deliver imported coal quantity as per award criteria (Clause 19 Volume – I). The shipments shall be delivery as per schedule furnished by CIL's purchaser or as advised by MMTC at its sole discretion with provisions for ordering preponement of supplies of the contracted quantities of Imported Coal. The successful bidder shall import this coal through various discharge ports in India in such a way that the landed cost of coal at CIL designated Delivery Point is minimum considering the technical viability of coal movement by railways from port(s) to CIL designated Delivery Points. In case of port/railway constraints, the import of coal for CIL designated Delivery Point may be routed through alternate suitable ports. However, the charges payable to the Successful Bidder under such cases shall be lower of the charges payable as per Agreement & the actual charges paid by the Successful Bidder.
- (iii) MMTC will furnish to the Successful Bidder a schedule of quantity with a tentative month-wise breakup proposed to be delivered at Delivery Points.
- (iv) MMTC reserves the right for pre-pone/post-pone/divert the scheduled deliveries. The other provisions, terms & conditions of the Agreement and Suppliers obligations shall, however, remain unaltered.
- (v) CIL may provide quarterly schedule and MMTC inturn shall provide schedule and dispatch instructions on receipt of same from CIL.

- (vi) MMTC may change the delivery schedule and final destination, at its sole discretion as well as on account of any changes made by CIL. The successful bidder shall have no objection or reservations, claim of any nature whatsoever on MMTC/CIL for such changes in schedule.
- (vii) The quantity of coal to be supplied by Successful bidder to individual Purchaser shall be on rake load basis ("Consignment"). The balance quantity, if any, falling short of point six (0.6) times of the rake load quantity shall not be supplied by Successful bidder. If the balance quantity is more than point six (0.6) times of the rake load quantity then the successful supplier shall supply the Quantity equivalent to one rake load and shall be paid for such excess quantity supplied.

In case of APPDCL, the quantity of coal to be supplied by Successful bidder shall be on vessel load basis ("Consignment").

#### **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 the acceptable range of the technical parameters as per the specifications shall be liable for rejection by MMTC/CIL.

The imported coal to be supplied under this tender could be of any origin except India. Further, CIL has specified range for each parameter and also linked the prices to index as applicable for the guaranteed parameters with respect to Gross Calorific Value of coal specifications for country of origin as well as CERC Composite Index for FOB prices.

#### **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**

FOB price shall be arrived at linking the base FOB prices with respect to Indices as per pricing methodology as detailed in Annexure-A:

- i. As per CERC methodology and
- ii. Index for coal published for the country of Origin of Coal with guaranteed parameter with respect to Gross Calorific Value of coal specifications published by preferably Government agency of that country. In case of coal of Indonesia origin, coal index ICI2 (5800 GAR) as published by Argus Coalindo shall be applicable.

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.

##### **A.2. Ocean Freight**

Ocean freight shall be arrived at as per CERC Methodology linking the Base **Ocean freight prices** with respect to Indices. However, for the purpose of payment, the lower of the following two shall be considered:

- a) Ocean Freight prices worked out based on the above methodology and;
- b) Actual freight payable/paid, as per certification of the Supplier.

**Total C&F Coal Price**

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

**iii) The components of price i.e. Base Price, Other Charges & Statutory Charges:****a) Base Price**

The Base Price shall be at unload port in India which shall include CIF Price of Imported Coal and all costs upto loading into Railway wagons at port including taxes and duties which are payable on Imported Coal upto loading into railway wagons. The Base Price shall also include the cost for appointment of IIA for sampling , analysis and supervision of weighment of coal at the Delivery Point.

Base Price for any Consignment shall be arrived at by correcting Firm Base Price quoted by successful bidder. For the purpose , C&F component of Firm Base Price shall be corrected as per CERC formula as provided in Annexure – A in Indian Rupees as per the RBI exchange rate prevailing on B/L date evidenced by documentary proof.

**b) Other Charges**

All the costs incurred by Supplier on bringing Imported Coal to Delivery Point after loading of coal into the railway wagons including in-land transportation cost upto Delivery Point and any other associated costs incurred on imports of coal etc shall be paid by MMTC/CIL on actual quantity of coal delivered. In case the quantity of coal delivered (as per IIA certificate) is less than the quantity mentioned in RR, then MMTC shall pay Other Charges including transportation cost only for the actual quantity delivered at the Delivery Point as accepted by Purchaser and not at actual as per the documentary proof/receipts given. Any charge caused due to under-loading/overloading and 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 and shall not be paid by MMTC/CIL

**c) Statutory Charges**

Any other tax, duties , levies, cess and any other statutory charges etc. payable by Successful Bidder to government authorities of India incidental to such imports (except the taxes etc which are already inclusive in the Base Price) shall be paid on actual upon production of documentary proof. The duties , taxes, levies etc. which is notified after the last date of submission of tender and/or any increase /decrease over the rate existing on the last date of submission of tender shall be reimbursed/recovered by MMTC/CIL on production of documentary evidence by Successful bidder, in support of payment actually made to the concerned authority.

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. All other statutory taxes, duties & levies like Basic Customs Duty, Stamp duty, Service Tax, entry tax etc are to be included by the bidder in their Bid Price. The bidder is to take into account all the rules, regulations & notifications of Government of India, currently in vogue, relating to applicability and rates of Basic custom duty as applicable on imported coal.

**iv) The bidder may clearly indicate, if they enjoy any specific exemption from taxes and Duties, the quantum of such exemptions and the period for which such exemption is available.**

Bidders may please note that any type of concessions in Customs Duty, if become

applicable during the contractual period/already applicable before the contractual period, Successful bidder shall be 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 and such benefit shall be passed on to MMTC/CIL, irrespective of the fact that whether the Successful bidder has considered the same in his bid or not and in case of failure to receive such benefit, the Successful bidder shall bear the liability of differential amount for not availing such benefits.

- v) Railway freight and Trip charges shall be payable on actual quantity of coal delivered upon production of documentary proof 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 are to quote based on the railway freight prevailing as on 7 (seven) days prior to bid submission date . for the purpose of calculating the variation in railway freight on account of tariff variation by railways, the distance for the CIL designated Delivery Points shall be worked out based on the quoted railway freight and existing Railway Freight Tariff, issued by Ministry of railways. The Revised Tariff of Railways shall then be applied for such distance worked out and the difference between the quoted railway Freight and such revised freight shall be worked out.

In case of port/railway constraints, the import of coal for Power Station may be routed through alternate suitable port under intimation to MMTC. However, in the event of routing of supplies from alternate ports, the total charges payable to Successful Bidder shall be lower of the charges payable as per Agreement & the actual charges paid by the Successful Bidder.

- vi) The successful bidder shall import this coal through various discharge ports in India in such a way that the landed cost of coal at CIL designated Delivery Point is minimum considering the technical viability of coal movement by railways from port(s) to Purchaser.

## **6. QUALITY & QUANTITY**

The Successful Bidder shall ensure the appointment of any Internationally accredited Inspection Agency for draft survey, sampling and quality analysis at load port and one NABL Accredited Independent Inspection Agency (IIA) for draft survey, sampling and quality analysis at Discharge Port & Delivery Point and supervision of weightment at Delivery Point immediately on receipt of LOI. The method and extent of sampling and analysis shall be as per the ASTM/ISO Standards. The cost of sampling shall be borne by Successful Bidder.

The costs of inspection including coal sampling analysis and weightment at various points i.e. Load Port, Discharge Port and Delivery Point including the fee for inspection Agency shall be borne by the Successful Bidder.

### **6.1 Quality Determination**

- 6.1.1 IIA shall conduct sampling and testing of coal received at Delivery Point to measure the value of quality parameters which are agreed by Successful bidder to be delivered. The IIA shall issue a certificate within seven (7) days of the delivery of Imported Coal supplied by Successful bidder at the Delivery Point. The IIA shall also certify that all the parameters have been measured as per the ASTM/ISO Standards.

- 6.1.2 Successful bidder shall be fully responsible for the minimum guaranteed specification of coal to be delivered to Purchaser and shall be liable for any financial consequences for not meeting the said parameters.
- 6.1.3 Quality inspection shall be carried out by IIA as per clause 7.0

## **6.2 Quantity Determination**

- 6.2.1 The Weightment of Imported Coal shall be done at the weighbridge of Purchaser. Purchaser shall permit IIA to supervise the weighment. Purchaser shall arrange for electronic weighbridge(s)/weighment facilities with printout facility at Delivery Point. Purchaser shall be responsible for maintaining the weighbridge(s) at Delivery point. The weighment system must be calibrated in accordance with the weights and measures (W&M) Department of the Government. For such sealed and stamped weighbridges, the certificate(s) issued by the W&M Department shall be considered as final for all Parties. IIA shall incorporate the results of any such certificate(s) issued by the W&M Department in the certificate being issued by the IIA for the Imported Coal delivered and weighment certificate issued by IIA shall be binding on both parties. However, IIA reserves the right to check the validity of the certificate(s) issued by the W&M Department.
- 6.2.2 If the weighbridge is not available at delivery point or is found to be without a valid seal and stamping certification of the W&M Department of the Government, then that weighbridge shall not be used for weighing consignments of delivered Imported Coal. For such case or the duration till the weighbridge is rectified, certified and stamped, the weight noted on the RR issued by the Indian Railways at port end shall be considered as final for determination of quantity at the Delivery Point.
- 6.2.3 M/s APPDCL is having facility for conveying the coal from the unloading port through conveyor belt/pipeline which is weighed through weightometer. Weightometer is calibrated, sealed & stamped by the W&M department of the government. IIA shall incorporate the results of any such certificate(s) issued by the W&M Department in the certificate being issued by the IIA for the Imported Coal delivered. However, IIA reserves the right to check the validity of the certificate(s) issued by the W&M Department.
- 6.2.4 IIA shall immediately after completion of weighment of the delivered Imported Coal at Delivery Point for each Consignment, deliver/handover to representative of MMTC/Successful bidder and respective Purchaser the intimation of delivery along with copy of weighment print out (quantity of coal) of Imported Coal.
- 6.2.5 The quantity mentioned in the certificate provided by the IIA shall be considered as final, subject to the ceiling of RR (Railway Receipt) Quantity. The total quantity delivered at TPS or delivery point and considered as final is, however, subject to the ceiling of the B/L weight of the vessel. All payments shall be made as per this quantity/ weighment
- 6.2.6 Any adjustment in the price payable for the coal delivered at Delivery Point due to variation in the quantity and quality shall be made as per Clause 6.2.3, 6.2.4 & 8.0.

## **7.0 QUALITY INSPECTION**

Quality of coal will be final based on the Inspection results of the samples taken at CIL designated Delivery Points by IIA and payments thereof will be based on such determination at Delivery Points.

The Coal samples at Power Station end/delivery point shall be drawn and prepared by IIA in presence of Power Plant representative in accordance with relevant American Standards for Testing Materials (ASTM Standards No.D-2234 and D-2013) so as to facilitate in carrying out the analysis of these coal samples.

The sample so drawn and prepared in presence of Power Plant representative shall be divided into four(4) parts within one (1) day of its collection and shall be distributed as follows:

- (a) One part of the sample will be taken by Power Plant for analysis at their end.
- (b) Second part of the sample will be taken by IIA for analysis at their end.
- (c) The third part of the sample will be retained as Referee Sample. Such Referee Sample shall be kept under joint lock and joint custody of IIA and Power Plant, to be used for future reference and/or testing.
- (d) The fourth part of the sample shall be immediately taken for joint analysis at Power Plant Lab or authorized lab by IIA and representative of power plant as per relevant ASTM Standards for total moisture determination.

IIA shall analyze its portion of the coal sample for the parameters , drawn at delivery point, at the laboratory as may be identified by them.

Power plant shall analyze its portion of the coal sample for the same parameters drawn at Power plant end , in their laboratory.

For determination of Total Moisture , power plant and the successful bidder shall undertake Joint analysis at power plant laboratory immediately on receipt of imported Coal. In case the analysis for total moisture is not carried out immediately, such samples(s) shall be kept under joint lock and joint custody of IIA and power plant till determination of total moisture.

The copy of the report of the analysis of the portion of coal sample by IIA shall be provided to Power Plant with in five working days from the date of distribution of the prepared coal samples.

In case the test results of the respective portions of the coal sample(s) analyzed by IIA and Power Plant are at variance beyond the limits permissible under the relevant ASTM, except for Total Moisture, the Referee Sample shall be forwarded by the Successful Bidder to the laboratories having the facilities for coal analysis as per ASTM methods and are under Council of Scientific and Industrial Research (CSIR) or Government owned / Government approved or has the accreditation of National Accreditation Board for Testing and Calibration Laboratories (NABL), Department of Science and Technology, India, within seven(7) working days.

It is specifically agreed that the analysis results of such Referee Sample, by the above stated Laboratories shall be binding on all parties and the cost of analysis of the Referee Sample shall be borne by the Successful Bidder.

Inspection Agency shall arrange to get the sample drawn from the rakes at Power Station/ nearest rake fit station. The inspection agency shall coordinate for getting and supplying the test results/ report to Power Plant & Supplier at the earliest.

In case of M/s APPDCL, samples at the discharge port shall be collected from the vessel and / or from the conveyor as the case may be.

In case nominated representative of Power Plant fails to be present for associating with the process of inspection, sampling etc. the findings of IIA shall be considered as final and binding to the Purchaser. Non nomination of representative by the Purchaser shall not be considered as ground for refusal of quantity/quality determination by the IIA.

## **8.0 ADJUSTMENT ON QUALITY VARIATIONS**

Successful bidder shall ensure that the Imported Coal supplied meets the quality parameters and is within the acceptable range. Any variation in Guaranteed Parameters within the acceptable range shall cause adjustment in payment or reduction in total weight as defined below :

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

If the actual Total Moisture as per IIA certificate at Delivery Points varies from the guaranteed Total Moisture of Imported Coal, the adjustment in weight shall be done on pro-rata basis. For example for X% increase over the guaranteed Total Moisture, the total weight will be reduced by x%.

The decrease in Total Moisture below the guaranteed value shall be ignored.

### **b) Ash Content (ADB)**

If the Ash Content as per IIA certificate at Delivery Point exceeds the guaranteed Ash Content, the adjustment in weight will be made on pro-rata basis. i.e. for every increase of x% of the Ash content, the weight of the coal will be reduced by x%.

The Ash content below Guaranteed value shall be ignored and no adjustment shall be made.

If the guaranteed parameters go above the acceptable range, then the adjustment for the quality above the acceptable range shall be one point five (1.5) times the adjustment for guaranteed parameters as mentioned at (a) & (b) above.

### **c) Gross Calorific Value { Air Dried Basis (ADB) }**

If the Gross Calorific Value (GCV) on Air dried basis as per IIA certificate at Delivery Point is less than the guaranteed GCV on ADB basis, the Base Price will be adjusted as per the formula given below

$$\frac{(\text{Base price of Imported Coal}) \times (\text{GCV(ADB) at Delivery Point})}{(\text{Contracted base GCV (ADB)})}$$

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

If GCV(ADB) at the delivery point is below the acceptable range, then price will be adjusted as per the above formula plus an additional amount of Rs 200/- shall be deducted for drop of each 100 Kcal/Kg GCV(ADB) or part thereof.

### **d) Sulphur (ADB)**

If Sulphur content as per IIA certificate varies from the guaranteed Sulphur content, a penalty at the rate of Rs 10/- 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.

If Sulphur content as per IIA certificate is above the acceptable range, an additional penalty at the rate of Rs.5.00 per Metric Ton for every increase of 0.1% beyond the acceptable range in Sulphur or part thereof shall be levied.

- e) All the adjustments on account of quality variations shall be done on the Base Price and no adjustments shall be done on the Statutory Charges, Other Charges (both of which shall be paid at actual).
- f) Adjustment on quality variation within the range other than the parameters specifically indicated herein shall not be carried out.

#### **9.0 PAYMENTS TO SUCCESSFUL BIDDER**

Payment shall be processed on submission of invoice in triplicate along with supporting documents to respective branches of MMTC which shall be notified. Payment to successful bidder shall become due to the extent realized by MMTC from CIL and will be made to the successful bidder upon receipt of clean and unqualified payment by MMTC from CIL 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 CIL. The successful bidder shall furnish Performance Bank Guarantee and Trust Deed as per format at Annexure-E & Annexure-P respectively.

**CIL 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 CIL but the successful bidder shall comply with all the documentary requirements for release of payments by CIL to MMTC. The successful bidder shall submit the rake-wise invoice promptly and within ten (10) working days of receipt of rake at Delivery Point. The successful bidder(s) shall not raise any claim on MMTC for any delay in payment from CIL on account of any procedural delay. MMTC shall remit the payment of C&F 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 CIL and remits the payment to Successful bidder. MMTC shall not bear the loss/gain 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.

#### **10.0 PROCEDURE OF PAYMENT**

- i) Payment shall be released on submission of invoice in triplicate 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 Delivery Points, linking the FOB prices & Ocean Freight with the details of indices along with the details of publication, to CIL, verifiable by CIL.
- ii) The payment shall be released to the successful bidder upon receipt of clean and unqualified payment by MMTC LIMITED from CIL on due basis. Payment to successful bidder shall become due to the extent realized by MMTC LIMITED from CIL.
- iii) Bidder to note that MMTC LIMITED shall not extend any financial facility in any form at any stage.

#### **11.0 PAYMENT TERMS**

Payment to successful bidder shall be released to the extent only after receipt of clean and unqualified payment by MMTC from CIL, the payment terms as specified by CIL are reproduce below:

11.1. The payment for the Imported Coal delivered to Purchaser shall be made on consignment basis. For the purpose of billing and payment, the consignment shall mean one single rail rake load delivered at Delivery Point of any Purchaser.

11.2. Submission of Bills: Bills/invoices duly accepted/ certified by Purchaser Power Plant are to be submitted to GM (S&M), CIL by MMTC under cover of forwarding letter.

11.3. Paying Authority: The GM (Finance)/ Finance-in-Charge of (S&M), CIL will be the paying authority.

11.4. CIL shall only be liable for payment of Imported Coal delivered at the Delivery Point and any claim regarding diversion of railway rakes or missing wagons, loss of coal on any account or cause whatsoever etc. shall not be entertained.

11.5. Successful bidder shall be liable to pay any demurrage and other charges except in case where the demurrage is on account of default of Purchaser(s) to offload at the Delivery Point, in which event the Purchaser shall pay the demurrage charges.

11.6. Any charge caused due to under-loading/overloading shall be payable by Successful bidder and any such charge shall not be invoiced and if invoiced shall not be payable.

11.7. The consignment delivered at the Delivery Point shall be analysed by the IIA appointed. The quality parameters as per the IIA certificate and quantity shall be final and binding on successful bidder and Purchaser.

11.8. Payment for the imported coal shall be based on the weighment certificate and further adjustments due to quality variations.

11.9. MMTC must submit an invoice (I-1) to Purchaser in triplicate along with supporting documents and receipts of charges to be paid at actual after delivery of Imported Coal to Purchaser (documents to be enclosed: Copy of the Bill of lading, Calculation sheet indicating the coal price and ocean freight correction as per CERC methodology converted in INR, Railways RR, Consignment note, and unloading-end weighment slip duly signed by IIA and other documents relevant to the dispatch of coal). Original copy of the invoice (I-1) shall be submitted along with original documents and second and third copy of I-1 shall be submitted along with photo copy of documents. MMTC shall get the second copy of the invoice I-1 countersigned by the Purchaser, acknowledging the receipt/delivery of Imported Coal as per the weighment receipt by IIA and submit it to CIL.

11.10 The invoice I-1 submitted by MMTC should provide detailed break-up clearly specifying the following charges: the Base Price of Imported Coal (C&F value duly corrected based on the CERC methodology, Insurance, Taxes and Duties, Other Costs), Other Charges and Statutory Charges incurred by MMTC/bidder, charges for railway demurrage due to default of Purchaser and the Trade Margin charged for the Imported Coal delivered.

11.11 All the amounts billed/invoiced by MMTC in the invoice should be in INR only.

11.12 (a) Within three (3) working days of the receipt of countersigned second copy of invoice 1-1 by CIL, CIL shall release ninety percent (90%) of the payment of the invoice I-1 as per the actual weighment of Imported Coal delivered.

(b) In the event, the purchaser fails to certify the invoice within three days of the receipt of consignment, supplier reserves the right to release ninety percent (90%) of the payment of the invoice 1-1 according to the weighment of Imported Coal, by giving a notice of 48 hrs to the respective Purchaser. MMTC is however, required to submit documents as per clause 11.9 , except the countersigned copy of the invoice by the Purchaser.

11.13 Within ten (10) days of the delivery of Imported Coal, MMTC shall receive a letter/ notice from Purchaser regarding calculation of adjustment due to variation in quality parameters along with the third copy of Invoice I-1 with final adjustments due to quality

and quantity parameters. MMTC shall review the adjustments and if required seek clarifications from Purchaser for calculations or adjustments and come at a consensus over the adjustments. MMTC shall then send a copy of the letter/notice sent by Purchaser to CIL along with the third copy of Invoice I-1 duly accepted/ certified by Purchaser with adjustments.

11.14 The remaining ten percent (10%) of the payment due for the invoice I-1 or the balance amount to be paid after adjustment of variation in quality parameters, at the Delivery Point as per the letter/ notice and third copy of Invoice I-1 with adjustments, duly certified by the Purchaser, shall be released within three (3) working days of the receipt of the copy of notice/ letter. In the event Purchaser fails to certify the quality corrected invoice within 15 working days, the CIL shall reserve the right to release the balance payment for the 1st consignment of the quarter, giving a notice to the Purchaser. However, the release of balance 10% payment for subsequent consignments shall only be released after receipt of all required documents duly certified for the previous consignment. In case of the final consignment of the quarter, the balance 10% payment will be released only after receipt of all required documents duly certified for the previous consignments, if any, and final consignment.

11.15 In case, coal from two shipments is partly loaded in a rake, the billing of the coal loaded in the rake shall be done in two parts, applying the respective rates of the concerned shipments.

## **12.0 RECONCILIATION/ADJUSTMENTS**

12.1. CIL shall, within fifteen (15) days from the end of Quarter/ delivery of the last consignment for that Quarter, whichever is later, reconcile its accounts and send a notice to MMTC/Successful Bidder and Purchaser regarding final balance payment. If Successful bidder and Purchaser accepts the reconciliation results, the concerned Party shall release the final balance within three (3) days of the receipt of reconciliation notice (acknowledgement) by CIL.

12.2. The reconciliation by CIL for the last Quarter of the respective Financial Year shall also include the compensation due to short-delivery by Successful Bidder as per Clause 12.4.

12.3. In case Successful bidder and/or any Purchaser(s) does not accept the final balance payment as per reconciliation by CIL, MMTC alongwith representatives of Successful bidder, CIL and concerned Purchaser shall together have a meeting on call or in person within ten (10) days of the receipt of reconciliation notice issued by CIL and resolve the dispute and arrive at final balance payment. The concerned Party shall release the final balance decided in the meeting within three (3) days of meeting between MMTC/Successful Bidder, CIL and concerned Purchaser in accordance with the jointly signed minutes of such reconciliation meeting.

### **12.4. Compensation for short-delivery**

12.4.1. Upon completion of every Half Year or term of Import Agreement, whichever is earlier, if the Level of Delivery by Successful Bidder for any Purchaser falls below amount of coal to be delivered as per the cumulative Schedule provided for that duration, Successful Bidder shall be liable to pay compensation to MMTC/CIL for such shortfall in Level of Delivery in terms of the following:

<b>Level of Delivery of Imported Coal in the Year</b>	<b>Percentage of Penalty for the failed quantity (at the rate of weighted average of Base Prices of Grades of Imported Coal supplied)</b>
100%	NIL
Below 100% and upto 95%	5%
Below 95% and upto 50%	20%
Below 50%	40%

*The compensation shall be calculated in the same manner as done slab-wise for computation of income-tax in India.*

#### 12.4.2 Level of Delivery

Level of Delivery (LoD) shall be calculated in the form of percentage as per the following formula:

$$\text{Level of Delivery (LoD)} = \frac{(\text{DQ} + \text{FM}) \times 100}{\text{OQ}}$$

Where:

LoD= Level of Delivery of Imported Coal to particular Purchaser by Successful Bidder for the applicable period

OQ= Quantity of Imported Coal to be supplied by Successful Bidder to the particular Purchaser during applicable period as per the cumulative Schedule provided by MMTC/CIL for particular Purchaser

DQ= Delivered Quantity, namely, aggregate actual quantities of Imported Coal delivered by Successful Bidder to particular Purchaser during the applicable period

FM= Proportionate quantity of Imported Coal which could not be delivered by Successful Bidder to the particular Purchaser in the applicable period due to occurrence of Force Majeure event affecting Successful Bidder and / or CIL/ Purchaser, calculated as under:

$$\text{FM} = \frac{\text{OQ} \times \text{Number of days lost under applicable Force Majeure event}}{\text{Number of days in the applicable period (during which the quantity OQ was to be delivered)}}$$

Note : For the purpose of calculation of 'Number of days lost under applicable Force Majeure event', affecting both the Parties shall be counted only once.

12.4.3 Any Adjustment in quantity as per Clause 3 (vii) shall not come under the purview of compensation as per Clause 12.4.

12.4.4 It is clarified that if the date mentioned on the Bill of Lading is within the concerned half year, then irrespective of the date of delivery of coal, the consignment shall be considered for calculation of compensation for that particular half-year.

### **13.0 INSURANCE**

The Coal shall be insured by Successful Bidder under ICC (A) cover from warehouse to warehouse (Delivery Points) for 110% of C&F value. Insurance policy will be issued by any Indian Insurance Company. Insurance Premium will be to the account

of MMTC at actuals. Successful Bidder shall be responsible for all claims related to material loaded but not delivered at CIL designated Delivery Points and shall file all claims with insurance agency and Railways. However, in case of any claim settlement, necessary NOC / discharge voucher shall be issued by MMTC/CIL in Successful Bidder's favor.

#### **14.0 RAILWAY FREIGHT & TRIP CHARGES**

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

#### **15.0 COMPLIANCE WITH GOVERNMENT ORDERS**

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.

#### **16.0 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.

#### **17.0 LIQUIDATED DAMAGES (LD)**

17.1. In the event of the Successful Bidder's failure to deliver Imported Coal within fifteen (15) days from the scheduled Delivery Date, the Successful Bidder shall have to pay as liquidated damages (and not by way of penalty), a sum equivalent to 0.1% of the Total Price of the consignment of Imported Coal which the Successful Bidder has failed to deliver (other than the delay due to Force Majeure) in accordance with this Import Agreement, as aforesaid, for each and every week (part of a week being treated as a full week) during which the Imported Coal is not delivered beyond the scheduled delivery period provided (i.e. within 15 days from the schedule Delivery Date). The maximum amount of Liquidated Damages levied on any Consignment shall be one percent (1%) of the value of the consignment.

17.2. After delivery of such delayed Consignment to Purchaser and payment of ninety percent (90%) amount of invoice I-1 as per Clause 11.12, CIL shall raise a notice to MMTC/Successful Bidder for the Liquidated Damages applicable for that consignment. Such Liquidated Damages shall be adjusted in the balance 10% payment for the consignment to be paid as per Clause 11.14.

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

#### **18.0 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 10% of Contract 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.

The PBG shall be submitted within 5 working days of issuance of LOI by MMTC.

#### **19.0 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 CIL or its clients.
- 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

#### **20.0 Indemnification and liens**

20.1 Successful bidder (the "indemnifying Party") shall indemnify and hold harmless MMTC/CIL, its respective successors and assigns (the Indemnified Party") harmless against all damages , losses and expense suffered or paid as a result of any and all claims, demand suits, penalties, causes of action, proceedings, judgments and liabilities of third parties (including reasonable counsel fees) assessed, incurred or sustained by or against the Indemnified Party with respect to or arising out of :

20.1.1 Any breach by the Indemnifying Party of its warranties, representations, covenants or agreements or

20.1.2 The willful or negligent act or omission of the Indemnifying Party or its employees, Successful Bidder's agents or representatives, relating to its performance under this import Agreement.

MMTC/CIL shall not be liable in any manner whatsoever for payment of any claim/charges arising out of or in consequence or negligence on part of Successful Bidder or any of his servant/employees or any property belonging to any third party. It shall be the sole responsibility and liability of Successful Bidder to settle all/any claims as above.

#### **21.0 DISCLAIMER OF LIABILITY ON ACCOUNT OF EMPLOYEES ENGAGED BY SUCCESSFUL BIDDER**

MMTC/CIL shall not be responsible for acts or defaults of any employees of Successful Bidder or its servants, officers, agents or representatives or sub contractor. Notwithstanding anything, Successful bidder for the purpose of its fulfilling all statutory and other obligations towards such employees and such employees shall in no event and under no circumstances be deemed to be employed by or on behalf of MMTC/CIL who disclaim all liabilities and responsibilities whatsoever arising (whether under any statute or not) in connection with such employees and/or employment agreement.

## **22.0 TERMINATION OF CONTRACT**

The Import Contract can be terminated in the following events and in the manner specified hereunder:

22.1. In the event that either Party is rendered wholly or partially unable to perform its obligations under this Agreement ("Affected Party") because of a Force Majeure Act, as described in Clause 8, Vol-II, and such inability to perform lasts for not less than a total of two (2) months in continuous form or of three (3) months in discontinuous form in a period of six (6) months, and in the considered assessment of the other Party ("Non-Affected Party") there is no reasonable likelihood of the Force Majeure Act coming to an end in the near future, the Non-Affected Party shall have the right to terminate Import Contract, by giving at least twenty five (25) days prior written notice to the Affected Party of the intention to so terminate this Import Contract. In such event, the termination shall take effect on expiry of the notice period or twenty five (25) days whichever is later, and the Parties shall be absolved of all rights/obligations under this Import Agreement, save those that had already accrued as on the effective date of termination.

22.2. In the event that Purchaser is prevented / disabled under law from using Coal, for reasons beyond their control, owing to changes in Applicable Laws, including environmental and/or statutory norms, howsoever brought into force; the MMTC shall have the right to terminate Agreement, subject to a prior written notice to Successful bidder of not less than twenty five (25) days.

22.3. MMTC may terminate Import Agreement except for commercial reasons at its sole discretion, by not less than eighty five (85) days written notice of termination to Successful Bidder without any liability whatsoever for any damages, etc. The delivery schedule already finalized and intimated to Successful Bidder shall be followed till the date of termination which shall lie before the end of eighty five (85) days from the issue of the notice of termination. Successful Bidder in response to such notice of MMTC shall intimate the final date of stoppage of work through a notice at least twenty (20) days before such date of termination.

22.4. The agreement will be liable to be terminated with/ without any financial consequences in the event any complaint is received from and established through a Government law enforcing agency regarding involvement of Successful Bidder in any unlawful/ unscrupulous business activity harmful to the interest of the MMTC/CIL or the general commercial interest of the country.

22.5. MMTC shall be entitled to, without compensation, terminate Import Agreement by providing 10 days written notice to the Successful Bidder in the following circumstances :-

- (i) If the Supplier commits a breach of its obligations under Import Agreement and does not remedy such breach within 10 days after written notice has been given to it by the MMTC ;
- (ii) If a receiver has been appointed in relation to the whole or any part of the assets of the Successful Bidder ;
- (iii) If the Successful Bidder becomes incapable of performing its duties and obligations under this Import Agreement, on account of the Applicable Licenses for undertaking its obligations under this Import Agreement have not been obtained and/ or renewed.

## **23.0 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

#### **24.0 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.

#### **25.0 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 6 months supply period + two months from the date of signing and further extendable, in case CIL advises MMTC, based on the progress of execution of Agreement.

#### **26.0 RISK PURCHASE**

In the event of supplier's continuous unsatisfactory performance over a period to supply the requisite quantity of imported coal, MMTC, giving a 10 days' notice to the supplier in writing may procure, upon such terms and in such manner as it deems appropriate, Imported Coal of similar specification to the extent of undelivered Imported Coal, and supplier shall be liable to MMTC/CIL for any excess costs for such similar Imported Coal.

#### **27.0 DISPUTE RESOLUTION**

- 27.1. In the event of any dispute, disagreement or difference arising out of or in connection with this Import Agreement, including any question regarding its performance, existence, validity, termination and the rights and liabilities of the Parties to this Agreement ("Dispute"), the Parties shall endeavour to amicably settle the same through negotiations carried out in good faith.
- 27.2. For the purpose of conducting negotiations, each Party shall designate in writing to the other Party a representative who shall be authorised to negotiate on its behalf with a view to resolving any Dispute (the "Representative"). Each such Representative shall remain so authorised until his replacement has been designated in writing to the other Party by the Party he represents.
- 27.3. The Representative of the Party which considers that a dispute has arisen shall give to the Representative of the other Party, a written notice setting out the material particulars of the dispute ("Dispute Notice"). Within fifteen (15) days, or such longer period as may be mutually agreed, of the Dispute Notice having been delivered to the other Party, the Representatives of both Parties shall meet in person, to attempt in good faith and using their best endeavours at all times, to resolve the Dispute. Once the Dispute is resolved, the terms of the settlement shall

be reduced in writing and signed by the Representatives of the Parties.

27.4. In case the Parties are unable to resolve the Dispute, the Dispute shall be referred for Arbitration as per Clause 28.

## **28.0 ARBITRATION**

In case of any dispute or differences between MMTC and supplier relating to interpretation and application of the provisions of the agreement, such disputes/differences is to be referred to permanent machinery of arbitration. In case of any liability on MMTC pursuant to award of the arbitrator appointed thereto, it shall be fully borne by the successful bidder(s) and MMTC shall be kept indemnified in this respect.

All questions, disputes or differences whatsoever which may at any time arise between the parties to this agreement touching the agreement or subject matter thereof, arising out or in relation thereto and whether as to construction or otherwise shall be referred to the decision of the sole arbitrator, appointed by the CMD, MMTC, New Delhi for that purpose. The decision of the said arbitrator shall be final and binding upon the parties.

The provisions of Arbitration & Conciliation Act 1996 shall apply. There are no understandings or Agreements between the Successful Bidder and MMTC which are not fully expressed hereinabove and no statement or agreement, oral or written made prior to the signing hereof shall have any validity.

**Pricing Methodology**

**1.0** Firm Base Price of the imported coal are to be quoted in components specifically identifying FOB Price & Ocean Freight FOB Price & Ocean Freight upto Indian port which will be referred as Base C&F price (Only C&F Component). Base C&F price quoted shall be subject to variations for payment purposes, as detailed below:

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

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

**1.1.1 FOB Coal Price**

FOB price shall be arrived at linking the Base FOB prices with respect to Indices as per following methodologies, as detailed at Para 1.3 below:

- a) As per CERC Methodology; and
- b) Index for coal published for the Country of Origin of Coal with guaranteed parameter with respect to Gross Calorific Value of coal specifications published by preferably Government agency of that country. In case of coal of Indonesia origin, coal index ICI2 (5800 GAR) as published by Argus Coalindo shall be applicable..

For the purpose of payment, the lower of the prices worked out based on the above two methodologies, shall be considered.

**1.1.2 Ocean Freight**

Ocean freight shall be arrived at as per CERC Methodology linking the Base **Ocean freight prices** with respect to Indices as detailed at Para 1.4. However, for the purpose of payment, the lower of the following two shall be considered:

- a) Ocean Freight prices worked out based on the above methodology and;
- b) Actual freight payable/paid, as per certification of the Supplier.

**1.1.3 Total C&F Coal Price**

Total C&F Price for the purpose of payment shall be the Sum of FOB prices worked out as per Para 1.1.1; and Ocean Freight, worked out as per Para 1.1.2 above.

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

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

**Base Date for the purpose of fixation of Base Price:**

Friday immediately preceding the first day of Half year (April'15 to Sept'15) shall be considered as base day for price fixation and firm Base Price offered by bidder shall be considered as price applicable on this day.

C&F Component of Base Price = A+ B Where:

A = FOB Coal Price

B = Ocean Freight

**1.3 FOB Coal Price**

**1.3.1 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 Composite Index calculated

based on the weightage of 50:25:25 for Indonesia Coal, South African Coal and Australian coal respectively, in line with the methodology adopted by CERC.

The week for the above purpose shall be a period of 7 days starting from Saturday to Friday.

The weekly Composite Index shall be calculated as per the following :

$$\text{Composite Index} = I1 \times W1 + I2 \times W2 + I3 \times W3 + I4 \times W4$$

Country	Indices		Weightage in composite index
	Index	Value	
Indonesian coal	Platts (5000 Kcal/Kg GAR)	I1	0.25 (W1)
	Argus (ICI3, 5000 Kcal/kg GAR)	I2	0.25 (W2)
South African Coal	API4	I3	0.25 (W3)
Australian coal	Global COAL New castle index (6000 Kcal/kg on NAR basis)	I4	0.25 (W4)

#### **Formulae:**

- A1 Composite Index derived on Friday immediately preceding the first day of applicable Half Year. For this purpose , the indices published for the week preceding to the start of Half Year shall be considered.
- A2 Composite Index calculated derived on Friday immediately preceding to the week of the date of Bill of Lading of the vessels. For this purpose, the indices published for the week preceding to the date of bill of Lading shall be considered.
- 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:

$$\text{FOB Coal Price A} = \frac{A2}{A1} \times A3$$

#### **1.3.2 As per Country of Origin Indices**

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 published for the Country of Origin of coal, applicable for guaranteed parameter with respect to Gross Calorific Value of coal specifications published by preferably Government agency of that country.

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.

#### **Formulae:**

- A1 Index applicable as on Friday immediately preceding the first day of Half Year and the same shall remain constant for the entire duration of Contract.
- A2 Index applicable 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 firm base price offered by successful bidder is to remain constant for the entire duration of contract. Hence, considering the above, the FOB price for payment purpose will be calculated as under:

$$\text{FOB Coal Price A} = \frac{A2}{A1} \times A3$$

- 1.3.3** For the purpose of payment, the lower of the prices worked out based on the above two methodologies shall be considered.

The following Indices shall be considered for determination of prices on country specific index.

In the event of index and /or publication not being acceptable to MMTC/CIL for any reason whatsoever, the index representing the coal closest to the coal specification offered by bidder shall be considered.

#### **1.4 Ocean Freight**

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 Friday immediately preceding the first day of applicable Half Year (April'15-Sept'15) and the same shall remain constant during the 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:

$$\text{OCEAN FREIGHT B} = \frac{B2}{B1} \times B3$$

However, for the purpose of payment, the lower of the following two shall be considered :

- a) Ocean Freight prices worked out based on the above methodology and;
- b) Actual freight payable/paid, as per certification of the supplier.

#### **1.5 Total C&F Coal Price**

Total C&F Price for the purpose of payment shall be the Sum of FOB prices worked out as per Para 1.1.1; and Ocean Freight, worked out as per Para 1.1.2 above.

#### **2.0 Cap/Ceiling of C&F Coal Prices**

If the delivery period is extended beyond the scheduled contract period due to reasons attributable to Supplier, the Cap/Ceilings of C&F coal price as applicable on last day of scheduled delivery period shall be applicable for the extended period. In case C&F price during the extended period is lower than the cap/ ceiling price, the lower price shall be payable.

**Annexure-B****TECHNICAL SPECIFICATIONS OF IMPORTED COAL**

PARAMETER	UNIT	ACCEPTABLE RANGE (Type-I)
Total Moisture (ARB)	%	10- 20% Max.
Ash (ADB)	%	8- 20% Max
Fixed Carbon (ADB)	%	30-50 Typical
Volatile Matter (ADB)	%	25-45%
Sulphur (ADB)	%	0.70 - 0.90% Max.
Gross Calorific Value (ADB)	Kcal/ Kg	5800-6500
HGI	-	45-60
IDT under reducing atom. C	Centigrade	1100-1250
SIZE	MM	0-50

**Guaranteed Parameters for Price Basis:**

Parameters	ACCEPTABLE RANGE (Type-I)
GCV (ADB)	6300 Kcal/kg
Total Moisture (ARB)	16%
Ash (ADB)	10%
Sulphur (ADB)	0.8%

**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/15-16/CIL/1236 (R2)** dated \_\_\_\_\_ (hereinafter referred to as Invitation to Bids) for supply of **0.353 Million MT** imported coal.
2. AND WHEREAS the said invitation to Bid requires that any 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 **90 days** from the due 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 \_\_\_\_ (expiry date) and that the Bidder, M/s\_\_\_\_\_ :-
  - a) Shall keep his bid firm and valid for acceptance by MMTC upto **80 days (eighty days)** from the last date of submission of bids;
  - b) Shall, in the event of the bid being accepted by MMTC, within five (05) days from the 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 **05** working days the Bidder shall establish a Performance Guarantee in favour of MMTC Limited, in the form of Bank Guarantee equivalent to **10% of contract value** of imported coal, with a validity period of **6 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 **90 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**

<b>SL. NO.</b>	<b>GUIDELINES</b>	<b>YES</b>	<b>NO</b>
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 the Stamp Paper. (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.	Whether the BG has been issued by a Bank in line with the provisions of Bid/Contract Documents?		
11.	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?		

(Signature Of Authorised Person  
With Seal)

PLACE:

DATE:

**Annexure-E**

**PROFORMA FOR BANK GUARANTEE FOR CONTRACT PERFORMANCE**

(To be stamped in accordance with Stamp Act)

**Bank Guarantee No.....**

**Date :**

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

Dear Sirs,

In consideration of MMTC Limited (hereinafter referred to as the "MMTC" which expression shall unless repugnant to the context or meaning thereof include its successors, administrators and assigns) having awarded to M/ s ..... a company within the meaning of the Companies Act, 1956 and having its Head Office at .....(complete address) (hereinafter referred to as the ' Supplier' which expression shall unless repugnant to the context or meaning thereof, includes its successors, administrators, executors & assigns) a Contract by entering into an Agreement with 'Supplier under Ref No ..... dated ..... and the same having been unequivocally accepted by the 'Supplier' resulting in a 'Contract' for purchase of imported Steam Coal on FOR delivery point basis at           ***[name of Power Plant(s)]***           and the 'Supplier' having agreed to provide a Performance Guarantee of the faithful performance of the entire contract equivalent to 10% of contract value.

We, ..... (Name & Address of Bank) having our Head Office at ..... (complete address), (hereinafter referred to as the 'Bank' which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators, executors & assigns), do hereby guarantee and undertake to pay the MMTC Rs. ...., on demand any and all monies payable by the Supplier to the extent of Rs. .... as aforesaid at any time up to without any demur, reservation, contest, recourse, or protest and/or without any reference to the Supplier. Any such demand made by the MMTC on the Bank shall be conclusive and binding notwithstanding any difference between the MMTC and Supplier or any dispute pending before any Court, Tribunal, Arbitrator or any other Authority. The Bank undertakes not to revoke this guarantee during its currency without previous consent of the MMTC and further agrees that this guarantee herein contained shall continue to be enforceable within its validity.

The MMTC shall have the fullest liberty without affecting in any way the liability of the Bank under this guarantee, from time to time to extend the time for performance of Contract by the Supplier. The MMTC shall have the fullest liberty, without affecting this guarantee to postpone from time to time the exercise of any powers vested in them or of any right which they might have against the Supplier, and to exercise the same at any time in any manner, and either to enforce or to forbear to enforce any covenants, contained or implied in the contract between the MMTC and the Supplier or any other course of remedy or security available to the MMTC. The Bank shall not be released of its obligations under these presents by any exercise by the MMTC of its liberty with reference to the matters aforesaid or any of them or by reason of any other act or forbearance or other acts of omission or commission on the part of the MMTC or any other indulgence shown by the MMTC or by any other matter or thing whatsoever which under law would, but for this provision, have the effect of relieving the Bank.

The Bank also agrees that the MMTC at its option shall be entitled to enforce this guarantee against the bank as a principal debtor, in the first instance without

proceeding against the Supplier and notwithstanding any security or other guarantee that the MMTC may have in relation to the Supplier's liabilities.

Notwithstanding anything contained hereinabove our liability under this guarantee is restricted to ... and it shall remain in force up to and including .....

Dated this ..... day of -- .... ---- at .....

BANK'S SEAL .....  
SIGNATURE .....  
ATTORNEY AS PER POWER OF ATTORNEY NO....  
NAME .....  
DATE .....  
OFFICIAL ADDRESS.....

**WITNESS**

1)  
SIGNATURE .....  
NAME .....

2)  
SIGNATURE .....  
NAME .....

**Annexure-F****THE BANKS FROM WHICH BANK GUARANTEES FOR EMD/  
CONTRACT PERFORMANCE GUARANTEE (CPG) CAN BE ACCEPTED****Scheduled Commercial Banks****Nationalized/Public Sector Banks/Other Public Sector Banks**

State Bank of India	Bank of Baroda	Punjab & Sind Bank
State Bank of Bikaner & Jaipur	Bank of Maharashtra	Syndicate Bank
State Bank of Hyderabad	Canara Bank	Union Bank of India
State Bank of Indore	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	
<b>Scheduled Foreign Banks</b>		
Bank of America NA	Deutsche Bank A.G	Bank of Nova Scotia
Bank of Tokyo Mitsubishi UFJ Ltd.	The Hongkong and Shanghai Banking Corpn Ltd.	Citi Bank N.A
BNP Paribas	Standard Chartered Bank	DBS Bank Limited
Barclays Bank	Societe Generale	
<b>Scheduled Private Banks</b>		
Any Schedule Private Bank (except Nainital Bank Ltd & Dhanlaxmi bank) having a net-worth of at least Rs. 500 Crore and Capital Adequacy Ratio of 9%. Bank Guarantee from Cooperative or Gramin Bank is not acceptable		

**Annexure –G**

**END-USER CERTIFICATE FOR SUPPLIES OF QUANTITIES  
(ON THE LETTER HEAD OF END-USER / PSU)**

NO.

DATED :

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

This is to certify that, M/s \_\_\_\_\_(bidder) have supplied imported coal on FOB/CFR to us as per details given below:

<b>Period of Supply (Financial year)</b>	<b>Quantity (MT)</b>

This certificate is issued at the request M/s \_\_\_\_\_ (bidder) for the purpose of participating in tender/s.

(Signature Of Authorised Person  
With Full Address & Seal)

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 SUPPLIES**  
**MADE OF IMPORTED COAL**  
**( On the Letter Head of Statutory Auditors)**

NO.

DATED :

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

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) has supplied imported coal on FOB/CFR basis to end-user (power / cements / steel fertilizers / industrial utilities) directly or through PSU(s) as under:

S.NO.	NAME OF THE END-USER / PSU(S)	Supply Period	QUANTITY SUPPLIED (MTs)

PLACE :  
DATE :

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

**Annexure-I-1**

**HANDLING EXPERIENCE CERTIFICATE FROM END-USER FOR HANDLING  
OF IMPORTED COAL INCLUDING PORT OPERATIONS, TRANSPORTATION IN  
INDIA THROUGH RAILWAY SYSTEM AND DELIVERY UPTO DESTINATION  
(ON THE LETTER HEAD OF END-USER / PSU)**

NO.

DATED :

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

This is to certify that M/s \_\_\_\_\_ (Name and address of the bidder) have handled Imported Coal including port operations, transportation in India through railway system and delivery upto destination as per details given below –

S.NO.	NAME OF THE COMMODITY	Supply period	QUANTITY HANDLED, INCLUDING PORT OPERATIONS, TRANSPORTATION IN INDIA THROUGH RAILWAY SYSTEM AND DELIVERY UPTO DESTINATION

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 AND SEAL

**Annexure-I-2**

**HANDLING EXPERIENCE CERTIFICATE FROM ASSOCIATE FOR HANDLING  
OF IMPORTED COAL INCLUDING PORT OPERATIONS, TRANSPORTATION IN  
INDIA THROUGH RAILWAY SYSTEM AND DELIVERY UPTO DESTINATION  
(ON THE LETTER HEAD)**

NO.

DATED:

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

This is to certify that we, M/s \_\_\_\_\_ (Name and address of the associate of the bidder) have handled Imported coal including port operations, transportation in India through railway system and delivery upto destination as per details given below –

S.NO.	NAME OF THE COMMODITY	Supply Period	QUANTITY HANDLED, INCLUDING PORT OPERATIONS AND DELIVERY UPTO DESTINATION	NAME OF THE END USER

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 AND SEAL

**Annexure-J**

**CERTIFICATE FROM STATUTORY AUDITORS OF BIDDER / OR ITS  
ASSOCIATE FOR HANDLING OF IMPORTED COAL INCLUDING PORT  
OPERATIONS, TRANSPORTATION IN INDIA THROUGH RAILWAY SYSTEM  
AND DELIVERY UPTO DESTINATION**

**(ON THE LETTER HEAD OF STATUTORY AUDITORS)**

NO.

DATED:

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

We have examined the books of accounts, records and other relevant documents, alongwith other necessary information and explanations furnished by M/s.\_\_\_\_\_ (bidder) /its associate having office at\_\_\_\_\_. We hereby certify that M/s.\_\_\_\_\_(bidder) /its associate have handled including, port operations, transportation in India through railway system and delivery upto destination Imported Coal in India as per details given below:

SN	Name of the Party	Commodity Handled	Supply period	Quantity (MTs)

PLACE :

DATE

SIGNATURE

NAME OF THE PARTNER / PROPRIETOR

PARTNERSHIP NO.\_\_\_\_\_

SEAL OF STATUTORY AUDITORS

**CERTIFICATE REGARDING NO DEVIATIONS**

(On the letter of the Bidder)

Ref No.

To,

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

Sub: TENDER FOR PROCUREMENT & SUPPLY OF 0.353 MMT (+ 2% buyer's option) OF  
IMPORTED COAL FOR POWER PLANTS

Dear Sir,

We hereby certify that we have gone through all terms and conditions of Tender No. MMTC/Steam coal/15-16/CIL/1236 (R2) dated \_\_\_\_\_ and confirm that the bid submitted by us is in total compliance of the terms of bid documents and no deviations whatsoever are incorporated in our bid.

We further undertake that the entire work shall be performed as per the terms of the above bid documents.

Date :

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

**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)/Vendor(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 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 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)  
(Official Seal)

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

Place: .....  
Date : .....  
Witness 1 .....  
Name :  
Address:

Witness 2 .....  
Name :  
Address:

Place: .....  
Date : .....  
Witness 1 .....  
Name :  
Address:

Witness 2 .....  
Name :  
Address:

TENDER NO. MMT/Steam Coal/15-16/CIL/1236 (R2)

**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. MMT/Steam Coal/15-16/CIL/1236 (R2) dated \_\_\_\_\_ for Procurement & Supply of 0.353 MMT (+ 2% buyer's option) of Imported Coal for APGENCO-Vijayawada, APGENCO-Rayalseema, APPDCL-Krishnapatnam.

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.....

Name.....

Designation.....

Official Seal/Stamp .....

TENDER NO. MMTC/Steam Coal/15-16/CIL/1236 (R2)

**FORMAT OF AFFIDAVIT**

(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 Procurement & Supply of 0.353 MMT (+ 2% buyer's option) of Imported Coal for APGENCO-Vijayawada, APGENCO-Rayalseema, APPDCL-Krishnapatnam..
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. 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.
6. 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 \_\_\_\_\_ 2015 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

**Annexure – O****(On Letter Head of Statutory Auditors)**

(Details pertaining to Financial Qualification of the bidder / consortium \* (if applicable) as per Clause No. 24.1 (C) of Volume I of the Bidding document)

To,

MMTC LIMITED  
Core-1, SCOPE Complex, 7, Institutional Area,  
Lodhi Road,  
New Delhi-110003

Dear Sirs,

In order to meet the requirement as per Clause 24.1 C of the Qualified Requirements stipulated in Volume I of the bidding document, we hereby confirm that average annual turnover of \_\_\_\_\_ during the preceding three financial years as on the date of Techno-commercial bid opening is not less than **INR 1000 Crore (Indian Rupees one thousand Crore only)** or in equivalent foreign currency.

SN	Financial Year	Amount in Bidder's Currency	Amount in Rs	Exchange Rate as on seven (7) days prior to date of bid opening
1	2012 – 2013			
2	2013-2014			
3	2014-2015			
4	Average Annual Turnover for the preceding three (3) Financial Years as on the date of Techno commercial Bid Opening.			

Signature.....

Date :  
Place:

Name of Partner/Proprietor  
Partnership No. \_\_\_\_\_  
Seal of Statutory Auditors

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 BIDDER 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 imported coal as per Award Criteria (Clause 19 Volume – I) of MMTC's bidding document no. MMTC/Steam Coal/15-16/CIL/1236 (R2) at **[name of Power Stations]** on FOR destination basis over a period of \_\_\_\_\_ 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 **[name of Power Stations]**, 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 imported coal as per Award Criteria (Clause 19 Volume – I) of MMTC's bidding document no. MMTC/Steam Coal/15-16/CIL/1236 (R2) at [name of Power Station] on FOR destination basis over a period of \_\_\_\_\_ 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 port of purchaser.
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 [name of power plant].
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 2015

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	:	_____

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 & Supply of 0.353 MMT (+ 2% buyer's option) of Imported Coal for Power Plants

Bid Ref No. and Date : \_\_\_\_\_ dated \_\_\_\_\_

Bidder's Name and Address:

To,  
General Manager  
Steam Coal Division  
MMTC Limited  
Core I, SCOPE Complex  
Lodhi Road  
New Delhi-110003

Sub: Tender for Procurement & Supply of 0.353 MMT (+ 2% buyer's option) of Imported Coal for Power Plants.

Dear Sirs,

1. We hereby submit bids for **"Procurement & Supply of 0.353 MMT (+ 2% buyer's option) of Imported Coal for Power Plants"** 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 Bid Document as token of acceptance of the terms including Specifications of imported coal and Pricing methodology laid down therein.
  - ii. Pre-contract Integrity Pact. (Annexure-L)
  - iii. Certificates from End-User for Supplies of Quantities (Annexure-G)
  - iv. Certificate from statutory auditors for experience of imported coal supplies (Annexure-H)
  - v. Certificate from End-User for Handling of bulk commodities (Annexure-I-1)
  - vi. Certificate from Associate for Handling (if applicable) (Annexure-I-2)
  - vii. Certificate from Statutory Auditors of Bidder/Associate for Handling (Annexure-J)
  - viii. Declaration regarding no deviations (Annexure-K)
  - ix. Declaration for having submitted single bid (Annexure-M)
  - x. Affidavit for not having been blacklisted (Annexure-N)
  - xi. Bank details for transfer of payments electronically with cancelled blank cheque (Annexure-Q)
  - 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). (Annexure-C)
- xiv. Check List for Bank Guarantee verification for EMD (Annexure-D)
- xv. Price Bid (Annexure-S)
- xvi. Certificate of working capital.
- xvii. Joint Venture/Consortium agreement (If applicable)
- xviii. Average annual turnover certificate from auditor (Annexure-O)

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 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, submission of required PBG 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 \_\_\_\_\_ 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\_\_\_\_\_

**ANNEXURE- S****Tender No. MMTC/Steam Coal/15-16/CIL/1236 (R2)  
PRICE SCHEDULE FORM**

1. Name of the Bidder:
2. Address:
3. Country of Origin:
4. Period of Shipment : Quarter-II (2014-15) or as per requirement of MMTC/CIL.
5. Total quantity offered:
6. FOB Price Index (A1): CERC composite Index (Platts (5000 GAR), Argus (ICI3, 5000 GAR), API4, Global Coal New Castle (6000 NAR)) for Friday immediately preceding the first day of Half Year (April '15 to Sept'15 ) i.e. 27<sup>th</sup> March 2015 shall be applicable
7. Ocean freight index (B1): Singapore 380 CST Bunker Fuel Price for Friday immediately preceding the first day of Half Year (April '15 to Sept'15 ) i.e. 27<sup>th</sup> March 2015 (index value – 338) shall be applicable

FOB index/indices of coal as applicable for the guaranteed parameters with respect to Gross Calorific Value of coal specifications for countries of origin from where coal is offered. The offered prices shall be regulated basis the Country of Origin index prevailing on Friday immediately preceding the first day of Half Year (April '15 to Sept'15 ) i.e. 27<sup>th</sup> March 2015 shall be applicable.

Name of Country	Name of Index	value
Indonesia	Platts (5000 Kcal/Kg GAR)	47.00
Indonesia	Argus (ICI3, 5000 Kcal/Kg GAR)	48.12
South Africa	API4	59.13
Australia	Global Coal New Castle index(6000 Kcal/Kg on NAR basis)	59.60
Indonesia	Argus (ICI2, 5800 Kcal/Kg GAR)	59.49

In case the country of origin is other than those listed above, the bidders may indicate relevant index and publication preferably published by a government agency of the country in which the index is published and submit a copy of the same. However, MMTC reserves the right to accept such index and/or publications.

In the event of such index and/or publication not being acceptable to MMTC for any reason whatsoever, the index representing the coal closest to the coal specification offered by bidder shall be considered.

S.n.	Particulars			
		M/s APGENCO, Vijaywada	M/s APGENCO, Rayalseema	M/s APPDCL, Krishnapatnam
	Name of Port (Name of the Port to be specified by the bidder)			

X	Offered Quantity in MT	94,000	41,000	218,000
A	FOB Price (USD) PMT			
B	Ocean Freight (USD) PMT			
C	C&F Price (USD) PMT			
D	Exchange Rate Indicative for evaluation for 1USD (In INR)	64.00		
E	C&F Price in INR PMT			
F	Insurance Charges (to be paid at Actuals but limited to that quoted by bidder)			
G	CIF in INR PMT			
H	Customs Duty (Rs/PMT) to be calculated @ 2.5% BCD and 2% CVD of 101% of CIF cost + cess @ Rs. 200/- PMT + CVD + Education Cess).			
I	<b>Total Port Charges including Service Tax (ST) PMT in INR</b>			
i	Port Charges			
ii	Stamp Duty			
iii	Wharfage			
iv	Pollution Cess			
v	Terminal Charges/Wagon Haulage, Siding charges.			
vi	Any other charges at port			
vii	Total Port Charges (i+ii+iii+iv+v+vi)			
viii	ST Tax on Port Charges			
	<b>Sub-Total (I)</b>			
J	<b>Handling Charges PMT in INR</b>			
i	Entry Port Handling (INR)			
ii	ST on Handling Charges			
	<b>Sub-total (J)</b>			
K	<b>Total of (G+H+I+J)</b>			
L	<b>Railway Freight from Port to delivery point in PMT in INR (including service tax, if any)</b>			NIL
M	<b>Trip Charges / other charges (including service tax, if any)</b>			NIL
N	<b>Total (K+L+M) in INR</b>			
O	<b>Delivered cost of offered quantity</b>			
Q	<b>Total Delivered cost of offered quantity. (Q=O1+O2+O3)</b>			

(Name & Signature of Authorised Signatory)

Date :  
Place:

Note:

1. Validity of the offer to remain **80 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. For evaluation purpose Customs Duty will be calculated on 101% of CIF value including landing charges 1% of CIF value.
4. Payment shall be made as per the price methodology detailed in Annexure A.
5. Bidders may please note that any type of concessions in Customs Duty, if become applicable during the contractual period/already applicable before the contractual period, Successful bidder shall be 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 and such benefit shall be passed on to MMTC/CIL, irrespective of the fact that whether the Successful bidder has considered the same in his bid or not and in case of failure to receive such benefit, the Successful bidder shall bear the liability of differential amount for not availing such benefits.