

**NOTICE INVITING E-TENDER NO.  
MMTC/FERT/COMPLEX/2014-15/5  
DATED 05.09.2014 FOR SUPPLY OF COMPLEX FERTILIZERS**

1	COMMODITY	COMPLEX FERTILIZERS IN LOOSE BULK CONFORMING TO INDIAN FCO
2.	QUANTITY	30000 MT +/- 10% COMPLEX FERTILIZER 20:20:0:13
3.	DISCHARGE PORT	TUTICORIN, INDIA AT 3000 MT PWWD
4.	LOAD PORT AND SAILING TIME	TO BE MANDATORLY INDICATED BY SUPPLIER
4.	DISCHARGE RATE	3000 MT PWWD SHEX EIU
5.	SHIPMENT PERIOD	PROMPT, DESIRED ARRIVAL AT DISCHARGE PORT BY 15 <sup>TH</sup> OCTOBER 2014.
6.	ORIGIN	TO BE INDICATED BY BIDDERS
7..	SPECIFICATION	<p><b><u>AS PER INDIAN FCO</u></b></p> <p><b><u>AMMONIUM PHOSPAHTE SULPHATE (20:20:0:13)</u></b></p> <p>(i) MOISTURE, PER CENT BY WEIGHT : MAXIMUM : 1.0</p> <p>(ii) TOTAL NITROGEN, PER CENT BY WEIGHT: MINIMUM: 20.0</p> <p>(iii) AMMONIACAL NITROGEN, PER CENT BY WEIGHT: MINIMUM: 18.0</p> <p>(iv) NITROGEN IN THE FORM OF UREA, PER CENT BY WEIGHT, MAXIMUM: 2.0</p> <p>(v) NEUTRAL AMMONIUM CITRATE SOLUBLE PHOSPHATES AS (P2O5), PER CENT BY WEIGHT, MINIMUM: 20.0</p> <p>(vi) WATER SOLUBLE PHOSPHATES AS (P2O5), PER CENT BY WEIGHT MINIMUM: 17.0</p> <p>(vii) PARTICLE SIZE: NOT LESS THAN 90 PER CENT OF THE MATERIAL SHALL PASS THROUGH 4 MM IS SIEVE AND BE RETAINED ON 1MM IS SIEVE. NOT MORE THAN 5 PER CENT SHALL BE BELOW 1 MM IS SIEVE.</p> <p>(viii) SULPHUR (AS S), PER CENT BY WEIGHT , MINIMUM: 13.0</p>

**NOTE : SCALE OF PENALTIES:**

**I) NUTRIENT LOSSES:**

FOR DEFICIENCY IN NUTRIENTS BEYOND THE LIMIT SPECIFIED IN FCO, THE CARGO WILL BE REJECTED. THE SUPPLIER SHALL REFUND THE LANDED COST OF THE CARGO FOUND UNFIT AS WELL AS ALL THE CONSEQUENTIAL HANDLING AND THE DISTRIBUTION COST THEREOF IMMEDIATELY ON MMTC'S FIRST DEMAND WITH VALUE DATE BEING DATE OF INITIAL PAYMENT TO THE SUPPLIER, FAILING WHICH PENALTY @ 17.26% P.A. SHALL BE PAYABLE UP TO THE DATE OF ACTUAL REMITTANCE BY THE SUPPLIER.

**II) WITH REGARD TO PENALTY OR EXCESS MOISTURE CONTENTS, THE PENALTY WILL BE LEVIED ON PRORATA BASIS. THE SCALE OF PENALTY WILL BE PRESCRIBED AS "TWO TIMES THE VALUE OF FERTILIZER EQUIVALENT TO EXCESS MOISTURE CONTENT IN ENTIRE SHIPMENT BY WEIGHT".**

**III) THE PENALTY ON ACCOUNT OF DEVIATION IN PARTICLE SIZE WHICH WILL BE OF TWO COMPONENTS:**

**A) PENALTY ON ACCOUNT OF DEFICIENCY IN PARTICLE SIZE**

**B) PENALTY ON ACCOUNT OF EXCESS OVER SIZE PARTICLE**

THE NET PENALTY ON ACCOUNT OF PARTICLE SIZE DEVIATION WOULD BE TOTAL OF ITS TWO COMPONENTS (A + B) WHICH WILL BE DETERMINED AS UNDER:

**A) DEFICIENCY IN PARTICLE SIZE:**

(PERCENTAGE OF MATERIAL BELOW THE LOWER SIEVE IN THE SAMPLE) (-) (MAXIMUM PERMISSIBLE PERCENTAGE OF MATERIAL BELOW THE LOWER SIEVE).

THE PENALTY ON ACCOUNT OF DEFICIENCY WILL BE 30% OF THE VALUE OF MATERIAL EQUIVALENT TO **"DEFICIENCY IN PARTICLE SIZE (DEFINED ABOVE) IN ENTIRE SHIPMENT.**

**B) PERCENTAGE OF OVER-SIZE MATERIAL:**

(PERCENTAGE OF MATERIAL ABOVE UPPER SIEVE IN THE SAMPLE) (-)

(MAXIMUM PERMISSIBLE PERCENTAGE ABOVE UPPER SIEVE)

THE PENALTY ON ACCOUNT OF OVER-SIZE WILL BE **"15% OF THE VALUE OF FERTILIZER DETERMINED AS OVER SIZE IN ENTIRE SHIPMENT"**

8.	PRICE	IN U.S. DOLLARS PER METRIC TONNE ON FOBT LOADPORT INDICATING LOAD RATE AND LOADPORT RESTRICTIONS, IF ANY, AND C&F FO ABOVE PORT INDICATING DISCHARGE RATE. PLEASE NOTE THE BIDDERS ARE REQUIRED TO QUOTE BOTH FOB/LOADPORT AND C&F/DISCHARGE PORT PRICES BOTH ON SIGHT AS ALSO ON 180 DAYS BASIS. OFFERS MADE ONLY ON C&F BASIS ARE LIABLE FOR REJECTION.
9.	PAYMENT	BY LETTER OF CREDIT PAYABLE AT SIGHT AND ON 180 DAYS BASIS.
10	VALIDITY	OFFER TO BE KEPT VALID TILL 19.09.2014 AT 1700 HRS. IN CASE OF L1, BIDDER MIGHT BE ASKED FOR EXTENSION OF VALIDITY FOR FURTHER ONE WEEK.
11.	ANALYSIS AND SAMPLING	<b>BUYER SHALL DRAW SAMPLES AT PORT OF DISCHARGE THROUGH CENTRAL FERTLIZER QUALITY CONTROL LABORATORY AT FARIDABAD (CFQCL) OR ANY OF ITS REGIONAL BRANCHES. THE QUALITY SO DETERMINED BY CFQCL SHALL BE FINAL</b>
12.	WEIGHMENT	WEIGHMENT SHALL BE AS DETERMINED BY DRAFT SURVEY CONDUCTED THROUGH AN INDEPENDENT INTERNATIONALLY REPUTED SURVEYOR/INSPECTION AGENCY APPOINTED BY MMTC/ITS BUYER AT THE PORT OF LOADING. THE MATERIAL COST SHALL BE BASED ON B/L QUANTITY. THE DRAFT SURVEY REPORT AND CERTIFICATE OF WEIGHT SHALL FORM A PART OF LC DOCUMENTS
13.	GENERAL TERMS	I. PLEASE NOTE THAT THE FORM OF MATERIAL SHOULD BE STRICTLY AS PER INDIAN FCO SPECIFICATIONS.  II. INDIAN AGENTS COMMISION IF ANY WILL BE PAID ONLY IN INDIAN RUPEES AND DEDUCTED FROM THE INVOICE VALUE. PAYMENTS ARE SUBJECT TO STATUTORY DEDUCTIONS.  III. IN CASE OF BIDS RECEIVED FROM THE TRADERS, OFFERS MUST BE ACCOMPANIED BY AUTHORITY LETTERS FROM THE PRODUCERS FOR THE PRODUCT AND TONNAGE OFFERED.

		<p>IV. MMTC RESERVES THE RIGHT TO ACCEPT OR REJECT ANY OR ALL TENDERS OR TO RE-TENDER AT MMTC'S SOLE DISCRETION WITHOUT ASSIGNING ANY REASONS.</p> <p>V. ALL BIDDERS EXCEPT PRODUCERS SHALL SUBMIT A BID BOND OF USD 1 PMT OR EQUIVALENT INDIAN RUPEES FOR THE OFFERED QUANTITY INCLUDING PLUS TOLERANCE VALID MINIMUM FOR ONE MONTH. ON AWARD OF THE CONTRACT, SHIPPER SHALL ESTABLISH A PERFORMANCE GUARANTEE BOND IN THE FORMAT PRESCRIBED BY MMTC AT 3% OF THE CONTRACT VALUE.</p> <p>VI. ALL OTHER TERM SHALL BE AS PER MMTC'S STANDARD TERMS AND CONDITIONS FOR IMPORT OF FERTILIZERS.</p> <p>VII. BIDS ARE TO BE SUBMITTED LATEST BY 1215 HRS. ON 15.09.2014 THROUGH ELECTRONIC MODE FOR WHICH BIDDERS MAY LOG ON TO WEBSITE <a href="http://www.tenderwizard.com/MMTC">www.tenderwizard.com/MMTC</a> OR THROUGH PHYSICAL MODE FOR WHICH THE BIDDERS HAVE TO SUBMIT THEIR BIDS PHYSICALLY IN SEALED ENVELOPE TO BE DROPPED IN TENDER BOX PLACED AT MMTC LIMITED, FERTILIZER DIVISION, 7<sup>TH</sup> FLOOR, CORE-1 , SCOPE COMPLEX, LODHI ROAD, NEW DELHI BEFORE THE CLOSING TIME OF RECEIPT OF THE TENDERS AS ABOVE.</p> <p>VIII. BIDS ARE TO BE SUBMITTED IN TWO BID SYSTEM - TECHNICAL BID CONSISTING OF SPECIFICATION, BID BOND WHEREVER NECESSARY AND PRICE BID SEPARATELY. TECHNICAL BID WILL BE OPENED AT 1230 HRS IST ON 15.09.2014 AND PRICE BID WILL BE OPENED AT 1500 HRS IST ON 15.09.2014.</p> <p>IX. BID BONDS IN ORIGINAL ARE REQUIRED TO BE SUBMITTED PHYSICALLY IN SEALED ENVELOPE TO BE DROPPED IN TENDER BOX PLACED AT MMTC LIMITED, FERTILIZER DIVISION, 7<sup>TH</sup> FLOOR, CORE 1, SCOPE COMPLEX, LODI ROAD, NEW DELHI BEFORE THE CLOSING TIME OF RECEIPT OF TENDERS AS ABOVE.</p>
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GENERAL MANAGER  
FERTILIZER DIVISION

**BID BOND PROFORMA**

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

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

DEAR SIRs,

WHEREAS M/S. \_\_\_\_\_ (OFFEROR) HAS  
OFFERED TO SUPPLY A QUANTITY OF \_\_\_\_\_ MTS OF \_\_\_\_\_ TO  
MMTC AND THE OFFEROR IS REQUIRED TO SUBMIT A BID BOND IN US DOLLARS AT THE  
RATE OF USD 1 PMT FOR THE QUANTITY OFFERED ALONGWITH THE OFFER AS A  
GUARANTEE FOR FULFILLMENT OF ALL THE TERMS AND CONDITIONS OF SUBSEQUENT  
SALE, WE (BANK WITH FULL ADDRESS) HEREBY GUARANTEE AND UNDERTAKE TO PAY  
IMMEDIATELY ON DEMAND BY MMTC LTD., NEW DELHI THE AMOUNT OF US\$  
\_\_\_\_\_ IN CASE THE OFFEROR FAILS TO PERFORM ANY OR ALL THE  
OBLIGATIONS, UNDERTAKEN BY HIM AS PER MMTC'S ACCEPTANCE WITHOUT  
RESERVATION, PROTEST, DEMUR AND RECOURSE TO SAID OFFEROR. ANY SUCH  
DEMAND IN WRITING MADE BY MMTC SHALL BE CONCLUSIVE AND BINDING ON US  
IRRESPECTIVE OF ANY DISPUTE OR DIFFERENCE RAISED BY THE OFFEROR. THIS  
GUARANTEE SHALL BE IRREVOCABLE AND SHALL REMAIN VALID TILL \_\_\_\_\_  
IN NEW DELHI.

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

DATED:

FOR BANK

PLACE:

**INTEGRITY PACT**

BETWEEN

MMTC LIMITED HEREINAFTER, REFERRED TO AS “MMTC”,

AND

..... HEREINAFTER REFERRED TO AS “THE BUYER/VENDOR/BIDDER”

**PREAMBLE**

WHEREAS, MMTC IS AN INTERNATIONAL TRADING COMPANY DEALING IN EXPORT/IMPORT/SALE/PURCHASE OF VARIOUS COMMODITIES;  
WHEREAS, MMTC VALUES FULL COMPLIANCE WITH ALL RELEVANT LAWS OF THE LAND, RULES, REGULATIONS AND THE PRINCIPLES OF ECONOMIC USE OF RESOURCES AND OF FAIRNESS / TRANSPARENCY IN ITS RELATION WITH ITS BUYER/VENDOR/BIDDER. IN PURSUANCE, THERETO, THE FOLLOWING CLAUSES OF THE INTEGRITY PACT WILL BE APPLICABLE AND THIS DOCUMENT SHALL DEEM TO BE AN INTEGRAL PART OF THE AGREEMENT/ CONTRACT BETWEEN US.

IN ORDER TO ACHIEVE THE GOALS, MMTC MAY APPOINT AN INDEPENDENT EXTERNAL MONITOR (IEM), WHO WILL MONITOR THE TENDER/AUCTION/E-AUCTION/E-SALE/SALE/PURCHASE PROCESS AND THE EXECUTION OF THE CONTRACT FOR COMPLIANCE WITH THE PRINCIPLES MENTIONED ABOVE.

**SECTION 1 – COMMITMENTS OF MMTC**

1. MMTC COMMITS ITSELF TO TAKE ALL NECESSARY MEASURES TO PREVENT CORRUPTION AND TO OBSERVE THE FOLLOWING PRINCIPLES:
  - A) NO EMPLOYEE OF MMTC, PERSONALLY OR THROUGH FAMILY MEMBERS, WILL IN CONNECTION WITH THE TENDER FOR, OR THE EXECUTION OF A CONTRACT, DEMAND, TAKE A PROMISE FOR OR ACCEPT, FOR HIMSELF/HERSELF OR THIRD PERSON, ANY MATERIAL OR NON-MATERIAL BENEFIT WHICH HE/SHE IS NOT LEGALLY ENTITLED TO.
  - B) MMTC WILL, DURING THE TENDER/AUCTION/E-AUCTION/E-SALE/SALE/PURCHASE PROCESS, PROVIDE TO ALL BUYER(S)/VENDOR(S)/BIDDER(S) THE SAME INFORMATION AND WILL NOT PROVIDE TO ANY BUYER/VENDOR/BIDDER ANY CONFIDENTIAL/ADDITIONAL

INFORMATION THROUGH WHICH THE BUYER/VENDOR/BIDDER COULD OBTAIN AN ADVANTAGE IN RELATION TO THE TENDER/AUCTION/E-AUCTION/E-SALE/SALE/PURCHASE PROCESS OR THE CONTRACT EXECUTION.

C) MMTC WILL EXCLUDE FROM THE PROCESS ALL KNOWN PREJUDICED PERSONS.

2. IF MMTC OBTAINS INFORMATION ON THE CONDUCT OF ANY OF ITS EMPLOYEES WHICH IS A CRIMINAL OFFENCE UNDER THE RELEVANT ANTI-CORRUPTION LAWS OF INDIA, OR IF THERE BE A SUBSTANTIVE SUSPICION IN THIS REGARD, MMTC WILL INFORM ITS CHIEF VIGILANCE OFFICER AND IN ADDITION CAN INITIATE DISCIPLINARY ACTION.

## **SECTION 2 – COMMITMENTS OF THE BUYER(S)/VENDOR(S)/BIDDER(S)**

1. THE BUYER(S)/VENDOR(S)/BIDDER(S) COMMITS HIMSELF TO TAKE ALL MEASURED NECESSARY TO PREVENT CORRUPTION. HE COMMITS HIMSELF TO OBSERVE THE FOLLOWING PRINCIPLES DURING HIS PARTICIPATION IN THE TENDER/AUCTION/E-AUCTION/E-SALE/SALE/PURCHASE PROCESS AND DURING THE CONTRACT EXECUTION.

A) THE BUYER(S)/VENDOR(S)/BIDDER(S) WILL NOT, DIRECTLY OR THROUGH ANY OTHER PERSON OR FIRM, OFFER, PROMISE OR GIVE TO ANY OF MMTC'S EMPLOYEES INVOLVED IN THE TENDER/AUCTION/E-AUCTION/E-SALE/SALE/PURCHASE PROCESS OR THE EXECUTION OF THE CONTRACT OR TO ANY THIRD PERSON ANY MATERIAL OR NON-MATERIAL BENEFIT WHICH HE/SHE IS NOT LEGALLY ENTITLED TO, IN ORDER TO OBTAIN IN EXCHANGE ANY ADVANTAGE OF ANY KIND WHATSOEVER DURING THE TENDER PROCESS OR DURING THE EXECUTION OF THE CONTRACT.

B) THE BUYER(S)/VENDOR(S)/BIDDER(S) WILL NOT ENTER WITH OTHER BUYER(S) INTO ANY ILLEGAL AGREEMENT OR UNDERSTANDING, WHETHER FORMAL OR INFORMAL. THIS APPLIES IN PARTICULAR TO PRICES, SPECIFICATIONS, CERTIFICATIONS, SUBSIDIARY CONTRACTS, SUBMISSION OR NON-SUBMISSION OF BIDS OR ANY OTHER ACTIONS TO RESTRICT COMPETITIVENESS OR TO INTRODUCE CARTELIZATION IN THE BIDDING PROCESS.

C) THE BUYER(S)/VENDOR(S)/BIDDER(S) WILL NOT COMMIT ANY CRIMINAL OFFENCE UNDER THE RELEVANT ANTI-CORRUPTION LAWS OF INDIA; FURTHER THE BUYER(S) /VENDOR(S)/BIDDER(S) WILL NOT USE IMPROPERLY, FOR PURPOSES OF COMPETITION OR PERSONAL GAIN, OR PASS ON TO OTHERS, ANY INFORMATION OR DOCUMENT PROVIDED BY MMTC AS PART OF THE BUSINESS RELATIONSHIP REGARDING PROPOSALS, PLANS, BUSINESS DETAILS INCLUDING INFORMATION CONTAINED OR TRANSMITTED ELECTRONICALLY.

- D) THE BUYER(S)/VENDOR(S)/BIDDER(S) OF FOREIGN ORIGIN SHALL DISCLOSE THE NAME AND ADDRESS OF THE AGENTS/REPRESENTATIVES IN INDIA, IF ANY. SIMILARLY THE BUYER(S)/VENDOR(S)/BIDDER(S) OF INDIAN NATIONALITY SHALL FURNISH THE NAME AND ADDRESS OF THE FOREIGN PRINCIPALS, IF ANY. FURTHER, ALL THE PAYMENTS MADE TO THE INDIAN AGENTS/REPRESENTATIVE HAVE TO BE IN INDIAN RUPEES ONLY.
- E) THE BUYER(S)/VENDOR(S)/BIDDER(S) WILL, WHEN PRESENTING HIS BID, DISCLOSE ANY AND ALL PAYMENTS HE HAS MADE, IS COMMITTED TO OR INTENDS TO MAKE TO AGENTS, BROKERS OR ANY OTHER INTERMEDIARIES IN CONNECTION WITH THE AWARD OF THE CONTRACT.
2. THE BUYER(S)/VENDOR(S)/BIDDER(S) WILL NOT INSTIGATE THIRD PERSONS TO COMMIT OFFENCES OUTLINED ABOVE OR BE NECESSARY TO SUCH OFFENCES.

### **SECTION 3 – DISQUALIFICATION FROM TENDER PROCESS AND EXCLUSION FROM FUTURE CONTRACTS.**

IF THE BUYER(S)/VENDOR(S)/BIDDER(S), BEFORE AWARD OF CONTRACT, HAS COMMITTED A SERIOUS TRANSGRESSION THROUGH A VIOLATION OF SECTION 2 ABOVE OR IN ANY OTHER FORM SUCH AS TO PUT HIS RELIABILITY OR CREDIBILITY AS BUYER/VENDOR/BIDDER INTO QUESTION, MMTC IS ENTITLED TO DISQUALIFY THE BUYER(S)/VENDOR(S)/BIDDER(S) FROM THE TENDER/AUCTION/E-AUCTION/E-SALE/SALE/PURCHASE PROCESS OR TO TERMINATE THE CONTRACT, IF ALREADY SIGNED, FOR SUCH REASON.

- A) IF THE BUYER(S)/VENDOR(S)/BIDDER(S) HAS COMMITTED A SERIOUS TRANSGRESSION THROUGH A VIOLATION OF SECTION 2 ABOVE OR IN ANY OTHER FORM SUCH AS TO PUT HIS RELIABILITY OR CREDIBILITY AS BUYER/VENDOR/BIDDER INTO QUESTION, MMTC IS ENTITLED TO ALSO EXCLUDE THE BUYER(S)/VENDOR(S)/BIDDER(S) FROM THE FUTURE CONTRACT AWARD PROCESSES. THE IMPOSITION AND DURATION OF THE EXCLUSION WILL BE DETERMINED BY THE SEVERITY OF THE TRANSGRESSION. THE SEVERITY WILL BE DETERMINED BY THE CIRCUMSTANCES OF THE CASE, IN PARTICULAR THE NUMBER OF TRANSGRESSION, THE POSITION OF THE TRANSGRESSORS WITHIN THE COMPANY, HIERARCHY OF THE BUYER AND THE AMOUNT OF THE DAMAGE. THE EXCLUSION WILL BE IMPOSED FOR A MINIMUM OF 6 MONTHS AND MAXIMUM OF 3 YEARS.
- B) IF THE BUYER(S) /VENDOR(S)/BIDDER(S) CAN PROVE THAT HE HAS RESTORED/RECOUPED THE DAMAGE CAUSED BY HIM AND HAS INSTALLED A SUITABLE CORRUPTION PREVENTION SYSTEM, MMTC MAY AT ITS SOLE DISCRETION REVOKE THE EXCLUSION PREMATURELY.



- C) A TRANSGRESSION IS CONSIDERED TO HAVE OCCURRED IF IN LIGHT OF AVAILABLE EVIDENCE NO REASONABLE DOUBT IS POSSIBLE.

#### **SECTION 4 – COMPENSATION FOR DAMAGES**

1. IF MMTC HAS DISQUALIFIED THE BUYER(S) FROM THE TENDER/AUCTION/E-AUCTION/E-SALE/SALE/PURCHASE PROCESS PRIOR TO THE AWARD ACCORDING TO SECTION 3, MMTC IS ENTITLED TO DEMAND AND RECOVER THE DAMAGES EQUIVALENT TO EARNEST MONEY DEPOSIT/BID SECURITY.

2. IF MMTC HAS TERMINATED THE CONTRACT ACCORDING TO SECTION 3, OR IF MMTC IS ENTITLED TO TERMINATE THE CONTRACT ACCORDING TO SECTION 3, MMTC SHALL BE ENTITLED TO DEMAND AND RECOVER FROM THE VENDOR LIQUIDATED DAMAGES EQUIVALENT TO 5% OF THE CONTRACT VALUE OR THE AMOUNT EQUIVALENT TO PERFORMANCE BANK GUARANTEE WHICHEVER IS HIGHER.

3. IF THE BUYER(S) /VENDOR(S)/BIDDER(S) CAN PROVE THAT THE EXCLUSION OF THE BUYER(S) /VENDOR(S)/BIDDER(S) FROM THE TENDER/AUCTION/E-AUCTION/E-SALE/SALE/PURCHASE PROCESS OR THE TERMINATION OF THE CONTRACT AFTER THE CONTRACT AWARD HAS CAUSED NO DAMAGE OR LESS DAMAGE THAN THE AMOUNT OF LIQUIDATED DAMAGES, THE BUYER(S) /VENDOR(S)/BIDDER(S) MAY COMPENSATE ONLY THE DAMAGE IN THE AMOUNT PROVED. IF MMTC CAN PROVE THAT THE AMOUNT OF THE DAMAGE CAUSED BY THE DISQUALIFICATION OF THE BUYER(S)/VENDOR(S)/BIDDER(S) BEFORE CONTRACT AWARD OR THE TERMINATION OF THE CONTRACT AFTER THE CONTRACT AWARD IS HIGHER THAN THE AMOUNT OF THE LIQUIDATED DAMAGES, IT IS ENTITLED TO CLAIM COMPENSATION FOR THE HIGHER AMOUNT OF THE DAMAGES.

#### **SECTION 5 – PREVIOUS TRANSGRESSION**

1. THE BUYER(S)/VENDOR(S)/BIDDER(S) TO DECLARE THAT NO PREVIOUS TRANSGRESSIONS OCCURRED IN THE LAST 3 YEARS WITH ANY OTHER COMPANY IN ANY COUNTRY CONFORMING TO THE ANTI CORRUPTION APPROACH OR WITH ANY OTHER PUBLIC SECTOR ENTERPRISE IN INDIA THAT COULD JUSTIFY HIS EXCLUSION FROM THE TENDER PROCESS.

2. IF THE BIDDER MAKES INCORRECT STATEMENT ON THIS SUBJECT, HE CAN BE DISQUALIFIED FROM THE TENDER PROCESS OR THE CONTRACT, IF ALREADY AWARDED AND CAN BE TERMINATED FOR SUCH REASON.

#### **SECTION 6 – EQUAL TREATMENT OF ALL BUYER(S) /VENDOR(S)/BIDDER(S)**

1. MMTC WILL ENTER INTO AGREEMENTS WITH IDENTICAL CONDITIONS AS THIS ONE WITH ALL BUYER(S) /VENDOR(S)/BIDDER(S) WITHOUT ANY EXCEPTION.

2. MMTC WILL DISQUALIFY FROM THE TENDER PROCESS ALL BUYER(S)/VENDOR(S)/BIDDER(S) WHO DO NOT SIGN THIS PACT OR VIOLATE ITS PROVISIONS.

#### **SECTION 7 – CRIMINAL CHARGES AGAINST VIOLATING BUYER(S)/VENDOR(S)/BIDDER(S)**

IF MMTC OBTAINS KNOWLEDGE OF CONDUCT OF BUYER(S)/VENDOR(S)/BIDDER(S) OR OF AN EMPLOYEE OR A REPRESENTATIVE OR AN ASSOCIATE OF BUYER(S)/VENDOR(S)/BIDDER(S), WHICH CONSTITUTES CORRUPTION, OR IF MMTC HAS SUBSTANTIVE SUSPICION IN THIS REGARD, MMTC WILL INFORM THE SAME TO ITS CHIEF VIGILANCE OFFICER AND/OR APPROPRIATE GOVT. AUTHORITIES SUCH AS CBI.

#### **SECTION 8 – INDEPENDENT EXTERNAL MONITOR(S)**

1. MMTC APPOINTS COMPETENT AND CREDIBLE INDEPENDENT EXTERNAL MONITOR (IEM) FOR THIS PACT. THE TASK OF THE IEM IS TO REVIEW INDEPENDENTLY AND OBJECTIVELY, WHETHER AND TO WHAT EXTENT THE PARTIES COMPLY WITH THE OBLIGATIONS UNDER THIS AGREEMENT.

2. THE IEM IS NOT SUBJECT TO INSTRUCTIONS BY THE REPRESENTATIVES OF THE PARTIES AND PERFORMS HIS FUNCTIONS NEUTRALLY AND INDEPENDENTLY. HE REPORTS TO THE CMD, MMTC.

3. THE IEM HAS THE RIGHT TO ACCESS WITHOUT RESTRICTION TO ALL TRADE/PROJECT RELATED DOCUMENTATION OF MMTC. THE BUYER(S)/VENDOR(S)/BIDDER(S) WILL ALSO GRANT THE IEM, UPON HIS REQUEST AND DEMONSTRATION OF A VALID INTEREST, UNRESTRICTED AND UNCONDITIONAL ACCESS TO HIS TRADE/PROJECT DOCUMENTATION. THE IEM IS UNDER CONTRACTUAL OBLIGATION TO TREAT THE INFORMATION AND DOCUMENTS OF THE BUYER(S)/VENDOR(S)/BIDDER(S) WITH CONFIDENTIALITY.

4. MMTC WILL PROVIDE THE IEM SUFFICIENT INFORMATION ABOUT ALL MEETINGS AMONG THE PARTIES RELATED TO THE PROJECT/CONTRACT PROVIDED AS MEETINGS COULD HAVE AN IMPACT ON THE CONTRACTUAL RELATIONS BETWEEN MMTC AND THE VENDOR. THE PARTIES OFFER TO THE IEM THE OPTION TO PARTICIPATE IN SUCH MEETINGS.

5. AS SOON AS THE IEM NOTICES, OR BELIEVES TO NOTICE, A VIOLATION OF THIS AGREEMENT, HE WILL SO INFORM THE MANAGEMENT OF MMTC AND REQUEST THE MANAGEMENT TO DISCONTINUE OR TAKE CORRECTIVE ACTION, OR TO TAKE OTHER RELEVANT ACTION. THE IEM CAN IN THIS REGARD SUBMIT NON-BINDING RECOMMENDATIONS. BEYOND THIS, THE IEM HAS NOT RIGHT TO DEMAND FROM THE

PARTIES THAT THEY ACT IN A SPECIFIC MANNER, REFRAIN FROM ACTION OR TOLERATE ACTION.

6. THE IEM WILL SUBMIT A WRITTEN REPORT TO THE CMD, MMTC WITHIN 4 TO 6 WEEKS FROM THE DATE OF REFERENCE OR INTIMATION TO HIM BY MMTC AND, SHOULD THE OCCASION ARISE, SUBMIT PROPOSALS FOR CORRECTING PROBLEMATIC SITUATIONS.

7. IF THE IEM HAS REPORTED TO THE CMD, MMTC, A SUBSTANTIATED SUSPICION OF AN OFFENCE UNDER RELEVANT ANTI CORRUPTION LAWS OF INDIA, AND THE CMD, MMTC, HAS NOT, WITHIN THE REASONABLE TIME TAKEN VISIBLE ACTION TO PROCEED AGAINST SUCH OFFENCE OR REPORTED IT TO ITS CHIEF VIGILANCE OFFICER, THE IEM MAY ALSO TRANSMIT THIS INFORMATION DIRECTLY TO THE CENTRAL VIGILANCE COMMISSIONER, GOVT. OF INDIA.

8. THE WORD “**IEM**” WOULD INCLUDE BOTH SINGULAR AND PLURAL.

#### **SECTION 9 – PACT DURATION**

1. THIS PACT BEGINS WHEN BOTH PARTIES HAVE LEGALLY SIGNED IT. IT EXPIRES FOR THE VENDOR 12 MONTHS AFTER THE LAST PAYMENT UNDER THE CONTRACT, AND FOR ALL OTHER BIDDERS, 6 MONTHS AFTER THE CONTRACT HAS BEEN AWARDED.

2. IF ANY CLAIM IS MADE/LODGED DURING THIS TIME, THE SAME SHALL BE BINDING AND CONTINUE TO BE VALID DESPITE THE LAPSE OF THIS PACT AS SPECIFIED ABOVE, UNLESS IT IS DISCHARGED/DETERMINED BY CMD, MMTC.

#### **SECTION 10 – OTHER PROVISIONS**

1. THIS AGREEMENT IS SUBJECT TO INDIAN LAW, PLACE OF PERFORMANCE AND JURISDICTION IS THE REGISTERED OFFICE OF MMTC, I.E. NEW DELHI.

2. CHANGES AND SUPPLEMENTS AS WELL AS TERMINATION NOTICES NEED TO BE MADE IN WRITING. SIDE AGREEMENTS HAVE NOT BEEN MADE.

3. IF THE VENDOR IS A PARTNERSHIP OR A CONSORTIUM, THIS AGREEMENT MUST BE SIGNED BY ALL PARTNERS OR CONSORTIUM MEMBERS.

4. SHOULD ONE OR SEVERAL PROVISIONS OF THIS AGREEMENT TURN OUT TO BE INVALID, THE REMAINDER OF THIS AGREEMENT REMAINS VALID. IN THIS CASE, THE PARTIES WILL STRIVE TO COME TO AN AGREEMENT TO THEIR ORIGINAL INTENTIONS.

.....  
(FOR & ON BEHALF OF MMTC)  
BUYER/VENDOR/BIDDER)  
(OFFICE SEAL)

.....  
(FOR & ON BEHALF OF  
  
(OFFICE SEAL)

PLACE : .....

DATE : .....

WITNESS 1 : .....

NAME :

ADDRESS :

WITNESS 2 : .....

NAME :

ADDRESS :