



**CORE-1, SCOPE COMPLEX, 7, INSTITUTIONAL AREA, LODHI ROAD,  
NEW DELHI – 110 003 TELEPHONE NO: 011-24362200**

**No: MMTC/CO/COMP/SOFTWARE/2011/1228/15**

**Date- 16.07.2015**

**INVITATION FOR QUOTATION**

**MMTC invites sealed techno-commercial quotation for comprehensive Annual Maintenance Contract and Renewal of licenses for Checkpoint Firewall for (MMTC Scope complex, New Delhi and Regional office Chennai) and Trend Micro Enterprise Security Suite at MMTC Scope complex, New Delhi in separate lots.**

<b>Tender no. &amp; date</b>	<b>MMTC/CO/COMP/SOFTWARE/2011/1228/15 Dated 16.07.2015</b>
<b>Earnest Money</b>	<b>Rs. 20,000/- (Rs. Twenty Thousand only) favouring MMTC Limited.</b>
<b>Cost of Tender Document</b>	<b>NIL</b>
<b>Last Date and Time of submission of tender</b>	<b>30.07.2015, (Thursday)15:00 Hrs.</b>
<b>Date and Time of Opening of Tender</b>	<b>30.07.2015, (Thursday)15:30 Hrs.</b>
<b>Contact Person for Further Communication</b>	<b>Mr. Deepak Bartwal, Chief Manager(systems)</b>

**A. 1.0. BACKGROUND**

Established in 1963, MMTC, one of the two highest foreign exchange earners for India, is a leading international trading company with a turnover of around US\$ 10 billion. It is the largest international trading company of India and the first Public Sector Enterprise to be accorded the status of "FIVE STAR EXPORT HOUSE" by Government of India 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. Its vast international trade network, which includes a wholly owned international subsidiary in Singapore, spans almost in all countries in Asia, Europe, Africa, Oceania and Americas, giving MMTC global market coverage.

**A.2.0 OBJECTIVE**

MMTC Corporate office intends to enter into Annual Maintenance contract and renewal of license for CHECKPOINT FIREWALL at MMTC Corporate office, New Delhi and Regional office Chennai. And Trend Micro Enterprise Security Suite at MMTC Corporate office, New Delhi in separate lots.

**A.3.0 Current IT setup at MMTC**

MMTC has installed and commissioned the LAN and private WAN network at its Corporate Office at Scope Complex, New Delhi and its regional offices and sub-regional offices across India. Existing LAN arrangements at Corporate Office and the Server farm constitutes of various Servers at New Delhi and DRS site at Chennai and software i.e. Checkpoint, Symantec Backup Exec, Citrix, Trend Micro and Intrusion prevention system and Ramco E application (ERP).

#### A.4.0 ELIGIBILITY CRITERIA:

- 1) The bidder should attach a valid authorization letter from OEM.
- 2) The Bidder should be registered in India. Certificate of Incorporation, Copy of PAN, and Service Tax Registration should be submitted.
- 3) Bidder should provide at least three work order towards renewal of License and Maintenance/support of the product(s) during the last three years i.e. (2012-2013, 2013-2014, 2014-2015). (Self-certified documents to be enclosed)
- 4) Bidder should be financially sound i.e. it must have made profits in last two (2) financial years i.e. (2013-14, 2014-15). (Copy of audited annual accounts for the last two years should be enclosed.)
- 5) Turnover of bidding company from IT products and Services for the last financial years i.e. (2014-15) should be more than Rs. 5 Crore (Rupees Five Crore (Copy of audited annual accounts to be enclosed.)
- 6) Bidders should provide list of clients being serviced.
- 7) Bidder must submit all forms along with technical and commercial bids.

**Supporting document (s) to be enclosed for above eligibility criteria or else bids are liable to be rejected. For the financial year 2014-15 if the accounts are not finalized, provisional account certified by a CA may be submitted.**

#### A.5.0 PERIOD OF CONTRACT

- 5.1 The contract will be for a period as detailed in FORM – B of Annexure-II (Commercial Bid). The same may be renewed annually for further period of two year on same terms & conditions/rates, if the services provided are satisfactory.

#### B. SCOPE OF WORK

**B.1. Annual Maintenance and Renewal of License of CHECKPOINT FIREWALL at New Delhi and Regional office Chennai (DR Site). And Trend Micro Enterprise Security Suite at MMTC Corporate office New Delhi.**

Sl.No.	Software/License Description
1	<p><b>The existing CHECKPOINT FIREWALL Software is running on Windows 2003 Server platform.</b></p> <p>MMTC intends to Renew Check Point Firewall Subscription with Support and Services. (For Two sites, (Corporate office and DRS Site).</p> <p>Bidder shall activate the renewed license on the respective servers and provide support for installation of the software and shall update the product on the Checkpoint server to the latest version. Bidder shall also give onsite support as on when required during the AMC period.</p> <p><b><u>During the AMC period if the Checkpoint Server gets crashed or the application stops working the bidder is required to install the Checkpoint software again and make the system operational.</u></b></p>
2	<p><b>AMC/RENEWAL, Of Trend Micro Enterprise Security Suite FOR WINDOWS</b></p> <p>Renewal of <b>Trend Micro Enterprise Security Suite</b>, Trend Micro Damage Clean up Services and Trend Micro Outbreak Prevention Services etc. for <b>300 (Three Hundred)</b> User license.</p> <p>Bidder shall activate the renewed keys on the respective Servers. And provide support on Servers (25 Nos) and (300 nos) of desktop to maintain office scan antivirus.</p> <p>Bidder shall also give onsite support as on when required during the AMC period to update the products to the latest version of Trend Micro Enterprise Security Suite for windows.</p> <p><b><u>During the AMC period if the Trend Micro Server's gets crashed or the application stops working the bidder is required to install the Trend Micro software's again and make the system's operational.</u></b></p>

**Remarks: - The bidder can quote for a single product also.**

**C. CALL REGISTRATION AND COMPLETION**

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 mechanism.
2. Completion of calls will be the owner of the system in the division. In case these officers are not available, their nominee will sign. Service Provider will prepare the call service slips in triplicate. MMTC User & SERVICE provider Engineer will sign these. One copy will be given to the user and one copy will be submitted to the Computer Division controlling officers. Third copy will be retained by Service Provider. No other documents will be used to work out downtime for penalty calculation.
3. One mandatory visit per month by the engineer to perform/monitor health check of all the software's as per the scope and submit the status report.

**D. INSTRUCTION & GENERAL TERMS & CONDITIONS TO BIDDERS**

**D.1. Cost of Tender Preparation:**

The bidder shall bear all costs associated with 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.

**D.2. Clarification of Tendering Document:**

Bidders requiring clarification on tender document or for clarification sought for existing IT infrastructure may notify MMTC in writing or email. MMTC shall respond such clarification in writing or email, which is received at least five working days prior to the date of submission of bid.

**D.3. Amendments to tender information:**

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 corrigendum.

**D.4. Prices:**

4.1 Prices quoted shall be firm and not subject to variation on any account.

4.2 The prices stated in the tenders shall include all taxes, charges, duties, incidental expenses etc. The prices stated are also to include all rights (if any) of patent; registered design or trademark and the Bidder shall be responsible against all claims in this respect.

**D.5. Validity:**

The bidder shall hold valid their bids for 90 days from the closing date of the tender. In exceptional circumstances, prior to the expiry of the original tender validity period, MMTC may request the bidders for a specified extension in the period of validity. The request and the response thereto shall be made in writing. A bidder may refuse the request for extension without forfeiting his Earnest Money Deposit (EMD). A bidder agreeing in the request will not be permitted to modify his tender, but will be required to extend the validity correspondingly.

**D.6 Earnest Money Deposit:**

- 6.1 The Bidder shall furnish an **Earnest Money Deposit of Rs. 20,000/- (Rupees Twenty Thousand only)** along with the Technical Bid.
- 6.2 The EMD shall be in the form of a bank draft/Bankers Cheque favouring "MMTC Limited" drawn on any Nationalized Bank or first class International bank payable at Delhi/New Delhi.
- 6.3 Technical Bid not secured by EMD will be rejected by MMTC.
- 6.4 EMD will be refunded to unsuccessful bidders. Also the said earnest money deposit will be refunded to successful Bidder on signing of the Contract and on submission and confirmation of Performance Guarantee.
- 6.5 No interest will be payable by MMTC on EMD.

- 6.6 The EMD may be forfeited by MMTC if a Bidder withdraws his bid during the period of bid validity or extended bid validity specified above.
- 6.7 Should the tender be withdrawn or cancelled by MMTC, which MMTC has right to cancel any time, EMD will be refunded.

**D.7 Signing and Stamping:**

- 7.1 The bid shall be typed or printed and all the pages numbered consecutively and shall be signed by the Company's/Firm's authorized official and will bind to the Company/Firm to the contract. The person or persons signing the quotation shall sign all pages of the original quotation, except for un-amended printed literatures. **Non-Compliance may be considered for rejection of the bid.**

**D.8. Address:**

The bidder shall designate the official mailing address and place to which all correspondence shall be forwarded by MMTC.

**D.9 Procedure for submission of offers:**

The quotation shall be submitted in two parts, Technical and Commercial and must be sealed in two separate envelopes clearly marked as "TECHNICAL BID" and "COMMERCIAL BID". These two sealed envelopes need to be enclosed in one sealed envelope/cover. **The EMD DD/Pay order must form part of Technical quotation envelope.**

- D.10. Sealed offers shall be submitted at the following address of MMTC, not later than 30.07.2015, (Thursday) 15:00 Hrs. Offers delivered after this time and date shall be summarily rejected and returned unopened. The tenders are to be dropped in the tender box placed in the computer division 5<sup>th</sup> floor.**

Chief Manager (Systems)  
5<sup>th</sup> Floor, Computer Division  
MMTC Limited, Core-I, Scope complex,  
Lodhi Road,  
New Delhi – 110 003

**The Technical Bid will be opened in the presence of the authorized representative of the bidder on 30.07.2015, (Thursday) 15:30 Hrs. The person intend to attend the bid opening should bring authorization letter for the same from the company. After technical evaluation the commercial bids shall be opened and the bidders shall be notified by email.**

**D.11. Corrections:**

Over writings are not permitted. In case of corrections, the correct word/number should be written separately and attested by authorized signatory & stamped. Noncompliance may result in bid liable to be rejected.

**D.12. Acceptance of Tenders:**

MMTC reserves the right to accept or reject any tender and to annul the tendering process and reject all tenders, at any time prior to the award of contract, without thereby incurring any liability to the affected bidder or bidders or any obligation to inform the affected bidder or bidders of the grounds for this action.

**D.13. Performance Guarantee on Rs 100 Stamp Paper (PG): (As at Annexure-IV)**

- 13.1 The successful bidder, at its own expense, shall submit a Performance Guarantee within thirty days of the date of the award of the contract. A performance Bank Guarantee, payable on demand in terms of Annexure IV, for an amount calculated at the rate of ten percent (10%) of the contract value.
- 13.2 Performance Bank Guarantee must be irrevocable and drawn on scheduled commercial bank other than Co-operative bank or Gramin bank in favour of MMTC, payable at Delhi/New Delhi.
- 13.3 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.
- 13.4 The Performance Bank Guarantee may be discharged / returned by MMTC after the completion of the Contract upon being satisfied that successful bidder has successfully performed its obligations under the contract. The Performance Bank Guarantee shall be valid for the entire duration of the contract period plus three months thereafter.

- 13.5 In the event the successful bidder being unable to perform its obligations under the contract, during the contract period, for whatsoever reason, the Performance Bank Guarantee would be encashed by MMTC.

**D.14. Payment Terms:**

- 14.1 MMTC shall release half yearly payment for AMC support on satisfactorily completion of the first half period after submission of Performance Guarantee and confirmation of the same along with Invoices in original.
- 14.2 Payment towards renewal of license will be made on receipt of the licenses and installation/updating on MMTC's servers by the bidder and receipt of Performance Guarantee and confirmation of the same along with Invoices in original.
- 14.3 No advance payment in any case would be made
- 14.4 The payment shall be through e-payment only.
- 14.5 The payment would be made after deducting necessary taxes applicable, if any.

**D.15 Taxes, Duties, Levies and Incidental Expenses:**

The bidder will bear all Taxes, Duties, Levies and Incidental expenses including Boarding, Lodging & conveyance etc. of their team.

**D.16. Delays in the bidder's Performance:**

Delay by the bidder in the performance of its obligations shall render the bidder liable to any or all of the following sanctions:-

1. Invocation of its Performance Guarantee.
2. Imposition of liquidated damages, and/or
3. Termination of the Contract for Default.

**D.17. Delivery and Location:**

- 17.1 **The renewal of software's mentioned in scope of work of the tender document is to be done in 4 (four) weeks from the acceptance of the work order.**
- 17.2 The Comprehensive Annual Maintenance services to be provided at corporate office New Delhi and Regional office Chennai at DRS for Checkpoint Firewall and for Trend Micro at MMTC Corporate office Delhi.

**D.18. Indemnity:**

Bidder shall at all times indemnify MMTC 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 being made against MMTC, 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.

**D.19. Liquidated Damages:**

The timely services are essence of the contract. In the event of service provider failure to deliver the services as detailed at scope of work within the stipulated period, the liquidated damages payable by them @ 2% per week of the order value subject to a maximum of 20% of total order value.

**D.20. Force Majeure:**

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

**D.21. Arbitration**

- 21.1 Any question, issues, dispute or difference arising between the Parties as to the interpretation of the terms, construction, meaning and operation or effect of the contract or its termination or as to the duties, responsibilities, obligations or liabilities of the Parties or as to any matter or thing arising out of or under the Contract ("dispute") will be amicably settled through the joint conciliatory efforts of the Chairman & Managing Director (CMD) of MMTC Limited for the time being and the Bidder. In the event the parties are unable to resolve the said dispute mutually within a maximum period of thirty (30) days of the intimation of the occurrence of a dispute by one party to the other, the same shall be referred to and settled by the a sole arbitrator to be appointed by Chairman & Managing Director (CMD) of MMTC Limited. The arbitration proceedings shall be conducted at New Delhi, 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.
- 21.2 The courts at New Delhi shall have exclusive Jurisdiction to determine any question, issue, dispute or claim between the parties including any application to be made under the Indian Arbitration and Conciliation Act, 1996.

**D.22 TERMINATION FOR DEFAULT:**

- 22.1 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. If the Supplier fails to deliver any or all of the goods/services within the time period(s) specified in the Contract, or any extension thereof granted by the Purchaser; If the Supplier fails to perform any other obligation(s) under the Contract; and If the Supplier, in either of the above circumstances, does not remedy his failure within a period of 30 days (or such longer period as the Purchaser may authorize in writing) after receipt of the default notice from the Purchaser.
- 22.2 In the event of Purchaser terminates the contract in whole or in part, pursuant to paragraph 22.1 the Purchaser may proceed, upon such terms and in such manner as it deems appropriate, goods similar to those undelivered and the Supplier shall be liable to the Purchaser for any excess cost for such similar goods. However, the Supplier shall continue performance of the contract to the extent not terminated.

**D.23 SET OFF**

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.

**D.24 AWARD CRITERIA**

- 24.1 **Award Criteria: MMTC will award the contract to the successful bidder who quotes the lowest bid in each product separately.**

**D.25 SIGNING OF THE CONTRACT**

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

**D.26 Merger & Acquisitions**

In case of mergers and acquisitions of Bidder Company, all contractual conditions and obligations shall automatically get transferred to acquiring company/entity and acquiring company must assume all the obligations of the contract till the end of the contract period.

- D.27 For any further clarification, the bidder may contact Mr. Deepak Bartwal, Chief Manager (systems) e-mail Id [dbartwal@mmtclimited.com](mailto:dbartwal@mmtclimited.com)

**Technical Bid****FORM- A1**

<b>S.No.</b>	<b><u>Description</u></b>	<b><u>Compliance</u> <u>(Y/N)</u></b>	<b><u>Documents</u> <u>attached, if any</u></b>
1	The bidder should attach a valid authorization letter from OEM.		
2	The Bidder should be registered in India. Certificate of Incorporation, Copy of PAN, and Service Tax Registration should be submitted.		
3	Bidder should provide at least three work order towards renewal of License and Maintenance/support of the product(s) during the last three years i.e. (2012-2013, 2013-2014, 2014-2015). (Self-certified documents to be enclosed)		
4	Bidder should be financially sound i.e. it must have made profits in last two (2) financial years i.e. (2013-14, 2014-15). (Copy of audited annual accounts for the last two years should be enclosed.)		
5	Turnover of bidding company from IT products and Services for the last financial years i.e. (2014-15) should be more than Rs. 5 Crore (Rupees Five Crore (Copy of audited annual accounts to be enclosed.)		
6	Bidders should provide list of clients being serviced.		
7	Bidder must submit all forms along with technical and commercial bids.		

**Supporting document (s) to be enclosed for above eligibility criteria or else bids are liable to be rejected. For the financial year 2014-15 if the accounts are not finalized, provisional account certified by a CA may be submitted.**

**TECHNICAL Bid**

**FORM A2**

**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:



**COMMERCIAL BID.****FORM-B**

SERVICE OFFERING	Qty	Total Charges (in Rs.) inclusive of all taxes and charges	Contract Period
<b>E.1. Renewal of Licenses and Support of Checkpoint Firewall for the following products (MMTC Account id – 0006096941)</b>			
1. Check Point Enterprise Software COLLABRATIVE STANDARD SUPPORT FOR CPSG-P203-CPSM-P303-F	1+1		20.06.2015 to 19.06.2016
CPSB-MNTR-F-SSV AND CPSB-RPRT-F-SSV Smartview Reporter and Monitor for one VPN-1 Gateways	1		-DO-
CPPWR-SMDF-100 Smart Defense for VPN-1 Power Gateway 100 Users	1		-DO-
(2) <b>Annual Technical support for the software.</b> (Telephonic , email and onsite support)			
<b>TOTAL (E-1)</b>			
<b>E.2. AMC and Renewal of Trend Micro Neat suite Enterprise Edition Version 10.5 Licenses for Windows (MMTC Limited, Corporate Office, Customer No-AS-C0023270)</b>			
1. Renewal, of Trend Micro Enterprise Security Suite for Windows, Trend Micro Damage Clean up Services and Trend Micro Outbreak Prevention Services for 300 (Three Hundred) User license.	300 Licenses		26.06.2015 to 27.06.2016
2. <b>Annual Technical support for the software.</b>  (Telephonic , email and onsite support)			1.07.2015 to 30.06.2016
<b>TOTAL (E-2)</b>			

**Evaluation Criteria:** The tender would be finalized on the basis of lowest of (Cost at E-1) and lowest of Cost at E-2) i.e. items-wise lowest rates quoted by the bidders.

**Remarks:** - The bidder can quote for a single product also.

***NON-DISCLOSURE AGREEMENT (NDA) (on 100 Rs Stamp paper)***

This Non-Disclosure Agreement ("The Agreement") is signed on \_\_\_\_\_ day of \_\_\_\_\_ 2015, 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 Core-1, SCOPE Complex, 7 Institutional Area, Lodhi Road, New Delhi-110 003 ("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 services for AMC/Renewal of software.
- B. MMTC is India's leading international trading company, with a turnover of over US\$ 10 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 e-tender dated \_\_\_\_\_, declared [INSERT NAME] as successful Bidder for its appointment as WEB Application software designer. Pursuant to appointment of [INSERT NAME] as WEB Application software, 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 WEB Application software of MMTC is critical. 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 development of Web Based Application 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 Web Based Application designer.
- (c) "**Representatives**" mean 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 undertakes:
  - (a) To keep the Confidential Information in strict confidence for the entire duration of the Contract and for a period of five years thereafter.;
  - (b) Without 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 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.

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.
- (b) No representations or warranties, express or implied, are made by MMTC concerning the accuracy or completeness of the Confidential Information supplied under this Agreement and neither MMTC nor any of its Representatives shall be liable in any way to [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 E-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 .
- 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 New Delhi shall have exclusive jurisdiction, to the exclusion of any other court, to entertain, try and determine all and any question, issue, dispute, claim, actions, suits and proceedings between the Parties arising out of this Agreement including any matter connected therewith and any application to be made under the Arbitration and Conciliation Act, 1996 as amended and re-enacted from time to time

## **13. 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 New Delhi, 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  
Core-1, SCOPE Complex,  
7 Institutional Area,  
Lodhi Road,  
New Delhi-110 003

(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  
Core-1, SCOPE Complex,  
7 Institutional Area,  
Lodhi Road, New Delhi-110 003

2. Signed and delivered by:  
[INSERT NAME]

In the presence of the following witnesses:

- 1.
- 2.

**PERFORMANCE BANK GUARANTEE (as per MMTC format),**  
**(Rs. 100 Stamp Paper)**

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

To  
 MMTC Limited  
 Core-I, Scope Complex  
 7, Lodhi Road  
 New Delhi - 110003

WHEREAS \_\_\_\_\_ (supplier name & address) (here in after referred to as the Seller) have entered into a contract with M/S. MMTC Limited, Core-I, Scope Complex, New Delhi, (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 provide the **Annual Maintenance Contract, Renewal of licenses for Checkpoint Firewall (MMTC Scope complex, New Delhi and Regional office Chennai) and Trend Micro Enterprise Security Suite at MMTC Scope complex, New Delhi.** 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 performance 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 up to \_\_\_\_\_ 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 extensions 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 thereto. 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 Company stamp)