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***MMTC INVITES OFFERS FOR IMPORT OF RBD PALMOLEIN***

***TENDER FOR IMPORT OF RBD PALMOLEIN (EDIBLE GRADE)***  
**TENDER NO.MMTC/AGRO/IMP/E.OIL/2013-14/32**  
**DATED 31/12/2013**

**Closes on 7<sup>th</sup> January, 2014 at 1100 Hrs (IST)**

***COPY OF TENDER DOCUMENT CAN BE OBTAINED FROM GENERAL MANAGER(AGRO) OR  
CAN BE DOWNLOADED FROM OUR WEB SITE:***

**[www.mmtclimited.com](http://www.mmtclimited.com),**

**&**

**<http://eprocure.gov.in>**



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**TENDER FOR IMPORT OF RBD PALMOLEIN**  
**TENDER NO.MMTC/AGRO/IMPE.OIL/2013-14/32**  
**DATED 31<sup>th</sup> December, 2013**

**CLOSING AT 1100 HRS IST ON 7<sup>th</sup> January, 2014**

**TERMS AND CONDITIONS OF TENDER**

**1. INVITATION FOR BIDS**

MMTC LIMITED ( A GOVT. OF INDIA ENTERPRISE), 7, INSTITUTIONAL AREA CORE-1, SCOPE COMPLEX, LODHI ROAD, NEW DELHI-110-003 (INDIA) invites bids for import of Edible Oils as per the terms and conditions prescribed hereunder:-

**2. COMMODITY**

R B D PALMOLEIN (EDIBLE GRADE) IN BULK

**3. SPECIFICATIONS:-**

**R B D PALMOLEIN (EDIBLE GRADE)**

| GRADING FACTORS   | SPECIFICATIONS   |
|---|------------------|
| FFA (AS PALMITIC)   | 0.1 PCT. MAX.    |
| MOISTURE AND IMPURITIES                                     | 0.1 PCT MAX.     |
| MELTING POINT   | 23 DEG C MAX.    |
| IODINE VALUE  | 56 MIN.          |
| COLOUR  | 3 RED MAX.       |
| REF.INDEX AT 40 DEG C                                       | 1.4550-1.4610    |
| UNSATONIFIABLE MATTER (MAX.)                                | 1.2%             |
| SAPONIFICATION VALUE  | 195-205          |
| PEROXIDE VALUE EXPRESSED AS MILLI EQUIVALENT OF PER KG(MAX) | 5.00             |
| CLOUD POINT   | 10 Degree C Max. |

**4. QUANTITY, SHIPMENT SCHEDULE & DISCHARGE PORTS**

| TYPE OF OIL   | QUANTITY<br>(Buyer's Option) | SHIPMENT PERIOD                          | DISCHARGE PORT(S) |
|---------------|------------------------------|--|-------------------|
| RBD PALMOLEIN | 11,000 MT<br>+/- 2%          | IMMEDIATE, LATEST<br>BY 15 January, 2014 | KRISHNAPATNAM     |
| RBD PALMOLEIN | 11000 MT<br>+/- 2%           | IMMEDIATE, LATEST<br>BY 15 January 2014  | KAKINADA          |

**\* BIDDERS TO CLEARLY SPECIFY DISCHARGE PORT**

Offers to be made exactly as per the shipment periods mentioned above. Normally, no deviation in shipment period is allowed. MMTC, however, reserves the right to accept deviation in shipment schedule in case no valid bids are received for shipment schedule as asked above. Requests for Extension in shipment period will not generally be entertained. The Buyer may at his discretion, grant extension in shipment period under special circumstances subject to a rebate of USD 1 per MT per day payable by the Seller to the Buyer.

The penalty would be calculated on the basis of sailing of vessel and not on B/L date. Rebate should be provided in the Commercial invoice. In any case, such extension in shipment period would not exceed a maximum of 3 days; thereafter the Buyer shall have option to cancel the contract without any liability on his part and claim liquidated damages from the Seller. FOSFA contract terms would not apply to this extent.

Shipments to Kakinada/Krishnapatnam vessels sailing direct to the disports will be preferred. Part shipments are not allowed. In case of genuine difficulty in locating vessels of suitable size, part shipments can be considered subject to the condition that the buyer shall not be liable to pay discharge port demurrage, if any, for such vessels carrying part cargo.

**5. PRICE**

Price to be quoted as per format in Annexure-I in **US Dollars PMT CIF Landed Weight -Final** on one safe Indian port one safe berth basis.

**6. PACKING**

In bulk

**7. COUNTRY OF ORIGIN**

Indonesia and /or Malaysia

**8. VALIDITY**

Price Bids must remain valid up to 1600 hrs. Indian Standard Time (IST) on 7<sup>TH</sup> JANUARY, 2014.

**9. DEVIATIONS**

Normally, no deviations are allowed with respect to tender terms and specifications. MMTC, however, reserves the right to accept deviations in shipment schedule in case no valid bids are received for shipment schedule as asked for in Clause No. 4.

## 10. SUBMISSION OF BIDS

The offers are to be submitted under two Bid system i.e. First Bids Techno Commercial Bid should contain Quality & D&B Report (not more than 12 months old as on date of submission of bid), Bid Bond etc. The Second Bid i.e. PRICE BID should contain the details of Price , Quantity & shipment period offered. The two separate bids complete in all respects are to be addressed to the General Manager(Agro), MMTC Limited, 7, Institutional Area, Core-I, SCOPE Complex, Lodhi Road, New Delhi-110-003 in the two different sealed envelopes separately written as Technical Bid & Price Bid and should be deposited in the tender box on the 3<sup>rd</sup> floor at the above mentioned address latest by 1100 hrs, Indian time, 7<sup>TH</sup> JANUARY, 2014. Please note that offers sent through fax or mail will not be accepted.

11. The bids shall be opened at 11:10 hrs. IST on 7<sup>TH</sup> January, 2014. Bidders or their authorized representatives may attend the opening of the tender, if they wish to do so.

12. Offers should be submitted as per the bids format provided at Annexure -I & II of the tender dated 31/12/2013 in the organization's Letter Head.

The following is also to be complied with:-

- a) The bids should be submitted by the foreign supplier directly. In case, the bids are being submitted by **the authorized agent then the foreign supplier should make a request to MMTC directly stating that the authorized agent has been given the mandate to submit the bid for tender No. MMTC/Agro/Imp/E.Oil/2013-14/32 on their behalf. The authorization letter should be sent directly to MMTC on or before submission of the Bids.**
- b) Bidders who have never in the last five years supplied Edible Oils to MMTC may participate in the tender along with Bid Bond for 2% value of the quantity offered. If such offers are found to be Lowest, then the bidder shall have to immediately undertake to give to MMTC, and submit within 48 hours of bid opening, Performance Guarantee Bond for additional 4% of the value of the offered quantity, failing which the Bid Bond shall be forfeited.

**Such Bidders may also submit the following along with their Bid Bond prior to the opening of tender:-**

1. Brief details of company
  2. Audited balance sheet of the company for last three years
  3. If trader, give full details of refiner
  4. Total quantity exported during the last three years
  5. Total quantity exported to India during the last three years and also in respect of crude palm oil with name of major buyers in India.
  6. Latest Credit Rating Report of the company from Dun & Bradstreet
- c) The Buyer reserves the right to split the quantity and/or ask for additional quantity.
  - d) Letter(s) of acceptance will be issued by Fax or e-mail or Courier to the successful bidder(s) and or his/their Agents(s) in India within the validity of offer.
  - e) The Buyer reserves the right to accept or reject any or all bids wholly or partially or counter the bid(s) without assigning any reason thereof. The original bid to remain valid, even if the buyer gives a Counter during the validity period and such counter not being agreed to by the bidder.

f) Suppliers who have not settled / not started the process for settlement of MMTC's claims pertaining to previous contract(s), if the contract under this tender is awarded to them, shall be paid only 98% of the invoice value. Balance amount shall be paid after recovering the pending claim amounts and any other claim that may arise out of the latest contract.

13. **Copy of D&B report of the bidder (not more than 12 months old as on date of submission of bid) and Bid Bond in original can be submitted by post prior to opening of the bids. However, bidders who have submitted D&B report in earlier tender which is still valid and is as per eligibility criterion given below need not submit the report again. *They must mention in the tender in which report was submitted and their rating.***

**Eligibility**

- a) **D&B (Dun & Bradstreet) report of the bidder should not be more than 12 months old as on date of submission of bid.**
- b) **The D&B report of the bidder needs to be of minimum 'satisfactory' or equivalent ratings.**

**14. SHIPMENT**

- a) Afloat cargo and cargo under loading shall be accepted only after prior approval of buyer.
- b) A tolerance of 2 pct. more or less in quantity at seller's option is acceptable.
- c) **Commingling** with other cargoes of same grade is not allowed unless specifically agreed to by the **buyer in writing prior to shipment.**
- d) Partial shipment/transshipment not allowed.
- e) **Age of ships engaged should not exceed 25 years. No deviation in this regard would be allowed.**

**15. MARINE INSURANCE**

Insurance policy on SG Policy Form covering the consignment for 110% of the invoice value with underwriter of international repute having local representative and claim settling agent in India, in the currency of the contract (US DOLLARS) covering following for discharge at any Indian port(s).

“Against ‘All Risks’ from whatsoever cause or nature as per the Institute Cargo Clause (All Risks) including the risk of War and SRCC Risks as per Institute War Clauses (Cargo)-11-3-80 and Institute, Strikes, Riots and Civil Commotions Clause 1-1-63 both applicable to SG Policy Form irrespective of percentage including the risk of leakage and contamination, loss in weight resulting from reconditioning in the vent of contamination will be paid irrespective of percentage. The insurance Cover is from storage tanks of the Sellers to the storage tanks of buyers in India. Policy issued by more than one underwriter with or without indicating their percentage of interest is not acceptable.” Insurance Policy should not have any Excess Clause towards shortage claim settlements.

**16. POST LANDING SURVEY**

- a) Landed weight certified by an independent surveyor, appointed by Buyer at their cost, to be final and binding on both the buyer and seller. Weight as ascertained by calibrated

shore tanks at the time of discharge and duly certified by the independent surveyor shall be final for this purpose. Seller to settle the short-landing claim within one month of lodging the claim and if not settled within one month, the Buyer reserves his right to charge interest for the period of delay.

- b) In case of any damage to the cargo found at discharge port during joint survey, the claim shall be lodged by the buyer on the Seller.
- c) The discharging shall be allowed to commence by Buyer's surveyor on completion of formalities under intimation to the General Manager (Agro) as per address given in para 10 above.

## 17. PAYMENT

- a) MMTC would prefer payment on CAD basis.
- b) i) If CAD terms are not acceptable, 100% payment by Irrevocable, non-transferable Sight/Usance Letter of Credit.
- ii) Upon receipt of negotiating bank's authenticated SWIFT message certifying that the documents presented, comply with terms and conditions of the credit and claiming reimbursement, the amount claimed shall be remitted within five (5) working days from the date of receipt of original documents at the LC opening bank.
- iii) Discrepant documents, if any, will have to be sent on collection basis.

**Note: Please read clause 12(f) of this tender document which will be applied for payment to suppliers who have not settled claims of the buyer in respect of previous supplies.**

c) Following documents shall be required for negotiations:-

- i) Seller's signed Commercial Invoice in three (3) originals with three (3) copies for goods shipped on the basis of shipped weight showing inter alia quantity/description, quality of Edible Oil shipped, price and net Invoice value.
- ii) Complete set of Original Charter party Bill of Lading, marked "FREIGHT PREPAID" is made out to order of opening bank and blank endorsed, notify party "APPLICANT". Bill of Lading(s) to be signed by Master of the Vessel or by a named agent for and on behalf of the Master or the Owner of the Vessel.
- iii) Full Loading Survey Report & Certificate of Weight and Quality by the independent inspection agency of repute nominated by the Seller.
- iv) Certificate of origin issued by Chamber of Commerce in Country of origin or by Seller/Independent Surveyor provided shipment is made from Malaysian/Indonesian Ports.
- v) Health Certificate in original and three copies issued by Government nominated official agency in the country of origin or by reputed independent Inspection Agency to the effect that RBD Palmolein shipped is fit for human consumption.
- vi) Certificate to the effect that the Edible Oil shipped does not contain Beef Fat/Animal Fat.
- vii) Official stowage Certificate in original and three copies issued by independent surveyor of International repute stating that the vessel tanks were duly examined prior to commencement of loading and found clean, dry and suitable for loading of the RBD Palmolein.
- viii) Insurance Policy/Certificate in original

ix) A certificate from the shipping company or its agent stating that the vessel is classified by an approved classification society as per Institute classification clauses and classified as Lloyds 100A1 or its equivalent classification stating that the vessel is not more than 25 years old and is seaworthy. Invoice to certify that vessel is seaworthy.

x) Copy of sailing advise.

d) Negotiation of documents under reserve is not acceptable.

e) If L/C is required to be confirmed by any bank, such confirmation can also be arranged provided the bank charges involved are paid by the Seller.

f) Documents presented within the validity of L/C shall be acceptable.

g) Third Party documents, except commercial invoice and signed draft, is acceptable.

h) Documents issued prior to the opening of the L/C are acceptable subject to prior approval of the buyer.

i) L/C to be valid for negotiations for 21 days after shipment.

## 18. DOCUMENTS

The Seller shall send by fax/email, followed by courier, to General Manager (Agro), MMTC Limited, New Delhi (India) as per address given in para (10) above, three sets of non-negotiable documents prior to the arrival of vessel. The Seller shall also ensure that original shipping documents presented to the negotiating bank are received by the L/C opening bank in India before arrival of the cargo. If these documents are not received by MMTC's bank before the cargo arrival, **the Seller shall instruct the Owner/Master to deliver the consignment to MMTC against MMTC's own Letter of Indemnity and instruct the Shipping Agent accordingly.**

## 19. IMPORT DUTIES

The Buyer shall arrange for all import and port formalities for shipment into and discharge the goods at discharge port. Any change(s) in regulations shall be the sole responsibility of the buyer. All import duties/taxes/levies, etc. at discharge port shall be on buyer's account. All duties /taxes/levies , etc. at loading port shall be to the Seller's account.

## 20. DISCHARGE TERMS

Buyer to guarantee minimum discharge rate of **80 MT** running hour SHINC. Before tendering NOR, vessel is to comply with all port formalities inclusive of obtaining Gas Free Certificate if required. NOR to be tendered only after vessel called, within the limits of contracted port. Lay time to start 6 hours after NOR is tendered or on immediately on berthing of the vessel which ever is earlier.

NOR to be tendered by facsimile, telex, telegraph or wireless letter is acceptable and deemed to be received at the time of transmission.

Any other document required to meet Indian Statutory Authorities for import has to be provided by the Seller.

## 21. DEMURRAGE

Demurrage, if any, at the discharge port shall be for buyer's account as per Vegoilvoy Charter Party terms. The above demurrage rates will be paid on proportionate basis in

case there is any other cargo on board other than contracted cargo and both cargoes are for discharge at the same port. Discharge rates to be 80 MT per hour.

A copy of the Charter Party be provided to the Buyer immediately after nomination of the Vessel. Claim, if any, for demurrage to be made by the Seller on the Buyer within 60 days of completion of discharge of the vessel at the discharge port.

## **22. ARBITRATION**

Any dispute or difference in respect of any matter relating to or arising out of the contract, if the same is not resolved amicably, will be settled at New Delhi by Arbitration in accordance with the Rules of Arbitration of Indian Council of Arbitration, Delhi and the award made in pursuance thereof shall be final and binding on the parties. Indian laws will apply. The venue of the Arbitration will be New Delhi.

All other terms and conditions, when not in contradiction to the above mentioned terms and conditions, shall be governed by FOSFA 81 terms.

Import of edible oils under this tender is subject to Government of India policies and guidelines from time to time. MMTC is importing edible oil solely on its own behalf and Government of India is not a party to these imports.

## **23. INTEGRITY PACT**

The integrity Pact attached at Annexure-3 to this tender will form an integral part of this tender. It will be presumed that Bidders submitting their bids under this tender has read and understood the Integrity Pact and will abide by this Pact.

**General Manager (Agro)**

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**ANNEXURE-I**

**TENDER NO.MMTC/AGRO/IMP/E.OIL/2013-14/32 DATED 31st Dec , 2013**

**TECHNO COMMERCIAL BID**

1. Details of Bid Bond ( for the new bidders)

Bid Bond No. \_\_\_\_\_ Dated \_\_\_\_\_ For (Amount in US\$)  
\_\_\_\_\_.

2. We have carefully gone through the terms and conditions of the Tender Documents including the Integrity Pact and hereby agree to abide by the same for the fulfillment of the contract. Following documents have been submitted

1. Scanned copy of Signed Integrity Pact
2. D&B report (not more than 12 months old as on date of submission of bid) **OR** D&B report already submitted vide offer dated ..... in the Tender closed on.....(date) and the rating was.....

**Certificate**

Certified that the offer is in total conformity with tender terms and specifications without any deviation, whatsoever.

It is declared that no previous transgressions of Integrity Pact 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 our exclusion from the tender process.

Signature of the Bidder

Full Name \_\_\_\_\_

Designation \_\_\_\_\_

Seal of Company \_\_\_\_\_

**ANNEXURE-II**

**TENDER NO.MMTC/AGRO/IMP/E.OIL/2013-14/32 DATED 31<sup>st</sup> DEC, 2013**

**PRICE BID**

Name of Bidder:

\_\_\_\_\_

Address:-

\_\_\_\_\_

Tel.\_\_\_\_\_ Fax No.\_\_\_\_\_ Email\_\_\_\_\_

Contact Person

\_\_\_\_\_

Bid Bond No.\_\_\_\_\_ dated\_\_\_\_\_ Value\_\_\_\_\_

(please refer to para 10(b) of the tender document)

| TYPE OF OIL   | QUANTITY<br>(Buyer's Option) | SHIPMENT PERIOD                     | DISCHARGE<br>PORT(S) | Unit Price PMT<br>USD CIF (On<br>landed Weight<br>Final Basis) |
|---------------|------------------------------|-------------------------------------|----------------------|--|
| RBD PALMOLEIN | 11,000 MT +/-2%              | IMMEDIATE, LATEST BY<br>15 JAN 2014 | KRISHNAPATNAM        |  |
| RBD PALMOLEIN | 11,000 MT +/-2%              | IMMEDIATE, LATEST BY<br>15 JAN 2014 | KAKINADA             |  |

We have carefully gone through the terms and conditions of the Tender Documents including the Integrity Pact and hereby agree to abide by the same for the fulfillment of the contract.

Name, Designation & Signature of the Bidder with Seal

**ANNEXURE-III**

**INTEGRITY PACT**

Between

**MMTC** Limited hereinafter, referred to as “**MMTC**”,

And

.....(bidder)

hereinafter referred to as “ **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.

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(For & on behalf of MMTC)

(Office Seal)

Place : .....

Date : .....

Witness 1 : .....

Name :

Address :

Witness 2 : .....

Name :

Address :

.....

(For & on behalf of Buyer/Vendor/Bidder)

(Office Seal)



