

**MMTC Limited, RO Ahmedabad**  
**(A GOVERNMENT OF INDIA ENTERPRISE)**  
2, Nagindas Chambers Ashram Road Usmanpura Ahmedabad 380014

**Registered office CORE-1, SCOPE COMPLEX, 7,  
INSTITUTIONAL AREA, LODHI ROAD,  
NEW DELHI – 110 003 TELPHONE NO: 011-24362200 ext 1483, 011-24361560**

**REQUEST FOR PROPOSAL (RFP)**  
**Tender Notification for “COMPREHENSIVE ANNUAL MAINTENANCE OF**  
**COMPUTERS, SERVERS, LAPTOPS,**  
**AMC WITH BACK TO BACK LOGISTICS TIE UP WITH ORIGINAL VENDOR**  
**INSTALLED IN MMTC LIMITED, Ahmedabad.”**

<b>Tender no. &amp; date</b>	MMTC/AHD/COMP/AMC/13-14/1 dated. 18.11.2013
<b>Earnest Money</b>	Rs. 25,000/- (Rs. Twenty Five Thousand only) favouring MMTC Limited.
<b>Cost of Tender Document</b>	NIL
<b>Last Date and Time of submission of tender</b>	Up to 15:00 hrs on 29.11.2013
<b>Date and Time of Opening of Tender</b>	15:15 hrs. On 29.11.2013
<b>Contact Person for Further Communication</b>	<b>Mr. S D Gangan</b> Sr.Manager (Systems), MMTC Limited, 2, Nagindas Chambers Ashram Road Usmanpura Ahmedabad 380014 Tel No: 079- 40244727 e-mail: sdgangan@mmtclimited.com

**Total No. of pages of the tender documents are 39 (Thirty Nine)**  
**pages.**

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## **SECTION I**

### **1.0 BACKGROUND**

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MMTC was established in 1963, and is today India's leading international trading company, with a turnover of over US\$ 12 billion. It is the first international trading company of India to be given the coveted status "SUPER STAR TRADING HOUSE" and it is the first Public Sector Enterprise to be accorded the status of "GOLDEN SUPER STAR TRADING HOUSE" for long standing contribution to exports. MMTC is the largest non-oil importer in India. MMTC's diverse trade activities encompass Third Country Trade, Joint Ventures, Link Deals - all modern day tools of international trading.

### **2.0 OBJECTIVE:**

MMTC Ro Ahmedabad intends to have comprehensive Annual Maintenance of Computers, laptops, Servers (amc with back to back logistics tie up with original vendor) installed in MMTC Limited, 2, Nagindas Chambers Ashram Road Usmanpura Ahmedabad 380014.

### **3.0 PRESENT IT SETUP**

MMTC has installed and commissioned the LAN and private WAN network at its Regional Office at Ahmedabad regional offices Existing WAN and LAN arrangement at Corporate Office and the Server constitutes of brand Xeon based server with RAID features, routers, switches and firewall etc.

### **4.0 ELIGIBILITY CRITERIA**

- 4.1 The Bidder company/firm/service provider should be registered in India.
- 4.2 The Bidder company/firm/service provider should have more than 5 years of experience in computer hardware & software maintenance field.
- 4.3 The Bidder company/firm/service provider should be financially sound i.e., it must have made profits in the immediately preceding three financial years. (Copy of audited annual accounts for the last three years should be enclosed.)

4.4 The Bidder company/firm/service provider should have an annual financial turnover of at least Rs. 1 Crore (Rupees One Crore) during the last Three (3) years.

4.5 The Bidder company/firm/service provider must have executed satisfactorily, a minimum of Three (3) AMC's of more than 200 computers in LAN environment for Ministries/Departments of Government of India/PSUs/Banks with at least one (1) ongoing contract with such departments. (sanction letters of the contracts may be attached). **Performance certificate from these organizations along with copies of the sanction letter may be attached.**

4.6 The Bidder company/firm/service provider must have a Service Tax Registration Number and PAN Number. (Enclose attested copy of the relevant document).

4.7 The Bidder company/firm/service provider should have its own office(s) at Ahmedabad for the systems service support.

**Supporting document(s) to be enclosed for above or else bids will be rejected**

## **5.0 DISCLAIMER**

5.1 The information contained in the Request for Proposal (RFP) document provided to Bidders on behalf of MMTC is being provided to all interested Bidders on the terms and conditions set out in this RFP document.

5.2 This RFP document is not an agreement and is not an offer or invitation to any other party. The purpose of this RFP document is to provide Bidders with information to assist the formulation of their proposal submission. This RFP document does not purport to contain all the information Bidders may require. This RFP document may not be appropriate for all persons, and it is not possible for MMTC to consider the investment objectives, financial situation and particular needs of each Bidder. Each Bidder should conduct its own investigation and analysis, and should check the accuracy, reliability and completeness of the information in this RFP document and obtain independent advice from appropriate sources. MMTC and their advisors make no representation or warranty and shall incur no liability financial or otherwise under any law, statute, rules or regulations as to the accuracy, reliability or completeness of the RFP document.

5.3 MMTC may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information in this RFP document.

**6.0 MMTC reserves the right to accept or reject any quotation, and to annul the quoting process and reject all quotations, at any time prior to the award of contract without assigning any reason whatsoever and without thereby incurring any liability to the affected Company/Firm or Company/Firms on the grounds for the Purchaser's action.**

## SECTION II

### SCOPE OF WORK

#### 1.0 Scope and Services

The Bidder company/firm/service provider should agree to maintain systems and peripherals as listed in Section-IV in accordance with the provisions laid down in the tender document, at yearly charges as given in the contract.

The Service Provider should provide the following type of services

- i. Preventive maintenance
- ii. Corrective maintenance
- iii. Software services for system operations
- iv. Assistance in H/w & S/w Upgradation

#### 1.1

a. The Service Provider shall provide for maintenance/service from 9:15 A.M. to 5:45 P.M Monday to Friday, except holidays in MMTC, to keep the equipments in good working order. The repair work shall be carried out at the location of the equipment except in exceptional circumstances when the equipment or any component may be required to be taken out for repairs in workshop.

Service Provider agrees to provide the following services under the contract to keep the systems & peripherals in good working order.

1.2 Maintain the systems inventory details of all the items under the scope of contract which would be taken to service centre for necessary repairs in proper manner.

1.3 Scheduled Preventive Maintenance (PM) once in three Months for all systems, printers etc covered under this contract. PM can be clubbed with corrective maintenance. Service Provider would maintain the preventive maintenance record in a separate register exclusively meant for this task.

1.4 Unscheduled, on call corrective and remedial maintenance service to set right the malfunctions of the system. This includes replacement of unserviceable parts. The parts replaced will either be a new part or equivalent in performance to new part. Whether defective item/components is to be replaced or repaired shall be at the sole discretion of Service Provider.

- 1.5 Operating System (OS) Support: This contract is comprehensive inclusive of OS support on all the systems covered under this contract. Any problem related with OS maintenance, reloading of OS with all device drivers, OS upgrade, System configuration and network configuration will be attended & rectified by Service Provider. Service Provider would provide all required device drivers. For OS up gradation MMTC will provide a set of OS upgrade software.
- 1.6 Anti Virus Software Support: This contract includes the Anti-virus software support on the systems covered under this contract. Any problem related with System Virus will be attended and rectified by the service provider engineer. Service Provider will update the anti virus software as and when required and also during preventive maintenance of the systems of the anti-virus software provided by MMTC.
- 1.7 Installation of client software(s) and other application tools as desired by MMTC at client systems.
- 1.8 Online support to users in systems, application and printer configuration.
- 1.9 Update of the software/drivers required for the networking components during the contract period.
- 1.10 Half-yearly cleaning of hardware using standard isopropyl alcohol.
- 1.11 AMC Provider will replace/repair damaged/broken Mouse and Keyboards.

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## **SECTION III**

### **INSTRUCTIONS, GENERAL AND SPECIAL TERMS & CONDITIONS TO BIDDERS**

#### **1.0 Definitions:**

- (a) “The Purchaser” means MMTC Limited
- (b) “The Bidder” means the individual or firm or Service provider who participates in this tender and submits its bid.
- (c) “The Supplier” means the individual or firm supplying the services under the contract.
- (d) “The Services” means all the services and/or other materials, which the Supplier is required to supply to the Purchaser under the contract.
- (e) “The Purchase Order” means the order placed by the Purchaser on the Supplier signed by the Purchaser including all attachments and appendices thereto and all documents incorporated by reference therein. The purchase order shall be deemed as “Contract” appearing in the document.
- (f) “The Contract Price” means the price payable to the Supplier under the purchase order for the full and proper performance of its contractual obligations.

#### **2.0 General**

- 2.1 The Tender shall be submitted in two parts in two separate envelopes:
  - (i) Technical Bid
  - (ii) Commercial Bid
- 2.2 MMTC reserves the right to revise or alter the scope of work before acceptance of any bid. In case the services offered deviates from the scope of services as described in this RFP, the Bidder should describe unambiguously in what respect and to what extent the services offered by him differs from our specification even if the deviation is not very material.



### **3.0 Cost of Bidding**

3.1 The bidder shall bear all costs associated with the preparation and submission of the offer and MMTC shall in no case be responsible or liable for such costs regardless of the result of the tendering process.

### **4.0 The Bid Documents**

4.1 The services required, bidding procedures and contract terms are prescribed in the Bid Documents. The Bid Documents include:

- (a) Notice Inviting Tender (Section I)
- (b) Scope of Work (Section-II)
- (c) Instructions, General conditions & Special Conditions to the Bidders (Section III)
- (d) Technical Bid – Bid Particulars (Form A1)
- (e) Technical Bid – Bidder’s Experience (Form A2)
- (f) Technical Bid – Technical – Compliance Statement for Eligibility Criterion (Form A3)
- (g) Technical Bid – Technical - Terms and conditions as agreed. (Form A4)
- (h) Technical Bid – Statement of Deviation (Form A5)
- (i) Financial Bid - Commercial for AMC of Computers and Peripherals (Section IV)
- (j) Performance Guarantee Performa (Annexure-I)
- (k) Non-Disclosure Agreement Performa (Annexure-II)

The Bidder is expected to examine all instructions, forms, terms and specifications in the Bid Documents. Failure to furnish all information required as per the Bid Documents or submission of bids not substantially responsive to the Bid Documents in every respect will be at the bidder’s risk and shall result in rejection of the bid.

### **5.0 Responding to Bid**

5.1 Technical and Commercial Bid should be sealed separately, marked clearly and should be enclosed in another cover while submitting the bid. The envelope enclosing Technical bid should be superscripted with the words “TECHNICAL BID for Comprehensive Annual Maintenance of Computers and Peripherals installed in MMTC Limited, Ahmedabad”.

5.2 The envelope enclosing Commercial Bid should be superscripted with the words “COMMERCIAL BID for Comprehensive Annual Maintenance of Computers and Peripherals installed in MMTC Limited, Ahmedabad”.

5.3 Envelope containing envelopes for Technical and Commercial Bid shall be superscripted with the words “TECHNICAL and COMMERCIAL BID for Comprehensive Annual Maintenance of Computers and Peripherals installed in MMTC Limited, Ahmedabad.” Each envelope shall also bear the following details on the bottom left of the sealed cover:

- (a) Name of the Bidder (Firm/Company/Service provider) & Address
- (b) Name of the Contact person
- (c) Postal Address, telegraphic address and telephone Number of the contact person

**5.4 Documents to be enclosed with the Technical Bid: -**

The Bidder shall respond to Form A1 to A5 and **submit EMD with Technical Bid.** The bidders shall respond to all articles of the offer in the same sequence and shall clearly indicate whether they accept each article separately. Each article shall be answered. The articles, which are not answered, shall be considered as “non-adhered”. The bidders shall never use such vague answers as “not clear”, “not understood” etc. submit the following details (Form A1 to Form A5) in the technical bid envelope

- Technical Bid – Bid Particulars (Form A1)
- Technical Bid – Bidder’s Experience (Form A2)
- Technical Bid – Technical – Compliance Statement for Eligibility Criterion (Form A3)
- Technical Bid – Technical - Terms and conditions as agreed. (Form A4)
- Technical Bid – Statement of Deviation (Form A5)

**Technical Bid not secured by EMD will be rejected by MMTC.**

**The documentary evidence in respect of all the above points would have to be provided while submitting Technical bids. Technical Bids not accompanied by documentary evidence are liable to be rejected.**

**5.5 Documents to be enclosed with the Commercial Bid: -**

5.5.1 The Bidder shall respond to Sections IV.

5.5.2 The Prices quoted in the Commercial Bid should be inclusive of all taxes, duties, and expenses payable to any party or Government. Statements such as “Taxes as applicable” will not be entertained.

**5.6 The Technical bid will be opened in the presence of the authorized representative of the bidder at 1515 Hrs on 29 Nov 2013. The person intend**

**to attend the opening should bring authorization letter for the same from the company.**

## **6.0 Clarification of Bid Documents**

6.1 Any bidder requiring any clarification of the bid documents may notify MMTC in writing or by fax. MMTC shall respond in writing or by fax to any request for clarification, which is received by 27 **Nov 2013, 1500hrs.**

## **7.0 Amendments of Bid Documents**

7.1 MMTC reserves the right to make revisions or amendments to the tender documents prior to the closing date of the tender. Such revisions or amendments shall be announced by an addendum or addenda. In such case, the addendum shall include an announcement of the new closing date set for the submission of offers, if any.

7.2 The amendments shall be notified on [www.mmtclimited.com](http://www.mmtclimited.com) and <http://eprocure.gov.in/epublish/app> these amendments will be binding on bidders.

7.3 In order to afford the prospective dealers reasonable time to take the amendments into account in preparing their bids, the Purchaser may, at its discretion, extend the deadline for the submission of bids suitably.

## **8.0 BID PRICES**

8.1 The bidder shall give the total composite price inclusive of all levies & taxes, packing, forwarding, freight and insurance etc. The basic unit price and all other component of the price need to be individually indicated against the services/services it proposes to supply under the contract. Prices of incidental services should also be quoted. The offer shall be firm in Indian Rupees. No Foreign exchange will be made available by the purchaser.

8.2 The prices quoted by the bidder shall remain fixed during the entire period of contract and shall not be subject to variation on any account. A bid submitted with an adjustable price quotation will be treated as non-responsive and rejected.

8.3 The unit prices quoted by the bidder shall be in sufficient detail to enable the purchaser to arrive at prices of services offered.

8.4 "DISCOUNT, if any, offered by the bidders shall not be considered unless they are specifically indicated in the price schedule. Bidders desiring to offer discount shall therefore modify their offers suitably while quoting and shall quote clearly net price taking all such factors like discount, free supply, etc. into account".

8.5 The prices stated shall also include all rights (if any) of patent, registered design or trade mark and the bidder shall be responsible against all claims, whatsoever, in this respect.

8.5 No increase, decrease, discount, reduction or any other change in the prices or conditions shall be acceptable after opening of the Bids.

## **9.0 Documents establishing services conformity to bid documents:**

9.1 The documentary evidence of the 'services and services' conformity to the Bid Documents may be in the form of literature, drawings, data etc and he shall furnish:

- a. detailed description of the services with essential technical and performance characteristics;
- b. clause-by-clause compliance on the Purchaser's technical Specifications and Commercial Conditions demonstrating substantial responsiveness to the Technical Specification and Commercial conditions. In case of deviations, a statement of deviations and exceptions to the provision of the Technical Specifications and commercial conditions shall be given by the bidder. A bid without clause-by-clause compliance of Technical specification (Section III to VII) and Commercial & General Conditions (Section II and VIII to X ) shall not be considered.**

## **10.0 Bid Security:**

10.1 The bidder shall furnish, as part of his bid, an EMD for an amount of Rs. 25,000 (Rupees Twenty Five Thousand only).

10.2 The EMD is required to protect the Purchaser against the risk of bidder's conduct, which would warrant the security's forfeiture, pursuant to para 10.7.

10.3 The EMD shall be in the form of a Pay order/DD in favour of "MMTC Limited" payable at Ahmedabad and drawn on any nationalized or first class international bank.

**10.4 A BID NOT SECURED IN ACCORDANCE WITH PARA 10.1 & 10.3 SHALL BE REJECTED BY THE PURCHASER AS NON-RESPONSIVE at the bid opening stage and returned to the bidder unopened.**

10.5 The EMD of the unsuccessful bidder will be returned as promptly as possible, but not later than 30 days after the expiry of the period of bid validity prescribed by the Purchaser, pursuant to clause 8.0.

10.6 The successful bidder's EMD will be discharged upon the bidder's acceptance of the advance purchase order satisfactorily in accordance with clause no. 19 and furnishing the performance security.

10.7 The EMD may be forfeited:

(i) If a bidder withdraws his bid during the period of bid validity specified by the bidder on the Bid form,

**or**

(ii) In the case of a successful bidder, if the bidder fails:

(a) to sign the contract in accordance with clause 20 or

(b) to furnish Performance Guarantee in accordance with clause.

### **11.0 Period of validity of bids:**

11.1 The bidders shall hold valid their bids for 90 days from the date of bid opening. In exceptional circumstances, prior to the expiry of the original bid validity period, MMTC may request the bidders for a specified extension of the period validity of bid. The request and the response thereto shall be made in writing. A bidder may refuse the request for extension without forfeiting his Bid Security. A bidder agreeing to the request shall not be permitted to modify his bid, but required to extend the validity correspondingly.

### **12.0 Format, signing and marking of bids:**

12.1 The Bid shall be typed or printed and all the pages numbered consecutively and shall be signed by the bidder or a person or persons duly authorized to bind the bidder to the contract. **All pages of the original bid, except for un-amended printed literatures, shall be signed by the person or persons signing the bid. The Technical and Commercial bids submitted shall be sealed properly.**

12.2 The bid shall contain no interlineations, erasures or overwriting except as necessary to correct errors made by the bidder in which case such corrections shall be signed by the person or persons signing the bid.

12.3 The envelope shall be addressed to the Purchaser at the following address:

S D Gangan  
Sr. Manager(Systems)  
MMTC Limited  
Computer Division  
2, Nagindas Chambers Ashram Road Usmanpura Ahmedabad 380014

### **13.0 Submission of bids:**

- 13.1 Bids must be received by the Purchaser at the address specified under para 12.3 not **later than 15:00 hrs on 29<sup>th</sup> Nov 2013 .**
- 13.2 The purchaser may, at its discretion, extend this deadline for the submission of bids by amending the Bid Documents in accordance with Clause 7 in which case all rights and obligations of the Purchaser and bidders previously subject to the deadline will thereafter be subject to the deadline as extended.
- 13.3 Bid submitted by FAX/TELEX will not be accepted. Postal delay in submission will not be condoned.

### **14.0 Late bids:**

- 14.1 Any bid received by the Purchaser after the deadline for submission of bids prescribed by the Purchaser pursuant to Clause 13, shall **be rejected and returned unopened to the bidder.**

### **15.0 Clarification of bid**

- 15.1 To assist in the examination, evaluation and comparisons of bids, the purchaser may, at its discretion, ask the bidder for the clarification of its bids. The request of clarification and the response shall be in writing. **However, no post bid clarification at the initiative of the bidder shall be entertained.**

### **16.0 Contacting the purchaser:**

- 16.1 Subject to Clause 15, no bidder shall try to influence the Purchaser on any matter relating to its bid, from the time of the bid opening till the time the contract is awarded.

- 16.2 **Any effort by a bidder to influence the Purchaser in the Purchaser's bid evaluation; bid comparison or contract award decisions shall result in the rejection of the bid.**

### **17.0 Award of contract:**

- 17.1 The Purchaser shall consider placement of orders for commercial supplies on those bidders whose offers have been found technically, commercially and financially acceptable and whose services have been validated by the Purchaser.

### **18.0 Acceptance of Bid:**

18.1 The Purchaser reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids, at any time prior to the award of contract without assigning any reason whatsoever and without thereby incurring any liability to the affected bidder or bidders on the grounds for the Purchaser's action.

18.2 A Technical Committee may be constituted to scrutinize/finalize the Contract. The Committee reserves the right to reject any or all the tenders without assigning any reason thereof.

**19.0 Issue of Letter of Intent/ Advance Purchase Order:**

19.1 The issue of a Letter of Intent/ Advance Purchase Order shall constitute the intention of the Purchaser to enter into the contract with the bidder.

19.2 The bidder shall within Seven (7) days of issue of the Letter of Intent/ Advance Purchase Order, give his acceptance along with performance guarantee in conformity with (Annexure-I) provided with the bid documents.

**20.0 Signing of Contract:**

20.1 The issue of Purchase Order shall constitute the award of contract on the bidder.

20.2 Upon the successful bidder furnishing the Performance Guarantee pursuant to Clause 19, the Purchaser shall discharge its bid security, pursuant to clause 10.

**21.0 Annulment of award:**

21.1 Failure of the successful bidder to comply with the requirement of Clause 20 shall constitute sufficient ground for the annulment of the award and forfeiture of the bid security in which event the Purchaser may make the award to any other bidder at the discretion of the Purchaser or call for new bids.

**22.0 Signing of the Non-Disclosure Agreement (NDA).**

22.1 The successful Bidder shall be required to enter into a formal Non – Disclosure Agreement (Annexure II) with MMTC within Thirty (30) days of the award of the Contract or within such extended period, as may be specified by MMTC.

**23.0 Inspection of Site:**

23.1 The Purchaser shall have the right to inspect the infrastructure of the Bidder pursuant to Form A-1.

## **24.0 Prices:**

24.1 (a) Prices charged by the Supplier for services performed under the contract shall not be higher from the prices quoted by the Supplier in his Bid.

(b) In the case of revision of Statutory Levies/Taxes during the finalization period of the tender the Purchaser reserves the right to ask for reduction in the prices.

24.2 (a) Price once fixed will remain valid for the period of delivery. Increase and decrease of taxes and other statutory duties will not affect the price during this period.

(b) In case of delayed supplies after delivery period and advantage of reduction of tax would be passed on to the purchaser and no benefit of increase in price will be permitted to the supplier if there is any increase in tax.

## **25.0 Changes in Purchase Orders:**

25.1 The purchaser may, at any time, by a written order given to the Supplier, make changes within the general scope of the contract in any one or more of the following.

- i. The place of delivery; or
- ii. The services to be provided by the Supplier.

## **26.0 Termination for Default:**

26.1 The Purchaser may, without prejudice to any other remedy for breach of contract, by written notice of default, sent to the Supplier, terminate this Contract in whole or in part.

- i. If the Supplier fails to deliver any or all of the services within the time period(s) specified in the Contract, or any extension thereof granted by the Purchaser;
- ii. If the Supplier fails to perform any other obligation(s) under the Contract; and
- iii. If the Supplier, in either of the above circumstances, does not remedy his failure within a period of 7 days (or such longer period as the Purchaser may authorize in writing) after receipt of the default notice from the Purchaser.

26.2. In the event of Purchaser terminates the contract in whole or in part, pursuant to clause 26.1 the Purchaser may proceed, upon such terms and in such manner as it deems appropriate, services similar to those undelivered and the Supplier shall be liable to the Purchaser for any excess cost for such similar



services. However, the Supplier shall continue performance of the contract to the extent not terminated.

## **27.0 Set Off**

27.1 Any sum of money due and payable to the supplier (including security deposit refundable to him) under this contract may be appropriated by the purchaser or any other person or persons contracting through the purchaser and set off the same against any claim of the Purchaser or such other person or persons for payment of a sum of money arising out of this contract or under any other contract made by the supplier with the Purchaser or such other person or persons contracting through purchaser.

## **28.0 Performance Guarantee:**

28.1 The successful bidder is required to submit a Performance Guarantee (Annexure-I) as per Purchaser's prescribed Performa on an appropriate value of stamp paper within a period of 5 days from the date of written notification of award to be made to the Bidder, calculated at the rate of ten percent (10%) on the contracted value. This will be issued by a nationalized bank in India, valid until the termination of the warranty period. No contract shall be executed prior to submission of the required Performance Guarantee. All expenses, commissions and interests related to issuance and surrendering of the Performance Guarantee, accrued to the Bank, shall be at the sole cost of the bidder. Such Performance Guarantee shall be valid until such date as the delivery of the services has been completely affected and the warranty period has expired. The bidder, who has caused and delivered the Performance Guarantee, shall not be entitled to put forth any accrued interests thereon. The Performance Guarantee amount shall be available, if invoked, at the counters of bank in Ahmedabad within banking hours on the date of presentation.

28.2 Failure of the successful bidder to comply with the above requirements shall constitute a sufficient ground for the annulment of the award and forfeiture of the EMD.

## **29.0 Contract Period**

29.1 For the equipments under maintenance the AMC will be valid for the period **06-12-2013 to 05-12-2014.**

29.2 This contract may be renewed for further period of one year with same terms and conditions, provided MMTC is satisfied with the services of Service Provider or on the terms & conditions mutually agreed by MMTC and Service Provider. The Service Provider shall not have any objection regarding the third party hardware installation by MMTC during the contract period.

### **30.0 Terms of Payment**

30.1 No advance payment in any case would be made.

30.2 Payment will be made on quarterly basis i.e. at the end of every quarter through e-payment only. For ensuring e-payment, the service provider would complete all formalities in regard to payment through electronic mode.

30.3 The payment would be made against the invoice (in triplicate) mentioning the details of equipment that come in the maintenance.

30.4 The payment would be made after deducting necessary taxes applicable, if any.

30.5 Service Provider will have to submit a Bank Guarantee of 10% value of total annual AMC charges. The Bank Guarantee can be invoked at any stage of agreement in case Service Provider fails to deliver services to the satisfaction of MMTC.

30.6 The number of equipments for AMC is liable to vary from time to time and payment may be made on prorata basis for the period equipment has been under AMC at the rate application for the said equipment. In case within the contract period, for any reasons, the systems under maintenance are disposed off by MMTC, the contract amount for that particular system shall be repaid by the Service Provider, or deducted from the amount payable by MMTC, on a pro rata basis.

30.7 MMTC Limited will make payment through e-payment mode only. For ensuring e-payment, the service provider would complete all formalities in regard to payment through electronic mode. The payment would be made after deducting necessary taxes applicable, if any

**The above payment terms would be strictly followed. Bidders are requested not to indicate their own payment terms.**

### **31.0 Indemnity:**

31.1 The Bidder shall at all times indemnify Purchaser, being unlimited with the time, against all claims which may be made in respect of the said work for infringement of any rights protected by patent registration, design or trade mark. In the event of any claim in respect of any alleged breach of a patent, registered design or trade mark being made against Purchaser, it shall notify to the Bidder and the Bidder shall at his own expense, either settle any such dispute or conduct any litigation that may arise, there from.

### **32.0 Liquidated Damages:**

32.1 The timely delivery of the material is essence of the contract. In the event of supplier's failure to deliver the material within the stipulated delivery period, the liquidated damages are payable by them @ 2 % per week of the unexecuted order value subject to a maximum of 10% of total order value.

### **33.0 Force Majeure:**

33.1 The Force Majeure condition may include but not limited to Fires, explosions, floods, earthquakes, strikes, mobilization, wars, acts of God, acts of Government, etc.

33.2 The contract delivery period may be extended in case of Force Majeure condition. In order to be able to obtain an extension to the contract delivery period, the bidder shall promptly notify MMTC advising the existence of such an event, not later than two weeks of such event happening and produce the necessary documents such as a certificate of Chamber of Commerce or any other competent authority indicating the scope; of such an event, and its impact on the performance of the contract and show that such an event is not attributable to any failures on its part.

### **34.0 Arbitration:**

34.1 All disputes or difference whatsoever arising between the parties out of or relating to the construction, meaning and operation or effect of this contract or the breach thereof shall be settled by reference to arbitration by a sole arbitrator to be nominated by the Chairman & Managing Director (CMD) of MMTC Limited. The award made in pursuance thereof shall be binding on both parties.

34.2 The venue of arbitration shall be Ahmedabad.

## **Other Special Terms and Conditions**

**35.0** System maintenance charges shall not include the cost of consumables and supply items such as ribbons, media like magnetic tapes, cartridges, printer bands, floppy diskettes, print heads, computer stationery & CDs. Service Provider will repair the faulty power adapter, power cable & printer interface cable. Engineer will install print heads for Dot Matrix Printers, however print heads will be provided by MMTC. Laser/Inkjet Printer maintenance charges include all parts except Toner/Ink etc.

**36.0** New equipment purchased from time to time will be included In AMC as soon as warranty expires or after the expiry of the common date of warranty. This will be done through Addendum signed by MMTC and Service Provider.

**36.1** The Bidder should preferably be a Authorized and Valid partner as on date of the Original supplier/vendor for genuine back to back inventory/logistic support and should also attach copy of documentary proof of the same

**37.0** MMTC personnel will be responsible for operating the systems and peripherals, during the period of contract, MMTC will restrict to operational activities only and will not repair/ maintain any equipment.

**38.0** The equipment will be handed over back to MMTC after the AMC period in good working condition.

**39.0** Incase MMTC decides to withdraw any equipment from contract during the AMC period; the same would be taken out of this contract with written information to Service Provider.

#### **40.0 Call Registrations and Completion**

40.1 All the maintenance calls will be logged using the complaint e-mail ID or the Call Register maintained in the Computer Division or any other mutually agreed location.

40.2 Details of the maintenance calls will be entered in the MMTC's Call Registration software. Submission of daily report of the maintenance/complaint calls is mandatory & is to be signed by the nodal service engineer deputed by service provider.

#### **41.0 Care of the equipment**

MMTC shall help to maintain the normal environment and other site conditions for its equipment's.

#### **42.0 Movement of equipments**

42.1 In respect of any movement of the equipment covered under the contract out of MMTC premises, all risks of damages and loss either in the transit or at the premises of Service Provider shall be to Service Provider's account. However Service Provider shall not be liable for any damages/loss, which may occur as a result of transfer of the system without the assistance by Service Provider's Engineer in this respect.

42.2 During the period of such movement all charges actually borne towards freight/transportation shall not be made to Service Provider by MMTC.

**43.0 Uptime Guarantee**

43.1 The SERVICE PROVIDER shall guarantee a minimum uptime of 99% during the maintenance period. The Service Provider shall always maintain a detailed 'breakdown and repair' records of scheduled equipment

43.2 In case of major break down or occurrence of any major obstacle in functioning of the scheduled equipment, the Service Provider shall ensure that the same is repaired within 24 hours. **In case of failure to repair the same within stipulated time the Service Provider shall provide an equivalent stand by equipment, without any additional charges.**

**43.3** The SERVICE PROVIDER shall keep one (1) standby working condition desktops & spares viz networkcard/powersupply/mouse/keyboard.

**44.0 Liability**

44.1 The Service Provider shall be liable for any loss or damage to the scheduled equipment caused due to negligence of the Service Provider during the contract period. The Service Provider shall make good the loss or damage to the scheduled equipment caused due to negligence.

**45.0 Easy Access and Co-operation**

45.1 MMTC shall give Service Provider full and free access to the access to the equipment's to enable Service Provider to provide maintenance services and make available to Service Provider the services of MMTC's staff that are familiar with the application programs and provide suitable working space and facilities for keeping the spare parts.

**46.0** The Service Provider shall not depute any engineer below the age of 18 years to this office.

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**Technical Bid**

**FORM A-1**

**BIDDER'S PARTICULARS**

1.	Name of the Company/Firm/Sole Proprietorship			
2.	Registered office Address			
3.	Office for correspondence: Contact person's name Designation Address Telephone No/s, Mobile No. Fax No/s E-mail ID			
4.	Financial (for last 3 years) :	2012-13	2011-12	2010-11
	Turnover (Rs. In lakhs)			
	Profit after Tax ( ,, )			

## Technical Bid

### FORM A-2

#### BIDDER'S EXPERIENCE

1	Name & Address of the Client	
2	Type of Client (Government/Semi-Government etc.) Place (s) of Service (List of places/Venues where Service was provided)	
3	Period of Project	
4	Total Number of Manpower deployed	
5	Approximate value of Service (in Indian Rs.)	
6	Details of Hardware & number under AMC,	
7	Specify Whether any termination of contract or litigation or arbitration was involved	
8	Name, title & Address of the Client's person who can be contacted	

Signature of the Vendor

Name

Place

Date

Company Seal

**Note: Separate sheet for each projects/Clients shall be enclosed**

**Technical Bid**  
**FORM A-3**  
**Compliance Statement for Eligibility Criterion**

<u>S.No.</u>	<u>Description</u>	<u>Compliance (Y/N)</u>	<u>Documents attached, if any</u>
1	The bidder company/firm should be registered in India.		Please indicate bid page no. where document is attached
2	The bidder company/firm should have more than 5 years of experience in computer hardware & software maintenance field.		- do-
3	The Bidder company/firm should be financially sound i.e., it must have made profits in the immediately preceding three financial years. (Copy of Balance Sheet & P&L accounts for the last three years should be enclosed).		- do-
4	The Bidder company/firm should have an annual financial turnover of at least Rs. 100 Lakh (Rupees One Hundred Lakh) during the last 3 (Three) years.		- do-
5	The Bidder company/firm/service provider must have executed satisfactorily, a minimum of Three (3) AMCs of more than 200 computers in LAN environment for Ministries/Departments of Government of India/PSUs/Banks with at least one (1) ongoing contract with such departments. <b>Performance certificate from these organizations along with copies of the sanction letter may be attached.</b>		<b>Please write the name of organization.</b> 1. 2. 3. & so on.
6	The bidder must have a Service Tax Registration Number and PAN Number. (Enclose attested copy of the relevant document).		- do-
7	The Service Provider should have its own office(s) at Ahmedabad for the systems service support.		- do-
8	EMD amount of Rs. 25,000/- (Rupees Twenty Five Thousand only) attached. Please specify details of instrument.		- do-



**Technical Bid**

**FORM A-4**

**TERMS AND CONDITIONS AS AGREED**

Our Company/Firm is agreeable to the terms and conditions of the RFP. A copy of the same duly signed by us is attached.

Signature:

Name:

Designation:

Company/Firm:

Date:

Place:

**Technical Bid**

**FORM A-5**

**STATEMENT OF DEVIATION (s) FROM TENDER TERMS & CONDITIONS**

Dear Sirs,

Following are the deviations and variations from the tender terms and conditions. These deviations and variations are exhaustive. Except these deviation and variations, the entire Service shall be imparted as per your specifications and documents.

Sl. No.	Section No.	Clause No.	Page No.	Statement of deviations and variations.

Signature of the Vendor

Name

Place

Date

Company Seal

**SECTION – IV**  
**(Financial Bid)**

**Commercials for AMC of Computers and Peripherals**

MMTC LIMITED RO AHMEDABAD  
**List of inventory under comprhensive amc for the period**  
**6/12/2013 to 5/12/2014**

SR./No	CATEGORY	MAKE	MODEL NO	SERIAL NO	AMC type Rquired BACK to BACK From Original Vendor	Rate/Unit
1	SYSTEM	IBM	8196-LAD	2FZ8159	BACK to BACK From Original Vendor	
2	SYSTEM	IBM	8196-LAD	2FZ8181	BACK to BACK From Original Vendor	
3	SYSTEM	IBM	8196-LAD	2FZ8126	BACK to BACK From Original Vendor	
4	SYSTEM	IBM	8196-OA8	2FWZM00	BACK to BACK From Original Vendor	
5	SYSTEM	IBM	8196-OAW	2FWFM72	BACK to BACK From Original Vendor	
6	SYSTEM	IBM	8196-OAW	2FWFM87	BACK to BACK From Original Vendor	
7	SYSTEM	IBM	8196-OAW	2FWFM69	BACK to BACK From Original Vendor	
8	SYSTEM	IBM	8196-OAW	2FWFM66	BACK to BACK From Original Vendor	
9	SYSTEM	IBM	8196-OAW	2FWFN23	BACK to BACK From Original Vendor	
10	SYSTEM	IBM	8305-U9A	2FRDNYB	BACK to BACK From Original Vendor	
11	SYSTEM	IBM	8305-U9A	2FRDNXM	BACK to BACK From Original Vendor	
12	SYSTEM	IBM	8305-U9A	2FRDNYM	BACK to BACK From Original Vendor	
13	SYSTEM	IBM	8305-U9A	2FRDNYC	BACK to BACK From Original Vendor	
14	SYSTEM	IBM	8305-U9A	2FRDNYD	BACK to BACK From Original Vendor	
15	SYSTEM	IBM	8305-U9A	2FRDNXP	BACK to BACK From Original Vendor	
16	SYSTEM	IBM	8307-LA2	2FBFWDW	BACK to BACK From Original Vendor	
17	SYSTEM	IBM	8307-LA2	2FBFWFM	BACK to BACK From Original Vendor	
18	SYSTEM	IBM	8122-KOG	L9A6638	BACK to BACK From Original Vendor	
19	SYSTEM	IBM	8122-KOG	L9A6668	BACK to BACK From Original Vendor	
20	SYSTEM	IBM	8123-LO4	L9V0915	BACK to BACK From Original Vendor	

21	SYSTEM	HP	HP DX2480	SINA9080DMW	BACK to BACK From Original Vendor	
22	SYSTEM	HP	HP DX2480	SINA913037B	BACK to BACK From Original Vendor	
23	SYSTEM	COMPAQ	P-III	P152JKSZ0075	BACK to BACK From Original Vendor	
24	SYSTEM	COMPAQ	P-III	P152JFSZ0085	BACK to BACK From Original Vendor	
25	SYSTEM	COMPAQ	PRESARIO-SG10081L	INI5330024	BACK to BACK From Original Vendor	
26	SYSTEM	COMPAQ	DC7800C	INA83406WS	BACK to BACK From Original Vendor	
27	SYSTEM	LG	MODELXS9	NA	BACK to BACK From Original Vendor	
28	MONITOR	Samsung	17" Sync Master	MJ1744BY800910K	BACK to BACK From Original Vendor	
29	MONITOR	Samsung	17" Sync Master	MJ1744BY8009181	BACK to BACK From Original Vendor	
30	IBM X236	IBMSERVER	x236	99K2T20	BACK to BACK From Original Vendor	
31	IBM LAPTOP	IBM	Z60	L3A9168	BACK to BACK From Original Vendor	
32	DeLL Laptop	Inspirion	5520	CKRFMV1	BACK to BACK From Original Vendor	
					Total	

Please note while quoting above cost.

- i. All cost should be quoted. Non-quoting of any cost will disqualify the bid.
- ii. Costs should be indicated clearly.
- iii. The cost should be inclusive of Taxes/ VAT/any other taxes etc.
- iv. Prices should be indicated in Indian Rupees only and in the respective units indicated at each row.
- v. Prices should be mentioned against each column using both figures and words.
- vi. In case of any discrepancies in unit prices between the prices in figures and words, the prices quoted in words will be taken as authentic.
- vii. The number of units indicated against each item to be covered under AMC contract is near approximate & may undergo slight change.

**Evaluation Criteria:** The tender will be finalized on the basis of the total bid amount for the PCs/servers/laptop etc and not the items-wise lowest rates quoted by the bidders. i.e.

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**ANNEXURE-I**

**PERFORMANCE BANK GUARANTEE PERFORMA**

No. \_\_\_\_\_.

Date \_\_\_\_\_.

To  
MMTC Limited  
2, Nagindas Chambers Ashram Road Usmanpura Ahmedabad 380014

WHEREAS \_\_\_\_\_ (supplier name & address) (here in after referred to as the Seller) have entered into a contract with M/S. MMTC Limited, 2, Nagindas Chambers Ashram Road Usmanpura Ahmedabad 380014 (hereinafter called the "MMTC") bearing Contract No. dated \_\_\_\_\_ for the supply of \_\_\_\_\_ (Items) for a value of Rs. \_\_\_\_\_ (total purchase order value) (Rupees \_\_\_\_\_ (in words) and whereas the Seller has agreed to supply the computer hardware strictly as per the description. Specification and delivery schedule as mentioned in the aforesaid contract no. \_\_\_\_\_ dated \_\_\_\_\_ .

AND WHEREAS the seller is required to furnish a bank guarantee of the value of Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ )being 100% of the total value ) for the due performance of the contract in favour of the said MMTC. We \_\_\_\_\_ (name of the bank & address (hereinafter called the bank) do hereby irrevocably and unconditionally guarantee and undertake to pay to MMTC merely on demand in writing an amount not exceeding Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ (in words) without any demur, contestation, protest or reference to the seller or any other party if the seller fails to perform all or any of his obligations, or commit any breach of his obligation as described in the aforesaid contract. The decision of MMTC communicated in writing that the Seller has defaulted in performance of his obligations under the contract, shall be final and binding on us notwithstanding any contestation or protest by the seller. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs. \_\_\_\_\_ (in words).

We, \_\_\_\_\_ (banker's name and address) further agree that the guarantee here in contained shall remain irrevocable and continue in full force and effect upto \_\_\_\_\_ and that it shall continue to be enforceable till all the dues of MMTC under or by virtue of the said contract have been fully paid and its claims satisfied or discharged till MMTC certifies that the obligations of the said contract have been fully and properly carried out by the seller and accordingly discharge the guarantee. MMTC will have the right to file its claim under this contract for a further period of three months after the expiry of the validity of this guarantee.

We, \_\_\_\_\_ (bank name & address) further agree that MMTC shall have the fullest liberty without our consent and without affecting in any manner our obligations herein to vary any of the terms and conditions of the said contract or to extend time of performance by the seller from time to time or postpone for any time or from time to time any of the powers exercisable by MMTC against the seller and forbear or enforce any of the terms and conditions relating to the said contract and we shall not be relieved from our liability by reasons of any such variations or extentions being granted to the seller or for any forbearance, act or omission on the part of MMTC or any indulgence by MMTC to the seller , or by any latter or thing whatsoever , which under the law relating to the sureties would , but for this provision have the effect of so relieving us.

We, \_\_\_\_\_ (bank name & address) also undertake not to revoke the guarantee during its currency except with the previous consent of MMTC in writing. We, \_\_\_\_\_ (bank name & address) hereby undertake and guarantee to pay any money so demanded notwithstanding any dispute(s) raised by the said seller in any suite or proceeding pending before any

court or tribunal relating there to. Our liability under this premises being absolute and unequivocal. The payment so made by us under this guarantee shall be a valid discharge of our liability for payment there under and that the said Seller has no claim against us for making such payment.

Our liability under this guarantee is restricted to an amount of Rs. \_\_\_\_\_ (100% of PO value) (Rupees \_\_\_\_\_ (in words)). The guarantee shall remain valid up to unless a demand or claim under this guarantee is made on us in writing within three months thereafter. We shall be discharged from all liabilities under this guarantee thereafter. We further agree that this guarantee will not be affected in any manner whatsoever due to any change in the constitution of the Seller or the bank. We lastly undertake not to revoke this guarantee during its currency except with the previous consent in writing from MMTC.

Witness : 1.  
2.

(Authorised Signatory)  
(Signed with stamp & seal of the bank)

## ANNEXURE-II

### NON - DISCLOSURE AGREEMENT PROFORMA

This Non-Disclosure Agreement ("The Agreement") is signed on \_\_\_\_\_ day of \_\_\_\_\_ 2007, by and between ..... 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)

and

**MMTC Limited** having its office at 2, Nagindas Chambers Ashram Road Usmanpura Ahmedabad 380014("MMTC" which expression unless repugnant to the context or meaning thereof includes its successors, representatives and assigns).

WHEREAS:

- A. [INSERT NAME] is engaged in the business of, inter-alia, providing IT Security Consulting also services.
- B. MMTC is India's leading international trading company, with a turnover of over US\$ 5.5 billion. MMTC is the largest non-oil importer in India. MMTC's diverse trade activities encompass Third Country Trade, Joint Ventures, Link Deals - all modern day tools of international trading.
- C. MMTC, pursuant to its Tender dated \_\_\_\_\_, declared [INSERT NAME] as successful Bidder for its appointment as IT Security Consultant. Pursuant to appointment of [INSERT NAME] as IT Security Consultant, certain Confidential Information relating to MMTC's business may be disclosed by MMTC to [INSERT NAME] which shall be subject to the terms and conditions contained in this Agreement.
- D. Both Parties agrees that the security of IT infrastructure of MMTC is critical and the IT architecture/environment/reports needs to be analyzed and reviewed to ensure that MMTC's IT infrastructure remains secured to the best possible extent. Therefore *[INSERT THE NAME]* has agreed to observe and be bound by the restrictions and obligations relating to its use of such Confidential Information.

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

#### **1. 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 [please insert the name] or any of their Representative(s) relating to or in any way connected and relating to any of MMTC's business activities actual or proposed, IT Infrastructure, systems, marketing plans, agreements, methods, techniques, processes, theories, formulas, know-how, techniques, applications, systems, components, improvements, technology, market projections, sales records, software programs, test data, customers, customer lists, or any other information relating to MMC that [PLEASE INSERT THE NAME] becomes aware of whether or not disclosed by MMTC and whether such information is in tangible, 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 providing Consultancy for IT Security to be entered into between MMTC and [INSERT NAME] pursuant to the award letter dated \_\_\_\_\_ declaring [INSERT NAME] as successful Bidder for its appointment as IT Security Consultant.
- (c) "**Representatives**" means directors/partners, officers, agents, advisors, consultants or employees or respective shareholders or ultimate parent company, as the case may be of [Please Insert The Name].

## **2. Confidential Information and Protection:**

2.1 MMTC may, from time to time, disclose Confidential Information to [PLEASE INSERT THE NAME] and/or their Representatives for performance by [PLEASE INSERT THE NAME] of the Contract entered into between MMTC and [PLEASE INSERT THE NAME].

2.2 The [INSERT NAME] 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 [INSERT NAME] acknowledges and undertake:

- (a) to keep the Confidential Information in strict confidence for the entire duration of the Contract and for a period of ten years thereafter.;
- (b) without the prior written consent of MMTC, [INSERT NAME] will not disclose Confidential Information furnished to it to anyone other than its Representatives expressly approved by MMTC;



- (c) [INSERT NAME] shall procure 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 [INSERT NAME] approved Representatives, [INSERT NAME] shall further enter into agreements with its Representatives binding them to the same obligations to which [INSERT NAME] 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; and
- (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 [INSERT NAME] will contain proprietary assets, designs and other intellectual property rights with respect to the MMTC’s Products which are the exclusive property of MMTC and are critical for the business of the MMTC and its profitability, [INSERT NAME] agrees not to do anything which may, in any manner, whether directly or indirectly, affect the above proprietary rights, interest, business and profitability of MMTC.
- (h) The [INSERT NAME] will not copy or modify any Confidential Information without the prior written consent of MMTC. Any permitted reproduction of Confidential Information must contain all confidential or proprietary legends, which appear on the original. [INSERT NAME] shall immediately notify the disclosing party in the event of any loss or unauthorised disclosure or use of the Confidential Information.
- (i) [INSERT NAME] 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 MMCT 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 a recurrence of any unauthorized possession, use or knowledge of Confidential Information

3. The Undertakings in Clause 2 shall not apply to any Confidential Information which:

- (a) at the time of its disclosure to [INSERT NAME] is in the public domain;
- (b) In the event that [INSERT NAME] is required or requested by any court, legislative or administrative body to disclose any Confidential Information, then it shall prior to disclosure promptly notify MMTC or its any of its 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 [INSERT NAME] 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 will be accorded to the Confidential Information; and

#### **4. NO COMMITMENTS, WARRANTIES OR SOLICITATION**

- (a) The Confidential Information disclosed by MMTC to [INSERT NAME] shall be used by [INSERT NAME] strictly for the purposes expressly authorised by MMTC.

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 [INSERT NAME] 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 [INSERT NAME] the right to make representations and/or commitments of any kind on behalf of MMTC without the prior written consent of MMTC.

## **5 Return of Confidential Information**

- (a) Upon the written request of MMTC, the [INSERT NAME] 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;. [INSERT NAME] 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, [INSERT NAME] shall destroy all analyses, compilations, drawings, or other documents which have been prepared and which reflect any Confidential Information.

## **6 Indemnity; No Waiver; Specific Performance**

- (a) [INSERT NAME] shall indemnify, defend and hold harmless MMTC 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 [INSERT NAME].
- (b) [INSERT NAME] 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. Relationship of Parties**

MMTC has no obligation under this Agreement to purchase any service or item from [PLEASE INSERT THE NAME], 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 [PLEASE INSERT THE NAME] shall have the authority to bind MMTC without the separate prior written agreement thereof.

**8 No Grant of Property Rights**

[INSERT THE NAME] 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 General Provisions

- (a) MMTC has no obligation to supply Confidential Information hereunder and has no obligation to enter into any Contract with [PLEASE INSERT THE NAME] 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 [PLEASE INSERT THE NAME], and it shall not delegate its duties under this Agreement, without prior written consent of the other.

**10. TERM AND TERMINATION**

- (a) This Agreement shall enter 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 five years thereafter.
- (b) Notwithstanding clause 10 (a) above, MMTC may terminate this Agreement by giving a 30 days prior written notice to the other Party.

**11. CONSEQUENCES OF TERMINATION**

- (a) Upon termination of this Agreement, [INSERT NAME] 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 [INSERT NAME] or its Representatives.

(c) [INSERT NAME] shall cease use of any Confidential Information after the termination of this Agreement. This clause shall survive termination of this Agreement.

**12. GOVERNING LAW**

The Courts having territorial jurisdiction over Ahmedabad 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. ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement of the 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. DISPUTE RESOLUTION**

If any question, issue, difference or dispute arises between the Parties as to the interpretation of this Agreement or as to the duties or liabilities of either Party hereunder or as to any matter or thing arising out of or under this Agreement, the same shall be referred to and settled by a sole Arbitrator to be appointed by MMTC. The Arbitration proceedings shall be conducted at Ahmedabad, India in accordance with the Indian Laws (both Substantive and Procedural) under the Arbitration and Conciliation Act, 1996 as amended and re-enacted from time to time (“Act”) and the Award so made shall be final and binding on all the parties.

**15. SEVERABILITY**

If any term or provision of this Agreement is found by a court of competent jurisdiction or by a duly appointed Arbitrator under clause 13 of this Agreement, to be invalid, illegal or otherwise unenforceable, 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.

16. **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) MMTc LIMITED

2, Nagindas Chambers Ashram Road Usmanpura Ahmedabad 380014

(b) [INSERT NAME]

\_\_\_\_\_

\_\_\_\_\_

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.

1. signed and delivered by:

MMTC LIMITED

2, Nagindas Chambers Ashram Road Usmanpura Ahmedabad 380014

2. signed and delivered by:

[INSERT NAME]

In the presence of the following witnesses:

1.

2.