



Core-1, SCOPE Complex, Institutional Area, Lodhi Road, New Delhi-110 003 INDIA
 Phone : 011 2436 2200 Fax : 0091 011 2436 4106 Website : www.mmtclimited.com

Tender No. MMTC/MIN/SIOTL/2017 dated 12.10.2017

Subject : INVITATION OF BIDS FOR ACQUISITION OF MMTC'S 26% EQUITY STAKE IN SIOTL.

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Subject : INVITATION OF BIDS FOR ACQUISITION OF MMTC'S 26% EQUITY STAKE IN SIOTL.

Dear Sirs,

MMTC Limited is a Public Sector Enterprise functioning under the aegis of Ministry of Commerce, Govt. of India. It is engaged in the field of International trading of Minerals, Agro Products, Precious Metals, Non-Ferrous Metals, Coal & Hydrocarbon, Fertilizers, etc. For further details please visit our website: www.mmtclimited.com.

2. MMTC has diversified its operations and invested in various joint ventures (JVs). One such JV is Sical Iron Ore Terminals Ltd. (SIOTL), Ennore in which MMTC's equity investment is 26% (Rs.33.80 crore). MMTC intends to exit from this JV by off loading its entire equity. In this connection, MMTC invites bids from the prospective buyers for acquisition of its 26% equity stake in SIOTL.
3. The RFP document consists of two Sections - **Section I** : RFP description & Annexure and **Section II** : Appendices containing Formats of documents to be submitted. Bidders are requested to go through the entire RFP carefully before submission of their bids.
4. Bidders are required to submit Technical Bid alongwith supporting documents and Price Bid shall be submitted on electronic mode only. The envelope containing technical bid shall superscribe on the name of the bidding company, contact person, phone, fax, e-mail address, Tender No. and closing date. Incomplete offer or offer received after the closing time and date shall be rejected.
5. The Technical Bid may be addressed to the undersigned at the above-mentioned address so as to reach latest by **11 : 00 hrs. on 10.11.2017**.

Anju Gupta
General Manager (Minerals)

DISCLAIMER

1. This Request for Proposal (RfP) has been prepared for the purposes of providing certain information to Bidder(s) (as defined hereinafter) who are desirous of participating in the Bid Process (as defined hereinafter) being conducted by MMTC (as defined hereinafter) for selection of a Successful Bidder (as defined hereinafter) for the acquisition of 26% equity stake in the Company (as defined hereinafter) from MMTC in the Company as are required for the business and such other purposes as expressly set out herein and for no other purposes.
2. This RfP is being made available by MMTC to the Bidder(s) on the terms set out in this RfP and is confidential. This RfP has not been filed, registered or approved in any jurisdiction. Its possession or use in any manner contrary to any Applicable Law (as defined hereinafter) is expressly prohibited. Bidders shall inform themselves of any applicable legal requirements in respect of this RfP and shall observe the same.
3. This RfP is neither an agreement nor an offer by MMTC to the prospective Bidder(s) or any other Person (as defined hereinafter) and no agreement or transaction shall be deemed to be entered into, either oral or in writing, till the Share Purchase Agreement (as defined hereinafter) and other relevant documents are executed for the acquisition of MMTC's Equity stake in SIOTL.
4. The purpose of this RfP is to provide interested parties with information that may be useful to them in formulation of their Bids (as defined hereinafter) pursuant to this RfP. This RfP, any clarifications, amendments, additional information or addenda issued pursuant hereto are only to provide selective summaries of available information and do not purport to contain all the information that a recipient may require for the purposes of making a decision for participation in this RfP. This RfP is subject to updating, expansion, revision and amendment at the sole discretion of MMTC, without the requirement of prior notices to the Bidders or any other person. Whilst the information in this RfP has been prepared in good faith, no reliance shall be placed on any information or statements contained herein, and no representation or warranty, expressed or implied, is or will be made in relation to such information and no liability is or will be accepted by the Advisor (as defined hereinafter) or MMTC or their employees, officers, directors, advisors, consultants, contractors and/or its agents in relation to the accuracy, adequacy or completeness of such information or statements made, nor shall it be assumed that such information or statements will remain unchanged. The Advisor and MMTC or their respective employees, officers, directors, agents, representatives, advisors, contractors or consultants undertake no liability or responsibility to provide any Bidder with access to any additional information, or, to update the information in this RFP or to correct any inaccuracies herein.

SECTION - I

1. Invitation to Bid

- 1.1. MMTC Limited (hereafter referred as the 'Client' or 'MMTC') proposes to divest its 26% stake in Sical Iron Ore Terminal Limited (SIOTL), hereafter referred as the 'Company'. MMTC therefore invites the Bidders to submit their Bids (as defined hereinafter) for acquisition of 26% equity stake in SIOTL, and for evaluation of bids and selection of the Successful Bidder. The Evaluation Committee (as defined hereinafter) and the client will evaluate the Bids submitted by the Bidders in accordance with the evaluation criteria as provided in this RfP. The Bidders may seek clarifications and obtain further information regarding this RfP in the manner set out in this RfP.
- 1.2. The MMTC/Advisor or their respective employees, Officers, Directors, consultants, contractors, agents and advisors make no representation or warranty and shall have no liability or responsibility to any Person, including any Bidder under any Applicable Laws, statutes, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damage, cost or expense which may arise from or be caused or incurred or suffered on account of anything contained in the Bid Document (as defined hereinafter) or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the Bid Document and any assessment, assumption, statement or information contained therein or deemed to form part of this RfP or arising in any way from participation in this RfP.
- 1.3. The Advisor, MMTC or their respective officers, consultants or representatives, do not accept any liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this RfP.
- 1.4. Nothing in this RfP shall be construed as legal, financial, regulatory or tax advice. The Advisor or the MMTC shall not be liable for any costs, expenses or damages howsoever incurred by Bidders in connection with the preparation of Bid in response to this RfP.
- 1.5. Each Bidder must conduct its own analysis of the information contained in this RfP and is advised to carry out its own investigation into the proposed opportunity, the regulatory regime which applies thereto, and all matters pertinent to the proposed opportunity and to seek its own professional advice on the legal, financial, regulatory and taxation consequences of entering into any agreement or arrangement relating to the proposed opportunity.
- 1.6. Neither anything in this RfP nor any clarifications, amendments, additional information or addenda issued pursuant hereto is, or shall be relied upon, as a promise or representation as to MMTC's decision in relation to sale of their equity in the Company or selection of the Successful Bidder. The MMTC proposes to select the Successful Bidder in a transparent manner in accordance with this RfP on the basis of Bids submitted. Bidders shall not, therefore, assume that they will have the opportunity to revise their Bid following submission, except as provided in this RfP.
- 1.7. The issue of this RfP does not imply that the MMTC is bound to select a Bidder or to sell its stake to the Successful Bidder. MMTC reserves the right to reject all or any of the Bidders or Bids, without assigning any reason whatsoever.
- 1.8. Each Bidder shall bear all costs associated with or relating to the preparation, and submission of its Bid including but not limited to preparation, copying, finalization, submission, postage, delivery fees, expenses associated with any demonstrations or presentations which may be

required by MMTC or the Advisor or any other costs incurred in connection with or relating to its Bid including costs and expenses payable by it to its advisors and consultants in respect to preparing and submission of the Bids. Further, the Successful Bidder shall be required to bear all costs associated with or relating to the preparation, finalization and submission of all documents required to be executed by it with MMTC including but not limited to stamp duty and registration charges, if any, payable in this regard and costs and expenses payable by the Successful Bidder to its advisors and consultants in respect to preparing the Bid.

- 1.9. This RfP is not transferable.
- 1.10. The Bidders are expected to read the entire Bid Document including all Appendices and Schedules, as may be amended from time to time and carry out their own diligence, surveys and other investigations of the Project (as defined hereinafter) and the Company before submitting their Bids.
- 1.11. The Laws of Republic of India are applicable to this RfP. Courts with competent jurisdiction at New Delhi, India shall have exclusive jurisdiction in relation to any disputes arising out of or in relation to this RfP

2. Definitions used in the RfP document

2. Definitions - Following capitalized terms used in this RfP, shall have the meaning given hereunder:
 - 2.1. "Acceptable Bank" shall mean any nationalized bank or any other scheduled commercial bank other than Gramin Bank, Cooperative Banks, Dhanlakshmi Bank, Nainital Bank, etc., acceptable to the client.
 - 2.2. "Acquisition Proposal" shall mean detailed proposal submitted by the Bidder for acquiring MMTC's Equity in the Company.
 - 2.3. "Advertisement" shall mean the advertisement displayed on website of MMTC Limited inviting Expression of Interest for taking over 26% equity stake in the Company.
 - 2.4. "Advisor" shall mean ICRA Management Consulting Services Limited, New Delhi, authorized by the MMTC Limited to provide the Bid Process support, including identifying prospective investors to buy out 26% stake in the Company.
 - 2.5. "Applicable Law" shall mean, in respect of any relevant jurisdiction, any statute, law, regulation, ordinance, rule, judgment, order, decree, clearance, approval, directive, guideline, policy, requirement, or other governmental restriction or any similar form of decision, or determination by, or any interpretation or administration of any of the foregoing by, any Governmental Authority whether in effect as of the date of this RFP or thereafter and in each case as amended or modified.
 - 2.6. "Bid(s)" shall mean the response submitted by the Bidders comprising of the Technical Proposal, the Financial Proposal and other requisite forms/documents/authorizations, in accordance with the terms and conditions of the Bid Document.
 - 2.7. "Bidder(s)" shall mean an individual entity or a Consortium of entities, who submitted EOI in reference to the Advertisement.

- 2.8. "Entity" shall mean such entities that have submitted a Bid in terms as ascribed in the Bid Document.
- 2.9. "Bid Document" shall mean this RFP including the Annexure and Appendices, exhibits, attachments and any other document issued pursuant hereto including all amendments, clarifications and responses issued by the Advisor/clients from time to time.
- 2.10. "Bid Due Date" shall have the meaning ascribed to it in Clause 3.1.7 of this RFP.
- 2.11. "Bid Security" shall have the meaning ascribed to it in Clause 3.1.8.
- 2.12. "Bid Process" shall mean the process for selection of Successful Bidder as more particularly set out in this RFP.
- 2.13. "Company" or "SIOTL" shall mean Sical Iron Ore Terminals Limited, a company registered under the Companies Act, 1956 with CIN no. U13100TN2006PLC061022 having its registered office at South India House, 73 Armenian street, Chennai, Tamil Nadu.
- 2.14. "Companies Act" shall mean the Companies Act, 1956 or the Companies Act, 2013, as the case may be, including any statutory modification or re-enactment or replacement thereof, for the time being in force as may be notified or amended from time to time.
- 2.15. "Conflict of Interest" means where one or more Bidders in the Bid Process have a relationship with each other or with the MMTC and/or Affiliates or Advisors, directly or through a common entity, or by any other means including colluding with other bidders or MMTC and/or Affiliates that puts them in a position to have access to information about or influence the Bid of other Bidder(s).
- 2.16. "Consortium" shall mean the entities who jointly Bid in response to this RFP.
- 2.17. "Evaluation Committee" shall mean a committee of client representatives as decided by the client along with other experts, as deemed appropriate by the client, constituted for the purpose of evaluating the Bid(s) for selection of Successful Bidder.
- 2.18. "Expression of Interest" or "EOI" shall mean the expression of interest, as submitted by the Bidder(s) pursuant to the Advertisement, for acquiring 26% equity stake in the Company.
- 2.19. "Financial Proposal" shall mean the detailed acquisition proposal submitted by the Bidder.
- 2.20. "Governmental Authority" shall mean (i) any nation or government or any province, state or any other political subdivision thereof; (ii) any entity, authority or body exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including any Governmental Authority, agency, department, board, commission or instrumentality; (iii) any Court, Tribunal or arbitrator; or (iv) any securities exchange or body or authority regulating securities exchanges in each case in India.
- 2.21. "Group Companies and Affiliates" of any company mean and would include (i) a company which, directly or indirectly, holds twenty six percent (26%) or more of the share capital of the said company or (ii) a company in which the said company, directly or indirectly, holds twenty six percent (26%) or more of the share capital or (iii) a company in which the said company, directly or indirectly, has the power to direct or cause to be directed the management and policies of

such company whether through the ownership of securities or agreement or any other arrangement or otherwise or (iv) a company which, directly or indirectly, has the power to direct or cause to be directed the management and policies of the said company whether through the ownership of securities or agreement or any other arrangement or otherwise or (v) a company which is under common control with the said company, and control means ownership of at least twenty six percent (26%) of the share capital of a company or power to direct or cause to be directed the management and policies of such company whether through the ownership of securities or agreement or any other arrangement or otherwise.

- 2.22. "Lead Member" shall mean Member of a Consortium who is identified by the other Members, as being the Lead Member of such Consortium.
- 2.23. "Client" or "MMTC" shall mean MMTC Limited which currently holds 26% stake in the company.
- 2.24. "Member" in relation to a Consortium shall mean and refer each entity other than the Lead Member which is a part of such Consortium.
- 2.25. "Parent Company" shall mean a company which holds at least 26% equity stake, either directly or indirectly, in the Bidder.
- 2.26. "Proposal" shall mean the Technical Proposal and the Financial Proposal, collectively.
- 2.27. "Reserve Price" shall mean the price kept as reserve by MMTC and the bid received below the reserve price shall be rejected.
- 2.28. "RfP" shall mean this request for proposal.
- 2.29. "Selected Bidder(s)" shall mean the Bidder(s) finalized by the Evaluation Committee for further negotiations based on the Technical Proposal, Financial Proposal and other requisite documents submitted by the Bidder(s) in terms of this RfP.
- 2.30. "Share Purchase Agreement" shall mean the agreement executed between the Successful Bidder, the client and the Company for transfer of client's Equity in the Company and management control by the client to the Successful Bidder.
- 2.31. "Successful Bidder" shall mean the Bidder finalized by the Evaluation Committee as per the terms of the Bid Document for acquiring 26% equity shares of the Company.
- 2.32. "Technical Proposal" shall mean the proposal containing all relevant documents/ information not included in the Financial Proposal.
- 2.33. "Transfer Date" shall mean the date on which 26% of the equity shares of the Company are transferred in the name of the Successful Bidder in accordance with the terms of the Bid Document, the Share Purchase Agreement and provisions of Applicable Law.
- 2.34. "Ultimate Parent" shall mean a company which owns at least twenty six percent (26%) equity either directly or indirectly in the Parent Company or Affiliate of the Bidder.
- 2.35. "Similar Business" shall mean the business of developing or operating one or more berth terminals at any seaport in India.

3. Bid Process

3.1. General Conditions

- 3.1.1. The interested bidders will have to submit a duly signed and stamped original copy of the Non-Disclosure Agreement (NDA) as provided in **Appendix VI** to receive the Information Memorandum, to undertake site visits and to receive any other information that may be provided in relation to the Company.
- 3.1.2. Bidder shall submit their Bids in accordance with the terms specified in this RfP. The Bid shall be valid for a period of 3 (Three) months from the Bid Due Date.
- 3.1.3. The Bidders may independently conduct their own due diligence and verify the information provided by the Company, and/ or MMTC and/or Advisor at their own cost and MMTC and/or the Advisor shall not be responsible for the correctness of any information provided.
- 3.1.4. The Bid and all communications in relation to or concerning the Bid Document and the Bid shall be in English language only.
- 3.1.5. The Bidders shall be responsible for all costs associated with the preparation of their Bids and their participation in the Bid Process pursuant to the Bid Document. The Advisor/ MMTC will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bid Process pursuant to the Bid Document.
- 3.1.6. The Bid Document, the Information Docket and all other documents, provided by MMTC are and shall remain or become the properties of the party to which it originally belongs to and are transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. All bid related documents submitted by the Bidders, document or any information provided along therewith shall not be returned by MMTC, other than the Bid Security in accordance with the terms hereof.
- 3.1.7. **Bid Due Date** : Bid by the Bidders should be submitted before **11:00 hours IST on 10.11.2017** (hereinafter, referred to as the "Bid Due Date"), at the address mentioned below in the manner and form as detailed in this RfP. MMTC may, at its sole discretion, extend the Bid Due Date through issue of a public notice/ corrigendum.
- 3.1.8. **Bid Security** : A Bidder is required to deposit, along with its Bid, an unconditional irrevocable, interest-free demand draft/ bank guarantee of Rs.10 lakhs (Rupees Ten lakhs) ("Bid Security") from an Acceptable Bank in favour of MMTC Limited payable at New Delhi.
- 3.1.9. The validity period of the Bid Security shall not be less than 3 (Three) months from the Bid Due Date with a claim period of 30 (thirty) days, and may be extended at the sole discretion of MMTC.
- 3.1.10. Non-submission of Bid Security by the Bidder(s), will lead to rendering of bids by such Bidder(s) being deemed non-responsive and MMTC shall have the right to reject the Bid.
- 3.1.11. The Bid Security of Bidders, which have not been shortlisted as a Selected Bidder by the Evaluation Committee, shall be returned without any interest, within 30 (Thirty) days after selection of the Selected Bidder(s) and as promptly as possible on acceptance of the Bid(s) of

the Selected Bidder or within 30 (Thirty) days after the Bid Process pursuant to the Bid Document is cancelled by MMTC.

- 3.1.12. The Bid Security of Selected Bidders, which have not been declared successful by the Evaluation Committee, shall be returned without any interest, within 30 (Thirty) days after selection of the Successful Bidder or within (as defined hereinafter) days after the Bid Process pursuant to the Bid Document is cancelled by MMTC.
- 3.1.13. The Bid Security of Successful Bidder shall be released without any interest, within 30 (Thirty) days from the Transfer Date or within 30 (Thirty) days after the Bid Process pursuant to the Bid Document is cancelled by MMTC.
- 3.1.14. **General Reserve Price:** The general reserve price for the shares is set at ***Rs.10.14 (Rupees Ten and paise fourteen only) per share***. The Financial bids placed by the bidders should be equal to or above the general reserve price.

3.2. Due Diligence

- 3.2.1. During the Bid Stage, Bidders are advised to examine the Company in greater detail and carry out such studies as may be required by them for submitting their respective Bids at their cost.
- 3.2.2. All Bidders post submission of executed NDA shall be provided with the Information Docket and site visit shall be arranged for undertaking due diligence in accordance with the terms of the Bid Document.
- 3.2.3. Information contained in the Information Memorandum is solely based on submission from the Company and MMTC shall not have any liability in relation to such information including for any misrepresentation/ inaccuracy whatsoever in such information/documents.
- 3.2.4. Submission of Bid(s) and all obligations pursuant to same shall be the sole responsibility of the Bidder.
- 3.2.5. MMTC shall not be liable for any loss incurred by the Bidder or in case of Bidder's inability to perform its obligations under the Bid Document/ any other agreement executed pursuant to the Bid Document, for any reason whatsoever, including on account of any ambiguity, inaccuracy or misrepresentation in the information in the Bid Document.

3.3. Site Visit

- 3.3.1. MMTC shall co-ordinate with the Bidder(s) to facilitate site visit. The purpose of the site visit will be to facilitate the Bidder(s) to ascertain the current status of the Project such as the site conditions, location, surroundings, availability of power, water and other utilities for operation, access to site, handling and storage of materials, operational condition and health of the units installed and other matters considered relevant by them.
- 3.3.2. The Bidder(s) are requested to depute a team comprising of maximum three (3) people for the site visit. Each Bidder is expected to make its own travel and stay arrangements for the site visit. All costs and expenses incurred in relation to site visit shall be borne by the respective Bidder.

- 3.3.3. Three alternative dates for site visit shall be intimated by MMTC post-execution of NDA. Bidder(s) shall intimate their first, second and third preference out of the chosen dates to MMTC via email to the following email Ids : anjug@mmtclimited.com / jnn@mmtclimited.com / mithra@mmtclimited.com .
- 3.3.4. The Bidders shall be allotted their preferred site visit date on a best effort basis. MMTC reserves the right to allot any other date for site visit, in consultation with the Bidder(s).
- 3.3.5. Site visit is subject to receipt of requisite permission from SIOTL/other authorities. Requisite modalities related to the site visit and due diligence will be communicated to the Bidder(s) in due course.

3.4. Pre-Bid Queries and meeting

- 3.4.1. MMTC would be conducting a pre-bid meeting at their Corporate Office at Core-1, SCOPE Complex, Lodhi Road, New Delhi-110 003 on **25.10.2017 at 15:00 Hrs.**
- 3.4.2. The Bidder(s) are requested to email all the queries pertaining to the Bid Process, the Company, the Project or the Bid Document up to 1 day prior to the Pre-bid meeting. No queries will be entertained after the Pre-bid meeting. Each query/clarification should contain complete details of the facts, information and details of the person asking the clarification/query. MMTC reserves the right not to answer any query/clarification including those that are anonymous or incomplete.
- 3.4.3. MMTC shall promptly attempt to clarify on the required clarifications /queries. MMTC will upload all the queries and its responses thereto in the related websites, without identifying the source of queries.
- 3.4.4. MMTC reserves the right not to respond to any question or provide any clarification, at its sole discretion, and nothing in the Bid Document shall be taken or read as compelling or requiring MMTC to respond to any question or to provide any clarification.
- 3.4.5. MMTC may also on its own, if deemed necessary, issue interpretations and clarifications to the Bidders through issue corrigendum/addendum to this RFP. All clarifications and interpretations issued by MMTC shall be deemed to be part of the Bidding Document. Verbal clarifications and information given by MMTC/Advisor or their employees or representatives shall not in any way or manner be binding on MMTC and shall not be deemed to have amended the Bidding Documents in any manner. However, it is expected that the Bidder has undertaken an independent due-diligence for participating in the Bid and does not rely solely on information provided by MMTC.
- 3.4.6. All clarifications sought should be mailed to the following email id- anjug@mmtclimited.com / jnn@mmtclimited.com. In case of any urgent clarification, please contact the following personnel:

Ms. Anju Gupta
General Manager (Minerals)
Ph. +91 11 2438 1396

Or

J.N. Nautiyal
Chief Manager (IO)
Ph. +91 11 24381266

3.5. Schedule of Bid Process

3.5.1. MMTC shall endeavour to adhere to following schedule :

- a) Dispatch of Information Memorandum - On signing of NDA
- b) Site Visit : **01.11.2017 to 03.11.2017** - after signing of NDA and receipt of requisite permission from SIOTL/other authorities, etc for such visit.
- c) Bid Due Date : **10.11.2017 11:00 Hrs.**
- d) Financial Bid Opening Date : **10.11.2017 16:30 Hrs.**

3.5.2. MMTC may, at its sole discretion, extend/advance any of the timelines as specified in this clause duly informing all the Bidders by email.

3.6. Amendment to the Bid Document

- 3.6.1. At any time prior to the Bid Due Date, MMTC may, for any reason, whether at its own initiative or in response to a clarification requested by a Bidder, issue any clarification and/or modify the Bid Document by an amendment/ corrigendum/ clarification. The amendment/ corrigendum/ clarification shall be posted on the website of MMTC and shall be binding on the Bidder. It shall be the obligation of the Bidders to ensure that they remain updated with respect to the amendment/ corrigendum/ clarification released by MMTC.
- 3.6.2. In order to allow the Bidders a reasonable time for taking an amendment into account, or for any other reason, MMTC may, at its own discretion, extend the Bid Due Date.

3.7. Preparation & Submission of Bid

- 3.7.1. All Bidders are required to submit information in accordance with this RfP. All requisite forms/documents/authorizations should be duly signed and appropriately stamped. Bidders should provide information sought herein in order to satisfactorily establish their competence and suitability for consideration for sale of equity stake in the company to the satisfaction of MMTC.
- 3.7.2. Strict adherence to the forms/documents/authorizations wherever specified, is required. Wherever, information has been sought in specified forms/ documents/authorizations, the Bidder shall refrain from referring to brochures/ pamphlets. Non-adherence to forms/ documents/ authorizations and/or submission of incomplete information may be grounds for declaring the bid non-responsive. Each page of each form/ document/ authorization has to be duly signed and appropriately stamped with company seal affixed by the Bidder.
- 3.7.3. The documents are indicative and MMTC reserve the right to consider the modification in the formats depending on applicability on the respective Bidder or in their own discretion.
- 3.7.4. **Sealing and Marking of Bid:**
 - a) Technical Bid – Technical proposal/Bid should be submitted in physical mode in closed / sealed covered envelope that reads the following, containing all requisite forms/

documents/authorizations and transcript, as may be applicable so as to reach within the due date and time at the address indicated below :

Technical Bid

(Bid) – “Confidential”

Superscript: “Technical Proposal - Offer for purchase of equity stake in Sical Iron Ore Terminals Limited from MMTC Limited”

Name of the Bidder : _____

Kind Attn. of : Ms. Anju Gupta

Designation : General Manager (Minerals)

Address : MMTC Limited, 3rd Floor, SCOPE Complex, Core I, 7- Institutional Area, Lodhi Road, New Delhi 110 003.

- b) **Financial Bid** : Financial proposal/ Bid should be submitted online only on the e-procurement site of MMTC. The bidders are advised to ensure that they register themselves on the website and upload the document well within time to avoid last minute rush and connectivity issues. Details of e-tendering process/guidelines are indicated under Clause **5.10** and **Annexure-I**. It is the sole responsibility of the bidder to ensure that he/she is able to upload the tender documents well within time and MMTC shall not be held responsible any delay/ inability whatsoever.

- 3.7.5. All envelopes for submission and communication should be adequately sealed to prevent any interference/tampering in transit. If the envelopes are not sealed and marked as instructed above, MMTC assumes no responsibility for the misplacement or premature opening of the contents of the Bid and consequent losses, if any, suffered by the Bidder. MMTC reserves the right to reject the acceptance of any Bid which is not properly sealed. Notwithstanding anything to the foregoing, any risk associated with regard to submission of the Bids being duly sealed and in the manner set out in this RfP shall lie with the Bidders alone and MMTC shall bear no risk, loss or responsibility in this regard.

3.8. Representations

- 3.8.1. It shall be deemed that by submitting a Bid, the Bidder has :

- a) made an independent, complete and careful examination of the Bid Document;
- b) received all relevant information/ clarification in relation to the Bid;
- c) It has made its own independent appraisal of the Company and accepted the risk of inadequacy, error or mistake in the information provided in the Bid Document or furnished by or on behalf of MMTC;
- d) satisfied itself about all matters, things and information necessary and required for submitting an informed Bid, operations of the Company in accordance with the Bid Document and performance of all of its obligations there under;
- e) acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bid Document or ignorance of any of the matters referred to in the Bid Document shall not be a basis for any claim for compensation, damages, extension

of time for performance of its obligations, loss of profits etc. from MMTC, or a ground for termination of the Share Purchase Agreement.

- f) acknowledged that it does not have a Conflict of Interest, as defined herein
- g) agreed to be bound by the undertakings provided by it under and in terms hereof.

3.8.2. MMTC/ Advisor shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to the Bid Document, including any error or mistake therein or in the Information Memorandum provided.

3.8.3. It shall be deemed that by submitting the Bid, the Bidder agrees and releases MMTC/ Advisor, their employees, agents and advisors, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/or performance of any obligations hereunder and the Bid Document, pursuant hereto, and/or in connection with the Bid Process, to the fullest extent permitted by Applicable Law, and waives any and all rights and/or claims it may have in this respect, whether actual or contingent, whether present or in future.

4. Bid Evaluation

4.1. Eligibility

4.1.1. To be eligible to participate in the Bid Process pursuant to Bidding Document, the Bidder(s) or in case of a Consortium, the Members must :

- a) either be a company incorporated under the Companies Act or incorporated as per the Applicable Law of the respective jurisdictions;
- b) certify on its letter head that no conflict of interest as defined in the RfP exists.
- c) must have at-least 5 (five) years of continuous operating history with a positive net worth and operating profit in each of the last three years.
- d) must submit a CA certified solvency certificate in the format as prescribed at **Appendix-VIII**.
- e) not be barred by the Central/ State Government, or any entity controlled by it, or any other authorized agency from conducting business in India or acquiring equity stake in Indian companies where the bar subsists as on the date of Bid.
- f) The Bidder or in case of a Consortium, the Lead Member shall submit an undertaking on behalf of the Consortium with respect to its eligibility. Inability to comply with the eligibility conditions or non-submission of undertaking towards same shall render the bid nonresponsive.

4.1.2 **Documents required :**

- i) Profile of the bidder company, i.e. public limited / private limited / partnership / proprietary concern with details of contact persons, Phone Nos., Fax No., e-mail ID, complete address of the company, names of bankers, etc. (as per **Appendix-II**).
- ii) Audited financial statements for the last three completed years. In case any company is new and is yet to complete three years, Audited financial statements be submitted since its incorporation. Besides, in case of Consortium, Audited financial statements in respect of lead member to be provided.
- iii) Latest positive Bank reference report, in original (not older than six months from the date of application).
- iv) Copy of BG towards EMD. Original BG prepared in the format at **Appendix-V** to be forwarded by the issuing bank directly to MMTC, Chennai so as to reach on or before the due date of submission of bid.
- v) Filled-in Appendices (formats attached under Section-II).
- vi) Copy of the entire RfP each page signed and stamped as a token of acceptance of the RfP terms.

4.2. Non-Responsiveness

- 4.2.1. Bid of the Bidders shall be examined by Evaluation Committee based on the information furnished as per terms detailed in the Bid Document. Any of the following or any other condition as agreed by MMTC may cause the Bid to be considered “non-responsive”, at the discretion of MMTC :
- a) Any inconsistencies/ misrepresentations in the information/ concealment of material information/ misleading statements in the documents submitted by the Bidder, affecting the Bid Process;
 - b) Bids that are incomplete, i.e. not accompanied by any of the applicable forms, authorizations and documents as specified in this RfP;
 - c) Information not submitted in the forms/documents/authorizations specified in this RfP.
 - d) Bid Document not signed by authorized signatory of the Bidder or signatory and/or stamped in the manner indicated in this RfP;
 - e) Bid / Bid Security validity being less than that required in this RfP;
 - f) The Bidder does not satisfy criteria and hence are not eligible.
 - g) Bid being conditional in nature,
 - h) Bid not received by the Bid Due Date/time ;
 - i) Bidder delaying in submission of additional information or clarifications sought by MMTC as applicable;

- j) A Bidder submitting more than One (1) Bid.
- k) Bidder is or it is discovered later that the Bidder is subject matter of winding up/insolvency proceedings or other proceedings of a similar nature.
- l) Any information regarding the Bidder which becomes known to MMTC which is detrimental to the subject matter of the Bid Document and/or the interests of MMTC.
- m) Existence of any legal proceedings, by or against the Bidder in respect of the Company, the Parent Company and/or the Ultimate Parent, which proceeding may be prejudiced by the participation of the Bidder in the selection process.
- n) Non-fulfilment of any other condition as listed in the Bid Document.

4.2.2. Each Bid document shall be checked for compliance with the submission requirements set forth in this RfP.

4.3. Right to verify the Bid

- 4.3.1. Notwithstanding anything stated in this RfP, MMTC reserves the right to verify the authenticity of all statements, information and documents submitted by the Bidder and may request for any additional information/documents/evidence. The Bidder shall be obliged to produce the additional information/ documents/ evidence as required.
- 4.3.2. Further, MMTC reserves the right at its sole discretion to contact the Bidder's bank, MMTC, financing institutions and any other persons as necessary to verify the Bidder's information/documents for the purpose of the Bid Process.
- 4.3.3. Any such verification or lack of such verification by MMTC shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of MMTC thereunder.

4.4. Evaluation Criteria

- 4.4.1. Evaluation criteria for shortlisting of Selected Bidder(s) from amongst the Bidder(s) shall be as agreed and decided by the Evaluation Committee and may include but shall not be limited to the technical and financial strength or credit-worthiness of the Bidder.

4.5. Declaration of Selected Bidder(s) and Successful Bidder(s)

- 4.5.1. The Selected Bidder(s) will be determined by the Evaluation Committee. The decision of the Evaluation Committee in this regard shall be final and binding on all Bidders. Further MMTC will have the right to negotiate better terms with the Selected Bidder(s).
- 4.5.2. In case of two bidders having same quote, reverse auction with reserve price of H1 bid received shall be conducted until a clear highest bidder emerges.
- 4.5.3. The Evaluation Committee shall negotiate terms of Proposal submitted by each Selected Bidder(s) to decide on Successful Bidder based on financial factors as decided by MMTC. The Evaluation Committee may at its discretion call upon further inter-se bidding among two or more of the Selected Bidders for deciding the Successful Bidder.

- 4.5.4. Upon selection of the Successful Bidder in accordance with the terms of the Bid Document, the Successful Bidder shall enter into a Share Purchase Agreement with MMTC and the Company for taking over 26% equity stake in the Company by transferring MMTC's Equity to the Successful Bidder. The Bidders are informed that in the event there are any restrictions on transfer of shares under the agreements entered into by the Company, prior approval/ consent shall be obtained by MMTC and/or the Successful Bidder, with assistance from the Company, prior to transfer of MMTC's equity to the Successful Bidder. The bidder must enter into the Share Purchase Agreement within 30 days from the date of selection of successful bidder or else MMTC reserves the right to cancel the bidding or approach other bidders. Further the sale shall be completed within next 10 days from the date of signing of the Share Purchase Agreement. The time taken for regulatory or other approvals shall be excluded in calculating the above periods.
- 4.5.5. In the case of a Consortium, the Selected Bidder shall be required to, prior to execution of the Share Purchase Agreement, incorporate a new company under the provisions of the Companies Act, 2013 (hereinafter referred to as "Consortium SPV"). The Lead Member shall at all times be the largest shareholder in the Consortium SPV and hold a minimum of 26%. Further, the Consortium SPV shall at all times be controlled by the Members of the Consortium.
- 4.5.6. For the purposes of this clause, the term "control" shall have the meaning ascribed to the term under the Companies Act, 2013.
- 4.5.7. The Members of the Consortium will also have to provide the original and duly executed joint bidding agreement (along with power of attorney in favour of the Lead Member to act on behalf of the Consortium for the purposes of the Bid) executed among the Members together with their Bid. No change in composition of the Consortium will be permitted after submission of the Bid without the prior consent of MMTC, failing which MMTC shall be entitled to disqualify the Bid submitted by the Consortium.

4.6. Right to accept or reject any or all Bids

- 4.6.1. Notwithstanding anything contained in the Bid Document, MMTC reserve the right to accept or reject any Bid(s) and to annul the Bid Process and reject all Bids, at any time without any liability, obligation or prior notice for such acceptance, rejection or annulment, and without assigning any reasons thereof.
- 4.6.2. The Bidders should note that :
- a) If, for any reason, the Bid of any Selected Bidder(s) is rejected or cancelled or the bidder is non-responsive for any reason, MMTC may:
 - i) Proceed with the remaining Selected Bidder(s) ;
 - ii) Consider the next best offer(s) from Bidder(s) other than the Selected Bidder(s) whose Bids are responsive and valid, including any amendments to the Bid, as may be acceptable to MMTC and such Bidder(s) ; or
 - iii) Take any such measure as may be deemed fit at its discretion including annulling/ discussion with other Bidders on the terms for sale of 26% equity stake in the company.

- b) If, for any reason, the Bid of any Successful Bidder(s) is rejected or cancelled for any reason, MMTC may :
 - i) Consider the next best offer(s) from Selected Bidder(s) other than the Successful Bidder(s) whose Bids are responsive and valid, including any amendments to the Bid, as may be acceptable to MMTC and such Selected Bidder(s) ; or
 - ii) Annul the Bid Process ; or
 - iii) Take any such measure as may be deemed fit at its discretion including discussion with other Bidders on the terms for sale of 26% equity stake in the company.

4.7. Terms and conditions of acquisition of equity stake in the Company :

- 4.7.1. By submitting a Bid in terms of this RfP, the Bidders and in case of a Consortium, the Members of the Consortium agree to the following acknowledgements and representations:
 - a) The Selected Bidder(s) shall acknowledge the current financial standing of the company
 - b) The Bidder represents to MMTC that it has the necessary financial resources available for acquiring MMTC's Equity in the Company from MMTC for the consideration stated in the Financial Proposal as approved by MMTC as indicated in the Financial Proposal in a manner acceptable to MMTC and the company.
- 4.7.2. The Bidders shall provide a detailed plan in relation to the source and quantum of available resources from which the consideration for MMTC's equity shall be acquired.
- 4.7.3. The shares of the Company will be sold by MMTC to the Successful Bidder in the proportion agreed among themselves to the Successful Bidder on an "as is where is" basis. Further, the Successful Bidder also acknowledges that MMTC/ Advisor do not provide any representation or warranty regarding the shares, the status of business of the Company, the business prospects, assets of the Project or the Company and MMTC/Advisor assume no liability whatsoever in this respect.
- 4.7.4. The Successful Bidder irrevocably agrees and acknowledges that it shall pay the consideration to MMTC for acquiring 26% equity stake in the Company as per negotiations between MMTC and the Successful Bidder.

4.8. Statutory Compliances

- 4.8.1. The Bidder represents to MMTC that it has obtained all requisite corporate permissions and regulatory approvals required for making the Bid, including the approval, if any, required to be obtained from the Competition Commission of India under the Competition Act, 2002 (as amended from time to time), approval from RBI for investment as per FDI policy and FEMA guideline(s), applicable in case of Bidder being a foreign company/ foreign investor, before the Transfer Date, and submit requisite supporting documents in this regard.
- 4.8.2. Bidders must satisfy themselves that they are qualified to bid, in view of mentioned statutory compliances and any other guidelines/ notifications as issued by Securities Exchange Board

of India, Reserve Bank of India or any other authorised body, Central or State Governments and should give an undertaking to this effect in the form at **Appendix-III**.

- 4.8.3. The Successful Bidder shall undertake to ensure compliances of all Applicable Laws pre and post-acquisition and change in management control, including but not limited to complying with provisions of the Companies Act, 2013 and making necessary filings with the relevant Government authorities.

5. General Instructions to Bidder

- 5.1. The statements and explanations contained in this RfP are intended to provide a better understanding to the Bidders about the subject matter of this RfP and should not be construed or interpreted as limiting in any way or manner the scope of services and obligations of MMTC/ Advisor set forth in the Bid Document or MMTC/ Advisor's rights to amend, alter, change, supplement or clarify the scope of work thereof or herein contained. Consequently, any omissions, conflicts or contradictions in the Bid Document including this RfP are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by MMTC/Advisor.
- 5.2. The complete Bid Document including the Information Memorandum is for the Bidders for guidance purposes only and neither MMTC nor the advisor shall be liable for any omissions, conflicts, contradictions, etc. in the same.
- 5.3. No Bidder shall submit more than one Bid in terms of this RfP. A Bidder bidding individually or as a member of a Consortium shall not be entitled to submit another Bid either individually or as a member of any Consortium, as the case may be. Breach of this condition shall make the both Bids submitted as non-responsive, entitling MMTC to reject the same.
- 5.4. The Information Memorandum/other documents are being provided only as a preliminary reference document in order to assist the Bidders who are expected to carry out their own surveys, investigations and other detailed examination of the Company before submitting their Bids. Nothing contained in the Information Memorandum/ other documents issued pursuant to the Bid Process shall be binding on MMTC/ Advisor nor confer any right on the Bidders and MMTC shall have no liability whatsoever in relation to or arising out of any or all contents of the Information Memorandum/ other documents, if any.
- 5.5. Save and except as provided in this RfP, MMTC shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any Bid.
- 5.6. Notwithstanding anything to the contrary contained in this RfP, the detailed terms specified in the Share Purchase Agreement (and other documents/ agreements) executed among MMTC, Successful Bidder and the Company shall have overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the Share Purchase Agreement (and other documents/ agreements) executed between MMTC, Successful Bidder and the Company.

5.7. Power of Attorney :

- 5.7.1. In case the Bidder is a Consortium, the Members thereof should furnish a Power of Attorney in favour of their Lead Member, in the format as part of the **Appendix-IX** and MOU/JV bidding agreement for JV participation between members of JV as per **Appendix-X**.

- 5.7.2. In the event the Consortium consists of an international Bidder, such Consortium shall ensure that Power of Attorney is legalised/ apostille by appropriate authority not arising in the jurisdiction where the Power of Attorney is being issued and requirement of the Indian Stamp Act, 1899 is duly fulfilled.

5.8. Fraudulent Practices

- 5.8.1. The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bid Process and subsequent to the execution of Share Purchase Agreement. Notwithstanding anything to the contrary contained herein, the Share Purchase Agreement, or other agreements/ documents pursuant to the Bid Document, MMTC may reject a Bid, or terminate the Bid Document, Share Purchase Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder or Company, as the case may be, if it determines that the Bidder or the Company, as the case may be, has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bid Process. In such an event, MMTC shall be entitled to forfeit and appropriate the Bid Security, as damages, without prejudice to any other right or remedy that may be available to MMTC under the Bid Document, Share Purchase Agreement, or otherwise.
- 5.8.2. Without prejudice to the rights of MMTC hereinabove and the rights and remedies which MMTC may have under the Bid Document, Share Purchase Agreement, or otherwise, if a Bidder is found by MMTC to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bid Process, or after the execution of Share Purchase Agreement, such Bidder shall not be eligible to participate in the Bid Process from the date such Bidder is found by MMTC to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.
- 5.8.3. For the purposes of this Clause, the following terms shall have the meaning hereinafter respectively assigned to them :
- a) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bid Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of MMTC/Advisor who is or has been associated in any manner, directly or indirectly, with the Bid Process or Share Purchase Agreement or arising therefrom, before or after the execution thereof, at any time prior to the expiry of [1 (one) year] from the date such official resigns or retires from or otherwise ceases to be in the service of the MMTC/ Advisor, shall be deemed to constitute influencing the actions of a person connected with the Bid Process); or
 - b) “fraudulent practice” means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bid Process;
 - c) “coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Bid Process;

- d) “undesirable practice” means (i) establishing contact with any person connected with or employed or engaged by MMTC with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bid Process; or (ii) having a Conflict of Interest; and
- e) “restrictive practice” means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bid Process.

5.9. It shall be deemed that by submitting the Bid, the Bidder agrees and releases MMTC/Advisors, and their respective employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder, pursuant hereto and/ or in connection with the Bid Process and waives, to the fullest extent permitted by Applicable Laws, any and all rights and/or claims it may have in this respect, whether actual or contingent, whether present or in future.

5.10. Procedure for Participation in E-Tender :

5.10.1. E-Tender is available on MMTC’s e-procurement website URL: - <https://mmtc.eproc.in> for online bidding process. For this, Bidder is required to obtain minimum Class III Digital Signature (meant for e-tendering) from any of Certifying Authority recognized by Controller of Certifying Authority (www.cca.gov.in) and have to register with e-procurement portal URL:- <https://mmtc.eproc.in> (an one time activity).

5.10.2. **Procedure for Obtaining Digital Certificate** : The bidder should obtain digital certificate to participate in the tender. The procedure for obtaining Digital Certificate is given in the web site URL: -<https://mmtc.eproc.in>.

***Note:** Class III Digital Signature Certificate (DSC) is mandatory to participate in e-tendering. Participating bidders have to make sure that they have valid DSC in their name. If not, they can procure from any of the RAs approved by CCA. Minimum time to procure DSC is 5 working days.*

5.10.3. **Procedure for Registering in E-Procurement portal** : Further, the bidder will have to register with MMTC’s e-procurement portal. For registering, bidder will have to visit <https://mmtc.eproc.in> and follow the directions. Bidder may also visit ‘helpdesk’: <https://mmtc.eproc.in> and refer FAQ for further details.

For assistance, bidders may contact: Mr. Pankaj Kumar Verma M No. 9910433177 email: pankaj.verma@c1india.com.

Guidelines regarding e-tender are attached at **Annexure-I**.

5.11. Fraud Prevention

- a) *Commitments of the Bidder (s) / Contractor (s) / Buyer (s) / Vendor(s)* : The Bidder(s) / Contractor(s) / Buyer(s) / Vendor(s) shall be bound to take all measures necessary to prevent fraud and corruption while dealing with MMTC. They agree and undertake to observe the principles / provisions as laid down in “Fraud Prevention Policy” of MMTC (full

text of which is available on MMTC's website at www.mmtclimited.com during their participation in the tender process, during the execution of contract and in any other transaction with MMTC.

- (i) The Bidder(s)/Contractor(s)/Buyer(s)/Vendor(s) shall not, directly or through any other person or firm, offer, promise or give or otherwise allow any of MMTC's employees any material or other 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.
 - (ii) The Bidder(s)/Contractor(s)/Buyer(s)/Vendor(s) shall not enter with other Bidders into any undisclosed 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.
 - (iii) The Bidder(s)/Contractor(s)/Buyer(s)/Vendor(s) shall not commit or allow any employees of MMTC to commit any offence under the relevant provisions of IPC/Prevention of Corruption Act; further the Bidder(s)/Contractor(s) Buyer(s)/Vendor(s) will not use improperly or allow any employee(s) of MMTC, for purposes of competition or personal gain, or pass onto others, any information or document provided by MMTC as per business relationship, including information contained or transmitted electronically.
 - (iv) The Bidder(s)/Contractor(s)/Buyer(s)/Vendor(s) shall not instigate third persons to commit offences/activities outlined in Fraud Prevention Policy or be an accessory to such offences.
 - (v) The Bidder(s)/Contractor(s)/Buyer(s)/Vendor(s) if in possession of any information regarding fraud/suspected fraud, hereby agree and undertake to inform MMTC of same without any delay.
- (b) *Disqualification from tender process and exclusion from future contracts* : If the Bidder(s)/Contractor(s), before award or during execution has committed a transgression through a violation of this Clause above or "Fraud Prevention Policy" of MMTC in any other form such as to put their reliability or credibility in question, MMTC other than taking recourse available under law, shall be entitled to disqualify the Bidder(s)/Contractor(s) Buyer(s)/ Vendor(s) from undertaking any transaction with MMTC and/or declare the bidder(s)/contractor(s) ineligible to be awarded a contract either indefinitely or for a stated period of time.
- (c) *Damages* : In case the Successful Bidder is disqualified during execution of the contract, MMTC reserves the right to forfeit the bid security and also take action against such Successful Bidder as deemed fit.

5.12 General :

It shall be implied that the bidder has carefully gone through and understood the terms and conditions of this RfP including the amendments, if any, prevailing at the time of bidding. MMTC and C1 India Pvt. Limited will not entertain any complaints or objections once bid is placed. Further, participation and bidding in this tender shall be treated as conclusive

evidence of the fact that bidder has understood the terms and conditions of the RfP. However, participation will not mean qualification of the bid.

5.13 Arbitration :

Any dispute or difference whatsoever arising between the parties out of or relating to the construction, meaning, scope, operations or effect of this contract or the validity or the breach thereof, shall be settled by arbitration by a sole arbitrator to be nominated by Chairman-cum-Managing Director (CMD) of MMTC. The provisions of Arbitration and Conciliation Act, 1996 shall apply to such arbitration proceedings. The award made in pursuance thereof shall be binding on the parties. The venue of arbitration shall be at Delhi. The language of arbitration shall be English.

5.14 Indemnity :

Bidder shall indemnify, defend and hold MMTC harmless against any losses, liabilities, claims, damages, costs, and expenses including reasonable legal fees and other expenses and disbursements in connection therewith and interest charges thereon suffered or incurred by MMTC which arise out of, result from, or may be payable by virtue of any breach of any representation, warranty, act of omission of the Bidder.

5.15 Force Majeure :

If at any time during the existence of this contract either party is unable to perform whole or in part any obligation under this contract, because of war, hostility, military operation of any character, civil commotion, sabotage, quarantine restriction, acts of Government, fire, floods, explosions, epidemics, strikes or other labour trouble which is out of the liability control of MMTC, embargoes, then the date of fulfilment of any obligation shall be postponed during the time when such circumstances are operative.

If operation of such circumstances exceeds three months, either party will have the right to refuse performance of the contract in which case neither party shall have the right to claim eventual damages. The party which is unable to fulfil its obligations under the present contract must within 10 (ten) days of occurrence of any of the causes mentioned in this clause shall inform the other party of the existence of the circumstances preventing the performance of the contract. Certificate issued by a Chamber of Commerce or any other competent authority connected with the cause shall be sufficient proof of the existence of the above circumstances and their duration.

5.16 Special Condition :

It is expressly understood and agreed by and between the MMTC and Bidder that MMTC is entering into this agreement solely in its own behalf and not on behalf of any other person or entity. In particular it is expressly understood and agreed that the Government of India is not a party to this agreement and has no liabilities, obligations or rights hereunder. It is expressly understood and agreed that MMTC is an independent legal entity with power and authority to enter into contracts solely on its own behalf under the applicable laws of India and general principles of contract law. The Bidder expressly agrees, acknowledges and understands that MMTC is not an agent, representative or delegate of the Government of India. It is further understood and agreed that the Government of India is not and shall not be liable for any acts, omissions, commissions, breaches or other wrongs arising out of the contract.

Accordingly, Bidder and MMTC hereby expressly waive, release and forego any and all actions or claims including cross-claims, impleader claims or counterclaims against the Government of India arising out of this contract and covenants not to sue the Government of India as to any manner, claim, cause of action or thing whatsoever arising of or under this contract.

5.17 Right of First Refusal :

As per SIOTL Shareholders' Agreement, right of first refusal vests with the JV partners for purchase of equity shares from the seller. As such, MMTC would have to offer equity shares first to the other JV partners at the offered price or reserve price, whichever is higher. In case JV partner(s) decline to accept such offer in whole or part, offered shares to the extent not accepted by any of the JV partners will be sold to the successful bidder.

5.18 Integrity Pact :

Bidders participating in the tender are required to sign an Integrity Pact (IP) agreement as per prescribed format (at **Appendix-XIV**). Bidders shall submit the IP agreement, duly signed by their authorized signatory as well as by two witnesses, alongwith the tender document. The bid not accompanied by signed IP agreement, shall be liable to be disqualified and the price bid submitted with such bid shall not be opened.

The IP agreement provides for Independent External Monitor (IEM) with whom bidders may communicate ONLY in case of any complaint relating to the IP. For any commercial query, bidders may contact the authority issuing this tender. Details of IEM are as follows :-

IEM Mr. DRS Chaudhary, *IAS(Rtd)*, e-mail ID : dilip.chaudhary@icloud.com

5.19 Holiday-Listing Policy (Banning of Business Dealings) :

Notwithstanding anything contained in this RfP, MMTC's policy for Holiday-Listing of any bidder mutatis mutandis applies to this RfP and in the event, the bidder while discharging its obligations under the RfP or otherwise comes within the ambit of the said policy, MMTC at its sole discretion reserves the right to suspend/discontinue dealings or take any curative measures with the bidder in accordance with the policy in force.

6. Governing Law and Jurisdiction

6.1. This RfP, the Bidding Process and the other documents pursuant to the Bid Document shall be governed by the laws of India and any dispute arising out of or in relation to the Bid, Bid Document or the Bid Process shall be subject to the exclusive jurisdiction of courts at New Delhi, India.

6.2. Confidentiality

6.2.1. Information relating to the examination, evaluation, and recommendation of the Bidders shall not be disclosed to any person who is not officially concerned with the Bid process or is not a retained full time professional of MMTC in relation to, or matters arising out of, or concerning the Bid process. MMTC will treat all information, submitted as part of Bid, in confidence and will require all those who have access to such material to treat the same in confidence. MMTC may not divulge any such information unless (i) it is directed to do so by

any regulatory, administrative or statutory authority or (ii) required by Applicable Law or in connection with any legal process; or (iii) the information is already in public domain or in possession of MMTC.

6.3. Miscellaneous

- 6.3.1. Terms of this RfP and any Bids made hereunder shall be non-binding on MMTC.
- 6.3.2. MMTC shall be entitled to forfeit and appropriate the Bid Security submitted (as per **Clauses 3.1.8**) as damages inter alia in any of the events specified hereinabove or any other event of default as decided by the Evaluation Committee/MMTC. The Bidder, by submitting its Bid pursuant to this RfP, shall be deemed to have acknowledged and confirmed that MMTC will suffer irreparable loss and damage on account of withdrawal of its Bid or for any other default by the Bidder during the period of Bid validity as specified in this RfP. No relaxation of any kind on Bid Security shall be given to any Bidder.
- 6.3.3. MMTC, in their sole discretion and without incurring any obligation or liability, reserves the right, at any time, to :
- a) suspend and/or cancel the Bid Process and/or amend and/or supplement the Bid Process or modify the dates or other terms and conditions relating thereto;
 - b) consult with any Bidder in order to receive clarification or further information which may be considered necessary without any liability to itself;
 - c) retain any information and/or evidence submitted by, on behalf of, and/or in relation to any Bidder; and/or
 - d) independently verify, disqualify, reject and/or accept any and all submissions or other information and/or evidence submitted by or on behalf of any Bidder.
 - e) it shall be deemed that by submitting the Bid, the Bidder agrees and releases MMTC/ Advisor, their employees, agents and advisors, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/or performance of any obligations hereunder and the Bid Document, pursuant hereto, and/or in connection with the Bid Process, to the fullest extent permitted by Applicable Law, and waives any and all rights and/or claims it may have in this respect, whether actual or contingent, whether present or in future.

6.4. Disqualification

- 6.4.1. Without prejudice to any other rights or remedies of MMTC, MMTC shall be entitled in its discretion to determine that a Bidder is to be disqualified and its Financial Bid dropped from further consideration for any of the reasons listed below :
- a) if a material misrepresentation is made by such Bidder, whether in the Financial Bid, supporting documentation or otherwise and whether written or oral; or
 - b) if any Financial Bid submitted by such Bidder is inconsistent with the RfP in any material respect or fails to comply with any other material requirement of this RfP; or

- c) MMTC is not satisfied with source(s) of funds / ownership structure of the Bidder; or
 - d) if it is determined by MMTC that the Bidder may prejudice or be a threat to the security of the Republic of India or State of Tamil Nadu ; or
 - e) failure to promptly comply with reasonable requests of MMTC/Advisors for further information or clarification in relation to the Financial Bid ; or
 - f) a supervisor, receiver, administrator or liquidator or other encumbrancer takes possession of or is appointed over or any distress, execution or other process is levied or enforced (and not discharged within 21 days) upon the whole or any substantial part of the assets of the selected Bidder or, in the case that the Bidder is a Consortium, of the assets of any of the Members of the Consortium; or
 - g) a Court petition is presented or a meeting is convened for the purpose of considering the winding up, bankruptcy or dissolution of the selected Bidder or, if relevant, the Consortium Member or circumstances come into existence which would permit such a court petition to be presented; or
 - h) a Bidder purports to withdraw or revise its Financial Bid prior to the date on which the same is opened in accordance with the RfP; or
 - i) if the Bidder withdraws its Financial Bid during the period of Bid validity as specified under RfP; or
 - j) if the Financial Bid submitted is a conditional bid (i.e. subject to certain conditions from Bidders of whatsoever nature); or
 - k) if at any time it is discovered that the Bidder is a Prohibited Person.
- 6.4.2. MMTC's determination that one of the above events has occurred (or that one of the above reasons applies) shall be final and conclusive.

GUIDELINES REGARDING E-TENDER

Bidders are advised to read the following instructions for participating in the electronic tenders directly through internet :

1. Late and delayed Bids/Offer after due date/time shall not be permitted in On-line Tender system. No bid can be submitted after the last date and time of submission has reached. (However, if bidder intends to change the bid already entered may change/revise the same on or before the last date and time of submission deadline). The system time (IST) that will be displayed on e-tender web page shall be the time and no other time shall be taken into cognizance.
2. Bidders may ensure that bids are uploaded in e-tender system well in advance before the closing date and time of bid.
3. No bid can be modified after the deadline for submission of bids.

After final bid submission, the system generates an acknowledgement in the form of "Bid Number" that should be kept as a proof of successful bid submission.

SPECIAL TERMS & CONDITIONS FOR E-TENDER :

1. Offers to be submitted online on MMTC's e-procurement portal (<https://mmtc.eproc.in>) against the respective tender along with scanned copy of duly signed price offer on letterhead.
2. The bidder should have legally valid CLASS III DIGITAL SIGNATURE CERTIFICATE from the licensed certifying authorities operating under the Root Certifying Authority of India (RCAI), Controller of Certifying Authorities (CCA) of India for submission of their bid on MMTC e-procurement portal.
3. Bidders are requested to register on the e-procurement portal. The bidder should have a valid user ID to access e-procurement portal of MMTC.
4. Bidders may print / save bid submission receipt after submission of bids.
5. Internet browser used should be Internet Explorer version 10.0 and above.
6. Operating system should be Microsoft Windows 7.
7. Bidders should fulfill any other pre-requisites mentioned in the tender documents of a specific tender.
8. For any technical issues/difficulties pertaining to the e-procurement portal bidders may contact service providers helpdesk as per following :

HELPDESK TIMINGS : 1000 HRS. TO 1830 HRS. IST
(MONDAY TO FRIDAY (EXCLUSIONS : MMTC HOLIDAYS))
Contact Nos.: +91-124-4302000 for helpdesk officers
Dedicated helpdesk for MMTC

Name
PANKAJ KUMAR

E-mail
Pankaj.verma@c1india.com

Phone Numbers
+91-9910433177

SECTION - II**APPENDIX-I****Format for Cover letter**

(On the Letterhead of the Bidder/ Lead Member, in case of a Consortium)

To,

Ms. Anju Gupta
General Manager (Minerals)
MMTC Limited,
SCOPE Complex, Lodhi Road
New Delhi 110001

Sub: - **Offer for acquiring 26% equity stake in Sical Iron Ore Terminal Limited (SIOTL)**

Ref: - Bid Document dated _____.____2017

Dear Sir,

We, the undersigned Bidder(s) have read and examined in detail the Bid Document for purchasing MMTC's 26% equity stake in Sical Iron Ore Terminal Limited (SIOTL).

We are enclosing herewith the Technical Proposal with duly signed forms/ documents/ authorizations as desired by you in the Bid Document for your consideration.

We understand that MMTC has further right to renegotiate the terms of the Proposal and the decision of MMTC in selection of the Selected Bidder and/or the Successful Bidder shall be final and binding on us.

We have submitted all the requisite documents as per the prescribed forms/ documents/ authorizations of the Bid Document, without any deviations, conditions and without mentioning any assumptions or notes.

Bid Security:

We have enclosed a bank Guarantee/ Demand draft of Rs. _____ lakh (Rupees _____ lakh only), in the form of bank guarantee/ Demand Draft No..... dated Payable at _____ as per **Appendix-V** given in the Bid Document from and valid up to.....in terms of **Clause 3.1.8** of the Bid Document.

Acceptance

We hereby unconditionally and irrevocably agree and accept the terms of the Bid Document and that the decision made by MMTC/Advisors in respect of any matter regarding or arising out of the Bid Document shall be binding on us. We hereby expressly waive any and all claims in respect of Bid Process.

We confirm that there are no litigations or disputes against us, which materially affect our ability to fulfil our obligations under the Bid Document. We also confirm that we have no Conflict of Interest.

Familiarity with Relevant Indian Laws & Regulations

We confirm that we have studied the provisions of the relevant and applicable Indian laws and regulations as required to enable us to submit our Bid along with required documents and execute other required documents in the event of our selection as Successful Bidder.

We have obtained the necessary corporate and regulatory approvals required to participate in the Bid.

Contact person

Details of contact person for the purpose of this Bid are furnished as under:

Name: _____
 Designation: _____
 Company Address: _____
 Phone Nos.: _____
 Fax Nos.: _____
 E-mail address: _____

We are enclosing herewith the Bid containing duly signed forms/documents/authorizations, each one duly closed separately, in one (1) original as desired by you in the Bid Document for your consideration.

It is confirmed that our Bid is consistent with all the requirements of submission as stated in the Bid Document and subsequent corrigendum issued by MMTC.

We undertake that we shall promptly inform MMTC of any change in our shareholding post submission of our Bid and hereby confirm that our failure to do so shall disqualify us from the Bid Process. We further agree and acknowledge that we shall not object or contest to our disqualification in the event of our failure to provide our updated shareholding to MMTC, as required to be submitted in terms of the RfP.

The information submitted by us is correct and complete, strictly as per the requirements stipulated in the Bid Document. We would be solely responsible for any errors or omissions in our Bid.

We confirm that we have not taken any deviation so as to be deemed non-responsive with respect to the provisions stipulated in the Bid Document. Capitalized terms shall have the meaning given to them in the Bid Document.

Thanking you,

Yours faithfully,

(Signature)

Name and address of Authorised Signatory (Authorised by Board/ Respective Authority)

Note: Along with other documents to be submitted, enclose copy of the board resolution and power of attorney (in case the Bidder is a Consortium) in favour of the person executing this covering letter.

Bidder's Profile**Organisation Profile****Summary Information of the bidder**

Name of the bidder:	
Address of Registered office:	
Date of Incorporation and CIN number	(Proof to be attached)
Year of Establishment:	(Proof to be attached)
Total Experience (in years)	
Ownership of the company – Name of promoter, No. of shares held, percentage share of equity holding	
Nature of Business	
Annual turnover (in Rs. Crore) for the last three years	2014-15: INR 2015-16: INR 2016-17: INR (Audited Financial statements to be attached as annexure)
Net worth (in Rs. Crore) for the last three years	2014-15: INR 2015-16: INR 2016-17: INR (Audited Financial statements to be attached as annexure)
Contact Persons: Name, designation, Phone no and email	
Correspondence Address	
List of Bankers	

Additional information as deemed fit by the bidder may be added.

UNDERTAKING BY BIDDER
[On the Letter Head of the Bidder]

To,

Ms. Anju Gupta
General Manager (I/O)
MMTC Limited,
SCOPE Complex, Lodhi Road
New Delhi

Dear Sir,

Sub: Bidders' Undertakings for the Bid in response to the Bid Document dated _____ 2017, issued by MMTC.

1. We give our unconditional acceptance to the RfP No. _____ dated _____, 2017 issued by MMTC and as amended from time to time through release of notice/ corrigendum. We undertake to execute any documents required on the completion of the Bid Process.
2. We have submitted our Bid and other requisite documents strictly as per forms/ documents/ authorizations, and on the terms and conditions, prescribed in the Bid Document, without any deviations, conditions and without mentioning any assumptions or notes for the Financial Proposal in the said format.
3. Our Bid is valid up to the period of 45 days.
4. Our Bid has been duly signed by authorized signatory and closed in the manner and to the extent indicated in the Bid Document. The Power of Attorney (in case the Bidder is a Consortium) and Board Resolution/ Authorization letter has been enclosed in original with this undertaking.
5. We undertake that if we are selected as the Successful Bidder, we will pay the consideration to MMTC as set out in the Financial Proposal as approved by MMTC and at terms mutually agreeable to MMTC as per the Bid Document.
6. If required, we undertake to execute definitive agreement(s) with technical partner / JV partner to the satisfaction of MMTC before the Transfer Date.
7. We undertake that our Bid conforms to the requirements of the Bid Document as on the date of submission of this Undertaking including :
 - a. The Bidder has non-default external rating
 - b. None of the Group Companies and Affiliates or any of their promoters/directors figure in the defaulters list of RBI/CIBIL.
 - c. There has been no penalty/fine imposed by SEBI against the Bidder/its promoters.
 - d. There are no criminal cases decreed against the Bidder and/or its promoters.
 - e. There has been no action by a regulatory/government body against the Bidder and/or its Promoters.

8. The Financial Proposal is in the prescribed format and is submitted duly signed by the authorized signatory.
9. The Financial Proposal is unconditional and irrevocable. However we understand that MMTC have the right to negotiate better terms with the Selected Bidder(s) and decision taken by the MMTC in this regard shall be final and binding on all parties.
10. We confirm that there is no Conflict of Interest as per terms given in the RfP.
11. We undertake that, if we are selected as the Successful Bidder, in the event there are any restrictions on transfer of shares under the agreements entered into by the Company or MMTC, prior approval/ consent shall be obtained by us, with assistance from the MMTC, prior to entering into Share Purchase Agreement.
12. We have neither made any statement nor provided any information during this Bid Process, which to the best of our knowledge is materially inaccurate or misleading. Further, all the confirmations, declarations and representations made in our Bid are true and accurate and valid till date of this undertaking. In case this is found to be incorrect after our selection as Successful Bidder, we agree that MMTC/Advisor shall be free to cancel our Bid and invoke the Bid Security at its discretion.

.....
Signature and name of Authorised signatory in whose name [Power of Attorney/ Board Resolution] is issued

Format for Financial Bid (Price bid)*(To be submitted on the letterhead of the Bidder)*

Financial Bid for the purchase of 26% of the Equity Share Capital of Sical Iron Ore Terminal Limited (SIOTL) from MMTC Limited

This Financial Bid is submitted by _____ (“Bidder”), [insert details – Name and Address] pursuant to a comprehensive and complete business, legal and financial due diligence undertaken by the Bidder for the purchase of 26% of the equity in Sical Iron Ore Terminal Limited (SIOTL) from MMTC Limited in accordance with the Request for Proposal (“RFP”) dated _____ < Date of RfP to be inserted >.

The Financial Bid is :

1. for the purchase of a stake of 26% of the equity shares of SIOTL represented by 3.38 crore shares fully paid-up equity shares of face value of Rs.10/- each.
2. an unconditional and irrevocable offer, which is valid, and may be accepted by MMTC Limited during the period of 90 days starting 10.11.2017 irrespective of any events that may occur within this 90 day period.
3. made on the basis of and upon acceptance of the Transaction Documents circulated by MMTC Limited to the Bidder which shall remain the basis and so accepted throughout the period that this Financial Bid remains valid.
4. based on the representations, warranties and covenants that all information provided in the Financial Bid is true, accurate and complete even as of the date hereof.
5. signed by a person duly authorised to sign on behalf of the Bidder/each Consortium Member, with proof of such authorisation enclosed.

Particulars	Amount of Bid in figures (Rupees)	Amount of Bid in words (Rupees)
Purchase of 26% of the equity capital of Sical Iron Ore Terminal Limited (SIOTL) from MMTC Limited represented by < No of shares > fully paid-up equity shares of face value of < insert face value of shares > each.		

Signature

Name

Authorised Representative

Designation

Place:

Date:

APPENDIX-V

[The BG issuing bank must have a net worth of at least INR 5,000 million and Capital Adequacy Ratio of at least 9%]

PROFORMA FOR BANK GUARANTEE FOR BID SECURITY

(On a stamp paper of applicable amount to be executed by a New Delhi Branch of a Scheduled Bank other than Gramin Bank, Cooperative Banks, Dhanlakshmi Bank, Nainital Bank, etc.)

Date : _____

The General Manager
MMTC Limited
Core-1, SCOPE Complex
Lodhi Road
NEW DELHI 110 003

Sub : **INVITATION OF BIDS FOR ACQUISITION OF MMTC'S 26% EQUITY STAKE IN SIOTL**
(RfP No. _____ dt _____)

Dear Sir/Madam,

1. WHEREAS, MMTC LIMITED, Core-1, SCOPE Complex, Institutional Area, Lodhi Road, New Delhi-110 003 INDIA, (hereinafter referred to as MMTC) has invited bids vide RfP No. _____ dated _____ 2017 (hereinafter referred to as Invitation to Bid) for acquisition of MMTC's 26% equity stake in SIOTL.
2. WHEREAS, the said Invitation to Bid requires that any eligible bidder intending to make a bid in response thereto shall furnish an irrevocable bid guarantee amounting to Rs.10 lakhs (Rs. Ten lakhs only) in favour of MMTC with validity upto _____ with claim period upto _____.
3. AND WHEREAS at the request of M/s. _____ (Name & address of the Bidder) we, _____ (Name & address of the Bank) do hereby unconditionally and irrevocably guarantee and undertake payment to MMTC upto and not exceeding the sum of Rs.10.00 lakhs (Rs.Ten lakhs only) with validity upto _____ with claim period upto _____ and that the Bidder M/s. _____ -
 - a) Shall keep their offer firm and valid for acceptance by MMTC as per bid document against which offer is made ;
 - b) Shall sign the contract forwarded by MMTC within 3 (three) working days on receipt of the unsigned contract ; and
 - c) Any other conditions as stipulated by MMTC from time to time.
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 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 Rs.10.00 lakhs (Rs.Ten lakhs only). 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 unquestionable, conclusive, final and binding.

5. We, _____ (Bank) undertake to pay the amount demanded by MMTC not exceeding sum of Rs.10.00 lakhs (Rs.Ten lakhs only) without any demur, delay, protest, contestation and without any reference or recourse to M/s. _____ (Bidder) notwithstanding any dispute raised by M/s. _____ (Bidder) in any suit proceedings relating thereto 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 Rs.10.00 lakhs (Rs.Ten lakhs only).
8. Your demand in writing may be presented to this 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.10.00 lakhs (Rs.Ten lakhs only) by MMTC.
11. This Bank further undertakes that this Guarantee shall remain irrevocably valid and in force initially upto _____ with claim period upto _____ 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. Bank details of Beneficiary for issue of BG through SFMS :

Name	MMTC LIMITED
Bank	STATE BANK OF INDIA, PRAGATI VIHAR BRANCH, SCOPE COMPLEX, LODHI ROAD, NEW DELHI - 110 003
Account No.	52142903753
Swift Code No	SBININ BBH42

This Bank has the power to issue this guarantee in favour of MMTC Ltd. under the Charter of this Bank and the undersigned has full power to execute this Guarantee under the Power of Attorney granted by this Bank.

Signature : _____
 Name : _____
 Designation : _____
 Code : _____
 Seal of Bank : _____

NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement ("The Agreement") is signed on _____ day of _____ 2017, by and between M/s. _____ having its offices at _____ (hereinafter referred to as "_____") which expression shall include its successors, and assigns which expression unless it be repugnant to the context or meaning thereof includes its successors, representatives and permitted assigns) on the one part

AND

MMTC Limited having its Corporate Office at Core-1, SCOPE Complex, 7 Institutional Area, Lodhi Road, New Delhi-110 003 (hereinafter referred to as "MMTC" which expression unless repugnant to the context or meaning thereof includes its successors, representatives and assigns) on the other part.

WHEREAS:

- A. M/s. _____, pursuant to MMTC's RFP dated _____, has agreed to execute the Agreement in order to receive the Information Memorandum, etc. from MMTC. Further, in case M/s. _____ becomes successful bidder, the Confidential Information relating to the SIOTL project may be disclosed by MMTC to M/s. _____ which shall be subject to the terms and conditions contained in this Agreement.
- B. Both Parties agree that the information pertaining to SIOTL project is critical hence, M/s. _____ has agreed to observe and be bound by the restrictions and obligations relating to use of such Confidential Information.

THEREFORE IN CONSIDERATION OF THE PREMISES AND OBLIGATIONS SET FORTH HEREIN, IT IS AGREED AS FOLLOWS :

1.0 Definitions :

In this Agreement, unless the context otherwise requires,

- (a) The term "Confidential Information" includes data, reports, drawings, records, correspondence, notes, compilations, studies, in the form of samples, models and other information/documentation given or disclosed by MMTC to M/s. _____ or any of their representative(s) relating to or in any way connected and relating to SIOTL project or any other information M/s. _____ becomes aware of whether or not disclosed by MMTC and whether such information is intangible, writing, oral, electronic, printed, human or in machine readable form, regardless of the media or form transmitted or stored in, or any information ascertainable by inspection, or any other information designated as Confidential Information at the time of disclosure.
- (b) "Contract" means the Contract for sale of share equity of SIOTL to be entered into between MMTC and M/s. _____ pursuant to declaration of M/s. _____ as successful Bidder for its sale of MMTC's equity in SIOTL.
- (c) "Representatives" means directors/partners, officers, agents, advisors, consultants or employees or respective shareholders or ultimate parent company, as the case may be of M/s. _____.

2.0 Confidential Information and Protection :

- 2.1 MMTC may, from time to time, disclose Confidential Information to M/s. _____ and/or their Representatives for enabling them to carry out due diligence of the SIOTL project.
- 2.2 M/s. _____ understands and acknowledges that the Confidential Information is proprietary and confidential information of MMTC which has been created, developed or obtained by MMTC by investment of significant time, substantial effort and expense. The Confidential Information is a valuable, special and unique asset of MMTC which gives significant competitive advantage to MMTC and that protection of Confidential Information is of the highest importance to MMTC. Therefore, M/s. _____ acknowledges and undertake:
- (a) to keep the Confidential Information in strict confidence for the entire duration of the Contract and for a period of five years thereafter ;
 - (b) without prior written consent of MMTC, M/s. _____ will not disclose Confidential Information furnished to it to anyone other than its Representatives expressly approved by MMTC;
 - (c) M/s. _____ shall ensure that its approved Representatives will not communicate with any third party, copy, publish, disclose or otherwise deal with any Confidential Information, otherwise than for the performance of their obligations under the Contract.
 - (d) In case the Confidential Information is disclosed to any of M/s. _____ approved Representatives, M/s. _____ shall further enter into agreements with its Representatives binding them to the same obligations to which M/s. _____ is bound under this Agreement, and ensure compliance of this Agreement by its approved Representatives and make them liable for any breach by them of such obligations.
 - (e) to inform its approved Representatives to whom any Confidential Information may be disclosed of their obligations of confidentiality pursuant to this Agreement, to ensure compliance with its terms and to be liable for any breach by them of such obligations.
 - (f) to keep separate all Confidential Information from all documents and other records of the Parties and shall mark all such Confidential Information received from MMTC as "Confidential".
 - (g) the Confidential Information which may be disclosed to M/s. _____ will contain vital data and other details pertaining to operation of SIOTL project and its future business prospects which are the exclusive property of MMTC, M/s. _____ agrees not to do anything which may, in any manner, whether directly or indirectly, affect the above property of MMTC.
 - (h) M/s. _____ will not copy or modify any Confidential Information without the prior written consent of MMTC. Any permitted reproduction of Confidential Information which appears on the original. M/s. _____ shall immediately notify the disclosing party in the event of any loss or unauthorised disclosure or use of the Confidential Information.
 - (i) M/s. _____ shall notify MMTC promptly of any material unauthorised possession, use or knowledge, or attempt thereof, of the MMTC's Confidential Information by any person or entity other than MMTC and its Authorised Representatives.

- (j) promptly furnish to MMTC full details of the unauthorised possession, use or knowledge, or attempt thereof;
- (k) use reasonable efforts to assist MMTC in investigating or preventing the recurrence of any unauthorised possession, use or knowledge, or attempt thereof, of Confidential Information;
- (l) use reasonable efforts to cooperate with MMTC in any litigation and investigation against third parties deemed necessary by MMTC to protect its proprietary rights; and
- (m) promptly use all reasonable efforts to prevent recurrence of any unauthorized possession, use or knowledge of Confidential Information.

3.0 The Undertakings in Clause 2.0 shall not apply to any Confidential Information which :

- (a) at the time of its disclosure to M/s. _____ is in the public domain ;
- (b) In the event that M/s. _____ is required or requested by any court, legislative ; or
- (c) administrative body to disclose any Confidential Information, then it shall prior to disclosure, promptly notify MMTC or its any of its duly authorized Representative so that an appropriate protective order and/or any other action can be taken if possible. In the event that such protective order is not, or cannot be, obtained, then M/s. _____ may disclose to the appropriate body that portion of the Confidential Information that it is legally required to disclose and shall use reasonable efforts to obtain assurances that confidential treatment shall be accorded to the Confidential Information.

4.0 No Commitments, Warranties or Solicitation :

- (a) The Confidential Information disclosed by MMTC to M/s. _____ shall be used by M/s. _____ strictly for the purposes expressly authorised by MMTC.
- (b) No representations or warranties, express or implied, are made by MMTC concerning the accuracy or completeness of the Confidential Information supplied under this Agreement and neither MMTC nor any of its Representatives shall be liable in any way to M/s. _____ for receipt or use of such Confidential Information and MMTC expressly disclaims any such liability whether in negligence or otherwise.
- (c) MMTC shall not be under any obligation or commitment to enter into discussions or any further agreement merely by reason of the execution of this Agreement or the disclosure, evaluation or inspection of Confidential Information and this Confidentiality Agreement shall not constitute nor should it be construed to constitute an offer or commitment by MMTC with regard to the Tender.
- (d) MMTC shall not be precluded from entering into any agreement or obligation with any other party relating to the Agreement or the Confidential Information merely by reason of the execution of this Agreement or the disclosure, evaluation or inspection of Confidential Information.
- (e) Without prejudice to the generality of the above, nothing herein shall grant to M/s. _____ the right to make representations and/or commitments of any kind on behalf of MMTC without the prior written consent of MMTC.

5.0 Return of Confidential Information :

- (a) Upon the written request of MMTC, M/s. _____ shall return to MMTC all Confidential Information that is in tangible form (including, without limitation, Confidential Information contained on computer disks) furnished, together with any copies or extracts thereof. M/s. _____ shall also deliver to MMTC written statements signed by the receiving party certifying that all materials have been returned within fifteen (15) days of receipt of the request.
- (b) Upon specific request by MMTC, M/s. _____ shall destroy all analyses, compilations, drawings, or other documents which have been prepared and which reflect any Confidential Information.

6.0 Indemnity, No Waiver, Specific Performance :

- (a) M/s. _____ shall indemnify, defend and hold MMTC harmless against any losses, liabilities, claims, damages, costs, and expenses including reasonable legal fees and other expenses and disbursements in connection therewith and interest charges thereon suffered or incurred by MMTC which arise out of, result from, or may be payable by virtue of any breach of any representation, warranty, covenant or agreement made or obligation required to be performed under this Agreement by M/s. _____.
- (b) M/s. _____ acknowledge that damages alone would not be an adequate remedy for any breach of the terms and conditions of this Agreement and MMTC shall be entitled to the remedies of injunction, specific performance or other equitable relief. Such remedy shall be in addition to and not in lieu or limitation of other remedies available to MMTC at law or in equity.
- (c) Failure by MMTC in exercising any right, power or privilege hereunder shall not act as a waiver, nor shall any single or partial exercise thereof preclude any further exercise of any right, power or privilege.

7.0 Relationship of Parties :

MMTC has no obligation under this Agreement to purchase any service or item from M/s. _____, or commercially offer any products using or incorporating the Confidential Information. This Agreement is intended to facilitate only the exchange of Confidential Information and is not intended to be, and shall not be construed to create a teaming agreement, joint venture association, partnership, or other business organization or agency arrangement and M/s. _____ shall not have the authority to bind MMTC without the separate prior written agreement thereof.

8.0 No Grant of Property Rights :

M/s. _____ recognizes and agrees that, except as expressly and specifically set forth in this Agreement, nothing herein shall be construed as granting any property right, by license, implication, estoppels or otherwise, to any of MMTC's Confidential Information, or to any invention or any patent right that has issued or that may issue based on such Confidential Information. All Information disclosed is provided "as is" without any warranties of any kind.

9.0 General Provisions :

- (a) MMTC has no obligation to supply Confidential Information hereunder and has no obligation to enter into any Contract with M/s. _____ and it has no right to offer for sale products or services using or incorporating the Confidential Information.
- (b) This Agreement shall not be assigned by M/s. _____, and it shall not delegate its duties under this Agreement, without prior written consent of the other.

10.0 Term and Termination :

- (a) This Agreement shall come into force on the date first above mentioned and shall remain in force till the validity of the Contract and for a further period of two years thereafter.
- (b) Notwithstanding clause 10.0 (a) above, MMTC may terminate this Agreement by giving 30 days prior written notice to the other Party.

11.0 Consequences of Termination :

- (a) Upon termination of this Agreement, M/s. _____ shall return all Confidential Information that is in tangible form (including, without limitation, Confidential Information contained on computer disks) furnished, together with any copies or extracts thereof ; and
- (b) Termination will not affect MMTC's right to claim damages, in case of breach of any of the terms and conditions of this Agreement by M/s. _____ or its Representatives.
- (c) M/s. _____ shall cease use of any Confidential Information after the termination of this Agreement. This clause shall survive termination of this Agreement.

12.0 Governing Law :

The Courts having territorial jurisdiction over New Delhi shall have exclusive jurisdiction, to the exclusion of any other court, to entertain, try and determine all and any question, issue, dispute, claim, actions, suits and proceedings between the Parties arising out of this Agreement including any matter connected therewith and any application to be made under the Arbitration and Conciliation Act, 1996 as amended and re-enacted from time to time

13.0 Entire Agreement :

This Agreement constitutes the entire agreement of parties with respect to the subject matter thereof and supersedes any and all prior communications understandings and agreements between the parties, whether written, oral, express or implied relating thereto. No amendment or modification to this Agreement shall be valid unless in writing and signed by a duly authorised Representative of each of the parties.

14.0 Dispute Resolution :

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

apply to such arbitration proceedings. The award made in pursuance thereof shall be binding on the parties. The venue of arbitration shall be at Delhi. The language of arbitration shall be English.

15.0 Exclusive Jurisdiction

The parties hereto agree that any matter or issues arising hereunder or any dispute hereunder shall be subject to the exclusive jurisdiction of the Court of Delhi only.

16.0 Severability :

If any term or provision of this Agreement is found to be invalid, illegal or otherwise unenforceable by a court of competent jurisdiction or by a duly appointed Arbitrator under clause 13.0 of this Agreement, such term or provision shall not affect the other terms or provisions of this Agreement or this Agreement as a whole, (which shall continue to remain valid, binding and enforceable by and against the parties notwithstanding any such finding) but such term or provision shall be deemed modified or deleted to the extent necessary, to render such term or provision enforceable. Upon such modification, the rights and obligations of the parties shall be construed and enforced in accordance with such modification, preserving to the fullest permissible extent the intent and agreements of the parties set forth in this Agreement.

17.0 Holiday-Listing Policy (Banning of Business Dealings) :

Notwithstanding anything contained in this Agreement, MMTC's policy for Holiday-Listing of M/s. _____ mutatis mutandis applies to this Agreement and in the event, M/s. _____ while discharging its obligations under this Agreement or otherwise comes within the ambit of the said policy, MMTC at its sole discretion reserves the right to suspend/discontinue dealings or take any curative measures with M/s. _____ in accordance with the policy in force.

17.0 Notices :

Any notices to be given hereunder by either party to the other shall be in English and sent by registered letter, courier or facsimile to the other party at the addresses stated below :

(a) Ms. Anju Gupta
General Manager
MMTC Limited
Core-1, SCOPE Complex,
7 Institutional Area, Lodhi Road,
New Delhi-110 003

(b) Mr./Ms. _____

Any notice shall be effective only upon actual receipt at the above mentioned address unless change in the address is notified by a party by giving 10 days advance notice.

IN WITNESS WHEREOF this Agreement has been executed by the duly authorised Representatives of the parties the day and year first above written.

for and on behalf of
MMTC Limited

for and on behalf of
M/s. _____

Witnesses:

1.

2.

Declaration by Chartered Accountant
[On Letterhead of Chartered Accountant]

Date : _____

To,

MMTC Limited,
SCOPE Complex, Lodhi Road
New Delhi.

Dear Sir,

**Re : Proposed divestment of 26% equity stake in Sical Iron Ore Terminal Limited (SIOTL) by
MMTC Limited.**

We hereby certify that the information contained herein is true and correct.

- (i) As on the date hereof, the following is a complete list of Shareholders or in case of a public limited company the principal shareholders (with 5% or more) of <Name of Bidder>;

	Name	No. of shares	Percentage of total shares
1			
2			
3			
	Total		

<Add rows if required>

- (ii) As on the date hereof, we certify that the following is a complete list of Persons who are Beneficial Owners of Shares of the Company;

	Name	No. of shares	Percentage of total shares
1			
2			
3			
	Total		

- (iii) As on the date hereof we certify that the following is a complete list of Persons in Control of the Company;

	Name	No. of shares	Percentage of total shares
1			
2			
3			
	Total		

Name:

Designation

Seal of the Chartered Accountant

Declaration by Chartered Accountant
[On Letterhead of Chartered Accountant]

Date: _____

To,

MMTC Limited,
 SCOPE Complex, Lodhi Road
 New Delhi

Dear Sir,

Re : Proposed divestment of 26% equity stake in Sical Iron Ore Terminal Limited (SIOTL) by MMTC Limited

Ref : Request for Proposal No _____ dated _____

We, *<Name and address of the Chartered Accountant>*, being appointed for this purpose by *<Name and address of the bidder>* and having conducted all such enquiries as are reasonably necessary and appropriate for this purpose, hereby certify that *<Name of the bidder>* being the Bidder has sufficient free and un-encumbered funds, and / or has made adequate and appropriate arrangements for the amount stated in the Financial Bid submitted by *<Name of the bidder>* for the purpose of purchasing 26% equity stake in Sical Iron ore Terminal Limited (SIOTL) from MMTC Limited as per the terms given in the RfP.

OR

We, *<Name and address of the Chartered Accountant>* being appointed for this purpose by *<Name and address of consortium member>* which is a Member of the Consortium having submitted a Financial Bid in connection with the subject hereto, and having conducted all such enquiries as are reasonably necessary and appropriate for this purpose, hereby certify that *<Name of the consortium member>* being a Member, has sufficient free and encumbered funds, and / or has made adequate and appropriate arrangements for the payment of its share of the amount stated in the Financial Bid submitted by the said Consortium, which share comprises the sum stated, divided by the number of Transaction Shares to be purchased by it as stated in the Financial Bid submitted by the said Consortium.

For and on behalf of _____ [Insert name of firm of chartered accountants]

 Name:

Designation

Seal of the Chartered Accountant

Power of Attorney for Lead Member of Consortium
(Refer Clause _____)

WHEREAS MMTC Limited (“MMTC”) has invited bids from interested parties for “sale of its 26% equity in Sical Iron Ore Terminals Ltd.” (“Equity”).

WHEREAS, _____, _____, _____ and _____ (collectively the “Consortium”) being Members of the Consortium are interested in bidding for the Project in accordance with the terms and conditions of the RFP document and other connected documents in respect of the Equity, and

WHEREAS, it is necessary for the Members of the Consortium to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium’s bid for the Equity and its execution.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS We, _____ having our registered office at _____, M/s. _____ having our registered office at _____, M/s. _____ having our registered office at _____, and M/s. _____ having our registered office at _____, (hereinafter collectively referred to as the “Principals”) do hereby irrevocably designate, nominate, constitute, appoint and authorise M/s. _____ having its registered office at _____, being one of the Members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the “Attorney”). We hereby irrevocably authorise the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Consortium and any one of us during the bidding process and, in the event the Consortium is awarded the contract, during the execution of the Project and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the pre- qualification of the Consortium and submission of its bid for the Project, including but not limited to signing and submission of all applications, bids and other documents and writings, participate in bidders and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the bid of the Consortium and generally to represent the Consortium in all its dealings with MMTC, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium’s bid for the Equity.

AND hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us / Consortium.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS ____ DAY OF ____ 2015

For ____ (Signature) _____ (Name & Title)
For ____ (Signature) _____ (Name & Title)
For ____ (Signature) _____ (Name & Title)
For ____ (Signature) _____ (Name & Title)
(Executants) (To be executed by all the Members of the Consortium)

Witnesses:

MEMORANDUM OF UNDERSTANDING (MOU) (JOINT BIDDING AGREEMENT) For JOINT VENTURE
PARTICIPATION BETWEEN MEMBERS OF JV
(Refer Clause ____)

*(To be executed on non-judicial stamp paper of appropriate value in accordance with relevant Stamp Act
and to be registered with appropriate authority under Registration Act)*

M/s having its registered office at (hereinafter referred to as.....)
acting as the Lead Partner of the first part,

And M/shaving its registered office at (hereinafter referred to as
'.....') in the capacity of a Joint Partner of the other part.

The expressions of and shall wherever the context admits, mean and include their
respective legal representatives, successors-in-interest and assigns and shall collectively be referred to as
"the Parties" and individually as "the Party"

WHEREAS:

MMTC Limited [hereinafter referred to as "MMTC"] has invited bids through RFP No. _____ dated
_____ for "sale of its 26% equity in Sical Iron Ore Terminals Ltd.". NOW, THEREFORE, THE PARTIES
AGREE AS FOLLOWS :

1. The following documents shall be deemed to form and be read and construed as an integral part of this MOU : (i) Notice for Bid; (ii) Bidding documents; (iii) Any Addendum/Corrigendum issued by MMTC; (iv) The bid submitted on our behalf jointly by the Lead Partner. In case of existing joint venture, the certified copy of JV Agreement to be furnished.
2. The 'Parties' have studied the RFP documents issued by MMTC /Advisor for sale of its equity in SIOTL and have agreed to participate in submitting a 'bid' jointly.
3. M/sshall be the lead member of the JV for all intents and purpose and shall represent the Joint Venture in its dealing with MMTC/Advisor. For the purpose of submission of bid proposals, the parties agree to nominate as the leader duly authorized to sign and submit all documents and subsequent clarifications, if any, to MMTC/Advisor. However M/s shall not submit any such proposals, clarifications or commitments before securing the written clearance of the other partner which shall be expeditiously given by M/s.....to M/s.....
4. The 'Parties' have resolved that the distribution of share and responsibilities is as under
 - (a) Lead Partner share% Responsibilities (i)..... (ii)..... (iii).....
 - (b) Joint Venture Partner 1 share% Responsibilities (i)..... (ii)..... (iii).....
 - (c) Joint Venture Partner 2 share% Responsibilities (i)..... (ii)..... (iii).....
5. JOINT AND SEVERAL RESPONSIBILITY : The Parties undertake that they shall be jointly and severally liable to MMTC/Advisor in the discharge of all the obligations and liabilities as per the contract with MMTC/Advisor and for the performance of contract awarded to their JV.

6. ASSIGNMENT AND THIRD PARTIES : The parties shall co-operate throughout the entire period of this MOU on the basis of exclusivity and neither of the Parties shall make arrangement or enter into agreement either directly or indirectly with any other party or group of parties on matters relating to the Contract except with prior written consent of the other party.
7. GUARANTEES AND BONDS : Till the award of the work, the lead partner shall furnish bid bond and all other bonds/guarantees to MMTC/Advisor on behalf of the Joint Venture which shall be legally binding on all the partners of the Joint Venture.
8. BID SUBMISSION : Each Party shall bear its own cost and expenses for preparation and submission of the bid and all costs until conclusion of a contract with MMTC/Advisor for the sale of equity. Common expenses shall be shared by all the parties in the ratio of their actual participation.
9. INDEMNITY : Each party hereto agrees to indemnify the other party against its respective parts in case of breach/default of the respective party of the contract works of any liabilities sustained by the Joint Venture.
10. DOCUMENTS & CONFIDENTIALITY : Each Party shall maintain in confidence and not use for any purpose related to SIOTL project all commercial and technical information received or generated in the course of preparation and submission of the bid.
11. ARBITRATION : Any dispute, controversy or claim arising out of or relating to this agreement shall be settled in the first instance amicably between the parties. If an amicable settlement cannot be reached as above, it will be settled by arbitration in accordance with the Indian Arbitration and Conciliation Act 1996 or any amendments thereof. The venue of the arbitration shall be _____.
14. VALIDITY : This Agreement shall remain in force till the occurrence of the earliest to occur of the following, unless by mutual consent, the Parties agree in writing to extend the validity for a further period.
 - a. The bid submitted by the Joint Venture is declared unsuccessful, or
 - b. Cancellation/ shelving of the RFP by MMTC/Advisor for any reasons prior to award of work
 - c. Execution of detailed JV agreement by the parties, setting out detailed terms after award of work by MMTC/Advisor.
15. This MOU is drawn in number of copies with equal legal strength and status. One copy is held by M/s and the other by M/s.M/s and a copy submitted with the bid.
16. This MOU shall be construed under the laws of India.
17. NOTICES : Notices shall be given in writing by e-mail/fax / confirmed by registered mail or commercial courier to the following fax numbers and addresses:

 Lead Partner Other Partner (Name & Address) (Name & Address)

IN WITNESS WHEREOF THE PARTIES, have executed this MOU the day, month and year first before written.

M/s..... (Seal)

M/s..... (Seal)

Witnesses :

1..... (Name & Address)

2..... (Name & Address)

AUTHORISATION LETTER
(on bidder's letterhead)

We (Name and address of the registered office) do hereby appoint and authorize Mr./ Ms., resident of (name and address of residence) who is presently employed with us and holding the position of as our representative, to do in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to our Bid for purchase of 26% equity share of MMTC in SIOTL, including signing and submission of all documents and providing information/responses to MMTC Limited/its Advisor, representing us in all matters before MMTC Limited/its Advisor, and generally dealing with MMTC Limited/its Advisor in all matters in connection with our Bid.

We hereby agree to ratify all acts, deeds and things lawfully done by our said representative pursuant to this Authorization Letter and that all acts, deeds and things done by our aforesaid representative shall and shall always be deemed to have been done by us.

Signature
(Name, Title and Address)

I Accept

.....(Signature)
(Name Title and Address of the Representative)

Litigation Impact statement

{Letterhead of Bidder / (in case of Consortium, each Member)}

Date : _____

To,

MMTC Limited,
SCOPE Complex, Lodhi Road
New Delhi

Dear Sir,

Re : Proposed divestment of 26% equity stake in Sical Iron Ore Terminal Limited (SIOTL) by MMTC Limited

We refer to the Request for Proposal dated _____

We, < Name and Address of the bidder >, hereby confirm that save as may be set out in the schedule attached to this statement, there is no litigation (including court, arbitration and other proceedings), inquiry or order from any regulatory authority, current or pending against us, which if adversely determined might have material adverse effect on our ability to carry on our business or pay our debts as they fall due or on our ability to enter into any of the transactions contained in or contemplated by the Request for Proposal.

The information contained in the proposal as to the likely impact of any litigation as is referred to in the preceding paragraph represents our best estimate based upon information currently available to us as to the effect of an adverse determination against us and on the likelihood of such an adverse determination.

References to an adverse determination should be taken to mean a judgement / determination / award by any court / tribunal or in any proceedings.

IN WITNESS WHEREOF, and being so authorised by the Board of Directors of the Company vide their resolution dated [_____], I, the person below named have hereunto set my hand on this ____ day of _____, [■].

By :
Name :
Title :

I, [name], [Secretary], of the Company, do hereby certify that on the date hereof, holds the office of [_____] of the Company, having been duly appointed to such office, and that his signature above is his genuine signature.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Company this day of , [■].

By:
Name:
Title: **[Company Secretary]**
[Seal of the Company]

Mandatory information to be submitted alongwith the Bid

Company Details :

Company Name :	
Registration No. :	
PAN No. / TAN No. :	
Registered Address :	
Names of Partners / Directors :	
Bidder Type :	Indian / Foreign
City :	
Postal Code :	
Company' establishment year :	
Company's Nature of Business :	
Company's Legal Status :	
Company Category :	

Company's Contact Person's Details :

Contact Name :	
Date of Birth :	
Correspondence e-mail ID :	
Designation :	
Phone No. :	
Mobile No. :	

Signature of bidder : _____

Name : _____

Designation : _____

Date : _____

INTEGRITY PACT*B E T W E E N***MMTC LIMITED hereinafter, referred to as “MMTC”,***A N D*..... **hereinafter referred to as “The Buyer/Vendor/Bidder”****PREAMBLE :**

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

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

In order to achieve the goals, MMTC may appoint an Independent External Monitor (IEM), who will monitor the tender/auction/e-auction/e-sale/sale/purchase process and the execution of the contract for compliance with the principles mentioned above.

SECTION 1 : COMMITMENTS OF MMTC :

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

SECTION 2 : COMMITMENTS OF THE BUYER(s) / VENDOR(s) / BIDDER(s) :

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

SECTION 3 : DISQUALIFICATION FROM TENDER PROCESS AND EXCLUSION FROM FUTURE CONTRACTS

If the Buyer(s)/Vendor(s)/Bidder(s), before award of contract, has committed a serious transgression through a violation of Section 2 above or in any other form such as to put his reliability or credibility as buyer/vendor/bidder into question, MMTC is entitled to

disqualify the Buyer(s)/Vendor(s)/Bidder(s) from the tender/auction/e-auction/e-sale/sale/purchase process or to terminate the contract, if already signed, for such reason :

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

SECTION 4 : COMPENSATION FOR DAMAGES :

1. If MMTC has disqualified the Buyer(s) from the tender/auction/e-auction/e-sale/sale/purchase process prior to the award according to Section 3, MMTC is entitled to demand and recover the damages equivalent to Earnest Money Deposit/Bid Security.
2. If MMTC has terminated the contract according to Section 3, or if MMTC is entitled to terminate the contract according to Section 3, MMTC shall be entitled to demand and recover from the Vendor liquidated damages equivalent to 5% of the Contract value or the amount equivalent to Performance Bank Guarantee whichever is higher.
3. If the Buyer(s) /Vendor(s)/Bidder(s) can prove that the exclusion of the Buyer(s) /Vendor(s)/Bidder(s) from the tender/auction/e-auction/e-sale/sale/purchase process or the termination of the contract after the contract award has caused no damage or less damage than the amount of liquidated damages, the Buyer(s) /Vendor(s)/Bidder(s) may compensate only the damage in the amount proved. If MMTC can prove that the amount of the damage caused by the disqualification of the Buyer(s)/Vendor(s)/Bidder(s) before Contract Award or the termination of the Contract after the Contract Award is higher than the amount of the liquidated damages, it is entitled to claim compensation for the higher amount of the damages.

SECTION 5 : PREVIOUS TRANSGRESSION :

1. The Buyer(s)/Vendor(s)/Bidder(s) to declare that no previous transgressions occurred in the last 3 years with any other Company in any country conforming to the anti corruption approach or with any other Public Sector Enterprise in India that could justify his exclusion from the tender process.

2. If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or the contract, if already awarded and can be terminated for such reason.

SECTION 6 : EQUAL TREATMENT OF ALL BUYER(s) / VENDOR(s) / BIDDER(s) :

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

SECTION 7 : CRIMINAL CHARGES AGAINST VIOLATING BUYER(s)/VENDOR(s)/BIDDER(s) :

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

SECTION 8 : INDEPENDENT EXTERNAL MONITOR(s) :

1. MMTC appoints competent and credible Independent External Monitor (IEM) for this Pact. The task of the IEM is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.
2. The IEM is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. He reports to the CMD, MMTC.
3. The IEM has the right to access without restriction to all trade/project related documentation of MMTC. The Buyer(s)/Vendor(s)/Bidder(s) will also grant the IEM, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his trade/project documentation. The IEM is under contractual obligation to treat the information and documents of the Buyer(s)/Vendor(s)/Bidder(s) with confidentiality.
4. MMTC will provide the IEM sufficient information about all meetings among the parties related to the project/contract provided as meetings could have an impact on the contractual relations between MMTC and the vendor. The parties offer to the IEM the option to participate in such meetings.
5. As soon as the IEM notices, or believes to notice, a violation of this agreement, he will so inform the Management of MMTC and request the Management to discontinue or take corrective action, or to take other relevant action. The IEM can in this regard submit NON-BINDING RECOMMENDATIONS. Beyond this, the IEM has not right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.

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

SECTION 9 : PACT DURATION :

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

SECTION 10 : OTHER PROVISIONS :

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

 for & on behalf of MMTC Limited

 for & on behalf of Bidder

Office Seal

Place : _____
 Date : _____

Witness 1 : _____
 Name : _____
 Address : _____

Witness 2 : _____
 Name : _____
 Address : _____

Office Seal

Place : _____
 Date : _____

Witness 1 : _____
 Name : _____
 Address : _____

Witness 2 : _____
 Name : _____
 Address : _____

APPENDIX-XV

CHECKLIST

<i>Sl. No.</i>	<i>Document attached</i>	<i>Yes</i>	<i>No</i>
1.	Cover Letter (Appendix-I)		
2.	Bidder Profile (Appendix-II)		
3.	Original Latest positive Bank reference report (as per 4.1.2(iii))		
4.	Undertaking by Bidder (Appendix-III)		
5.	Financial Bid (Appendix-IV)		
6.	Copy of Bank Guarantee for EMD (Appendix-V)		
7.	Non-Disclosure Agreement (Appendix-VI)		
8.	Declaration by Chartered Accountant (Appendix-VII)		
9.	Declaration by Chartered Accountant (Appendix-VIII)		
10.	Power of Attorney for Lead Member of the Consortium (Appendix-IX)		
11.	MOU/JV Bidding Agreement for JV participation between member of JV (Appendix-X)		
12.	Authorisation Letter (Appendix-XI)		
13.	Litigation Impact Statement (Appendix-XII)		
14.	Mandatory Information(Appendix-XIII)		
15.	Integrity Pact (Appendix-XIV)		
16.	Signed /stamped (on each page) copy of RFP		

Signed _____
Name _____
Authorised _____
Representative _____
Designation _____

Place : _____

Date : _____