

**A Govt. of India Enterprise**

***Touching Lives, adding value***

(Core-1, SCOPE Complex, 7, Institutional Area, Lodi Road)  
New Delhi – 110 003 (India)

**Tel. NO. 011- 24381285/ Fax No: 011-24364105**

**NOTICE INVITING TENDER**

**NO.: TENDER NO.MMTC/C&HC/TENDER/17-18/HCC-01**

**DATED: 13/04/2017**

MMTC invites Tender for Supply of Prime Hard Coking Coal:

- 30000 MT Firm,
- 20000 MT Optional

from Interested Parties. The techno commercial bids and Price bids have to be submitted physically by 1500 Hrs. IST on 27<sup>th</sup> April, 2017.

The complete details of the Tender enquiry are available at MMTC's website [www.mmtclimited.com](http://www.mmtclimited.com) or <http://eprocure.gov.in/cppp/> or <https://mmtc.eproc.in>.

**NIT No.MMTC/C&HC/17-18/HCC-01 dated 13/04/2017**

Last Date of Submission of Bids: 27.04.2017 at 15:00 Hours

**OPEN NOTICE INVITING TENDER (NIT) FOR PURCHASE OF IMPORTED PRIME HARD COKING COAL**

MMTC Limited, A Government of India Enterprise, having its Corporate Office at Core-I, Scope Complex, 7, Institutional Area, Lodhi Road, New Delhi-110003 invites open tender in **two bid** system from suppliers/traders for supply of Prime Hard Coking Coal

- 30000 MT Firm
- 20000 MT Optional

of imported washed prime hard coking coal (size 0-50mm). Coking Coal to be delivered at integrated steel plant, M/s.Neelachal Ispat Nigam Limited (hereinafter called NINL), at Kalinga Nagar Industrial Complex, Duburi - 755 026, Jajpur, Odisha, in case of domestic suppliers. In case of foreign suppliers the delivery can be made on C&F FO Paradip Port basis.

The Bidders are required to submit their sealed bids as per following schedule:

<b>DUE DATE FOR SUBMISSION OF BOTH TECHNICAL AND PRICE BIDS</b>	<b>1500 HRS – 27<sup>th</sup> April, 2017</b>
<b>DATE AND TIME FOR OPENING OF TECHNICAL BIDS</b>	<b>1515 HRS – 27<sup>th</sup> April, 2017</b>
<b>DATE AND TIME FOR OPENING OF PRICE BIDS (Tentative)</b>	<b>1100 HRS 28<sup>th</sup> April, 2017</b>
<b>OFFERS TO BE VALID UPTO</b>	<b>Till 1730 HRS IST on 15<sup>th</sup> May, 2017</b>
<b>DELIVERY</b>	<b>Prompt. Shipments only by railway rake(s). Part Shipments allowed. Delivery at NINL Plant, Duburi, Jajpur District, Odisha (For domestic suppliers). In case of foreign suppliers the delivery can be made on C&amp;F FO Paradip Port basis. Coking Coal to be shipped on or before 15<sup>th</sup> May, 2017.</b>

The offer (s) is / are required to be submitted in **two separate sealed envelopes** i.e. one for “Technical bid” containing documents as mentioned under Eligibility Criteria including signed technical-bid portion on each page of this tender as a mark of acceptance and second for “Price Bid” containing only quoted price per MT in INR for material tendered with name of loading station and price per MT, delivered at NINL Plant, Duburi, Jajpur District, Odisha (for domestic suppliers). The entire information to be mentioned in technical bid and price bid should be type written/downloaded from website without any change. Any deviation from the above procedure in submission of bids, will incur rejection of the bids straightway. Bidders can depute their authorized representatives during opening of technical and price bids, if they desire.

In case bidders fail to depute their representative during such opening of bids, no subsequent representation would be entertained relating to the tender process. This NIT is available in MMTC & Govt. Web site i.e. ([www.mmtclimited.gov.in](http://www.mmtclimited.gov.in) & <http://eprocure.gov.in> / & <https://mmtc.eproc.in>). The NIT can be downloaded from the websites and the bidders are required to submit the bids as per tender so downloaded without any change/ modification/ alteration/ deletion etc. In case of any deviations in terms and conditions come to the notice of MMTC at any stage, the bid will be rejected.

The complete details of the tender enquiry are available at MMTC’s website [www.mmtclimited.gov.in](http://www.mmtclimited.gov.in), Govt. of India website (<http://eprocure.gov.in>) and <https://mmtc.eproc.in>.

**SUBMISSION OF BIDS:** BIDS ARE TO BE SUBMITTED THROUGH **ELECTRONIC MODE** FOR WHICH BIDDERS MAY LOG ON TO WEBSITE <https://mmtc.eproc.in> (OR) THROUGH **PHYSICAL MODE** FOR WHICH BIDDERS HAVE TO SUBMIT THEIR BIDS IN SEALED COVERS IN TWO PARTS AS MENTIONED BELOW:

**PART-I**

**TECHNICAL BID (PHYSICAL MODE):**

**TECHNICAL BID COMPRISING OF:**

- A. TENDER DOCUMENT TO BE SIGNED IN ORIGINAL AND STAMPED ON ALL PAGES AS PROOF OF ACCEPTANCE OF ALL TERMS AND CONDITIONS.
- B. PROFILE OF THE COMPANY, VIZ. PUBLIC LTD/ PRIVATE LTD/ PARTNERSHIP / PROPRIETARY CONCERN WITH DETAILS OF CONTACT PERSON, PHONE, FAX, E-MAIL ADDRESS, ETC.
- C. EMD DETAILS.
- D. BIDDER SHALL ENCLOSE AN AUDITOR'S CERTIFICATE INDICATING (i) ANNUAL TURNOVER (ii) NEWORTH AS ON LAST ANNUAL BALANCE SHEET AND (iii) PAST EXPERIENCE. PLEASE ENCLOSE ANNUAL FINANCIAL STATEMENT ALSO.
- E. PENALTY FOR DEVIATION FOR PRIME HARD COKING COAL/PENALTIES FOR EVALUATION OF OFFERS FOR PRIME HARD COKING COAL AS **ANNEXURE-I**.
- F. PERFORMANCE BANK GUARANTEE AS **ANNEXURE-II**
- G. AUTHORITY LETTER IN ORIGINAL AS PER **ANNEXURE-III** (IF APPLICABLE). NOTE:- SCANNED COPY WITHOUT SIGNATURE BY AUTHORISED REPRESENTATIVE AND WITHOUT STAMP SHALL NOT BE ACCEPTED.
- H. INTEGRITY PACT AS ENCLOSED AS **ANNEXURE-IV**.
- I. MANDATORY INFORMATION OF BIDDER AS ENCLOSED AS **ANNEXURE-V**
- J. VENDOR ACCOUNT REGISTRATION FORM AS ENCLOSED AS **ANNEXURE-VI**
- K. BIDDERS SHALL ENCLOSE A BANK REFERENCE CERTIFICATE REPORT ISSUED ON OR AFTER 31<sup>st</sup> March, 2017.

## **PART-II**

### **PRICE BID (ELECTRONIC MODE (OR) PHYSICAL MODE):**

IN CASE, THE BIDDER FACES DIFFICULTY IN SUBMITTING PRICE BID THROUGH ELECTRONIC MODE. THE BIDDERS ARE PERMITTED TO SUBMIT IN PHYSICAL MODE GIVEN ON PAGE 15 OF THIS TENDER DOCUMENT. THE PRICE BID SHOULD BE PUT IN AN ENVELOPE SUPER SCRIBING "PRICE BID FOR TENDER NO. MMTC/C&HC/TENDER/17-18/HCC-01 DATED **13.04.2017**.

BOTH THE ENVELOPES, ONE CONTAINING THE TECHNICAL BID AND EMD AND THE OTHER CONTAINING THE PRICE BID (IN CASE OF PHYSICAL MODE) SHOULD BE PUT UP IN ANOTHER ENVELOPE SUPER SCRIBING "TENDER NO. MMTC/C&HC/TENDER/17-18/HCC-01 DATED 13.04.2017 FOR IMPORTED PRIME HARD COKING COAL."

SEALED BIDS SHOULD BE DROPPED IN THE TENDER BOX KEPT AT MMTC LIMITED, CORPORATE OFFICE, NEW DELHI OR THE SAME CAN ALSO BE SENT THROUGH SPEED POST/COURIER TO ADDITIONAL GENERAL MANAGER, COKING COAL, MMTC LIMITED, CORPORATE OFFICE, NEW DELHI AT THE FOLLOWING ADDRESS: MMTC LIMITED, CORE-1, SCOPE COMPLEX, 7, INSTITUTIONAL AREA, LODHI ROAD, NEW DELHI-110 003.

**CONTACT PERSON:** AGM, PH.NO. 011- 24381285

#### **☐ SPECIAL TERMS & CONDITIONS IF PRICE BID SUBMITTED IN ELECTRONIC MODE.**

E-TENDER IS AVAILABLE ON MMTC E-PROCUREMENT WEBSITE [URL:- https://mmtc.eproc.in](https://mmtc.eproc.in) FOR ONLINE BIDDING PROCESS. FOR THIS, BIDDER IS REQUIRED TO OBTAIN MINIMUM CLASS III DIGITAL SIGNATURE (MEANT FOR E-TENDERING) FROM ANY OF CERTIFYING AUTHORITY RECOGNIZED BY CONTROLLER OF CERTIFYING AUTHORITY ([www.cca.gov.in](http://www.cca.gov.in)) AND HAVE TO REGISTER WITH E-PROCUREMENT PORTAL [URL:- https://mmtc.eproc.in](https://mmtc.eproc.in) (A ONETIME ACTIVITY) INDEPENDENT OF EACH OTHER AS GIVEN BELOW.

#### **PROCEDURE FOR OBTAINING DIGITAL CERTIFICATE:-**

THE BIDDER SHOULD OBTAIN DIGITAL CERTIFICATE TO PARTICIPATE IN THE TENDER. THE PROCEDURE FOR OBTAINING DIGITAL CERTIFICATE IS GIVEN IN THE WEB SITE [URL:- https://mmtc.eproc.in](https://mmtc.eproc.in) IN CASE OF ANY DIFFICULTY EITHER MAIL OR TALK TO THE TECHNICAL SUPPORT ENGINEER, WHOSE CONTACT DETAILS ARE GIVEN BELOW.

***NOTE: CLASS III DIGITAL SIGNATURE CERTIFICATE (DSC) IS MANDATORY TO PARTICIPATE IN E-TENDERING. PARTICIPATING BIDDERS HAVE TO MAKE SURE THAT THEY HAVE THE VALID DSC IN THEIR NAME. IF NOT, THEY CAN PROCURE FROM ANY OF THE RAS APPROVED BY CCA. MINIMUM TIME TO PROCURE DSC IS 5 WORKING DAYS.***

#### **☐ PROCEDURE FOR REGISTERING IN E-PROCUREMENT PORTAL:-**

FURTHER, THE BIDDER WILL HAVE TO REGISTER WITH MMTC'S E-PROCUREMENT PORTAL. FOR REGISTERING, PLEASE GO TO [URL:-https://mmtc.eproc.in](https://mmtc.eproc.in) AND FOLLOW THE



DIRECTIONS. IN CASE OF ANY DIFFICULTY EITHER MAIL OR TALK TO THE TECHNICAL SUPPORT ENGINEER, WHOSE CONTACT DETAILS ARE GIVEN BELOW.

FOR ANY ASSISTANCE ON E-BIDDING PROCESS, PLEASE CONTACT MR. RAHUL SHARMA, TECHNICAL SUPPORT ENGINEER – EMAIL ID [rahul.sharma@c1india.com](mailto:rahul.sharma@c1india.com), MOBILE PHONE +91-9810605992 OR MS. NEETI BALA CHANDRAA - EMAIL ID [neeti.bala@c1india.com](mailto:neeti.bala@c1india.com), MOBILE PHONE +91-9958000492.

MMTC RESERVES THE RIGHT TO CANCEL THIS TENDER WITHOUT ASSIGNING ANY REASON.

## PART- I TECHNICAL BID

### CLAUSE 1

#### ELIGIBILITY CRITERIA

In order to become eligible to participate in the above Tender prospective bidder(s) must submit self attested copies of following documents along with Technical Bid :-

(i) Self certification of copy of Bill of Lading of imports giving details of the origin and the source of supply (ii) In case the Seller/ is offering imported cargo which is in transit, a copy of the Load Port Analysis Report carried out by a Independent Inspection Agency of repute at Load Port needs to be submitted (iii) If the material is within India and the same is being offered, disport analysis report needs to be submitted certifying the specifications of the cargo (iv) PAN card ; (v) VAT Registration Certificate clearly indicating the commodity being dealt ;(vi) A copy of Service Tax Registration Certificate (vii) CST Registration Certificate for coking coal (viii) Local / Registered Office address with FAX /E-mail ID/ Telephone number(ix) The deliveries shall be effected only by Railway rakes to NINL Plant and the name of the loading station should be clearly specified in the bid. (x) All the pages of the tender notice i.e. NIT, must be stamped and signed by the bidder and submitted with technical bid as a token of acceptance of the terms and conditions.

(b) EMD of Rs.20 Lakhs in the form of Demand Draft/Banker's Cheque favouring MMTC Limited, payable at New Delhi or through RTGS favouring MMTC Limited, New Delhi. Additional EMD of Rs. 10 Lakhs needs to be submitted in case of optional quantities. RTGS A/C details are as under:-

#### **MMTC Limited**

**Bank: State Bank of Hyderabad,**

**Branch: Scope Complex, New Delhi-110003**

**A/c No. 52142903753, RTGS No.SBHY0020511**

In case of Foreign Suppliers an EMD amount of US\$ 50000 needs to be submitted.

In case wrong information with regard to the eligibility criteria or otherwise is furnished by any bidding party, the bidder shall be debarred from entering into any commercial transaction of any nature with MMTC for a period of one year which can be extended up to three years.

**CLAUSE 2**

**SALIENT FEATURES OF NIT:  
TECHNICAL SPECIFICATIONS FOR PRIME HARD COKING COAL (SIZE 0-50 MM)**

Sl. No.	Technical Particulars	Guaranteed Specifications Required by MMTC/NINL.	Absolute Maximum/ Absolute Minimum Tolerance Limits
1	2	3	4
1	Total Moisture (On as received basis)	10% Maximum	12% Maximum
2	Proximate Analysis (on 'air dried' basis) (B5 1016 – 1973 part 3)		
	a) Volatile Matter	21% Minimum 27% Maximum	20% Minimum 28% Maximum
	b) Ash	8.9% Maximum	10% Maximum
3.	Sulphur (B5 1016 – 1973)	0.60% Maximum	0.90 % Maximum
4.	Crucible Swelling Number (CSN) (ISO – 501 – 1981)	7.5 Minimum	6.0 Minimum
5	a) Mean Max. Reflectance Vitrinite (ISO – 7404)	1.15 Minimum 1.25 Maximum	1.15 Minimum 1.30 Maximum
	b) Vitrinite percentage (ISO – 7404)	50% Minimum	50% Minimum
	c) Vitrinite Distribution V9-V14) (ISO – 7404)	80% Minimum	80% Minimum
6	Gieseler Plastometer Test (ASTM D-2639) Maximum Fluidity (ddpm)	600 Minimum	300 Minimum

In the event of deviation from the above specifications, MMTC/NINL reserves right to cancel entire or part of the Purchase Order with / or without penalties.



## Part A: Terms for Domestic Suppliers

### CLAUSE 3

#### **Quantity & Delivery period**

Quantity 30,000 MT (Firm) and 20000MT (Optional) at Buyer's option. Delivery to start on immediate basis after placing the order by MMTC/NINL. Delivery to be completed by 31<sup>th</sup> May, 2017 for domestic suppliers. However due consideration will be given to RRs if the seller has filed a Railway Indent by 24<sup>th</sup> May, 2017 but rake allocation is not made by Railways. In such cases there will be no penalty under liquidity damages provided seller submits supporting documents to the satisfaction of MMTC/NINL that requisite material is available at load point. Quantities can be increased or decreased at MMTC's option during the above period. Further, MMTC reserves right to extend the delivery period as per requirement of NINL.

MMTC reserves the right to accept or reject any or all tenders or to re-tender at MMTC's sole discretion without assigning any reasons.

### CLAUSE 4

#### **Destination**

By Rake: Designated Railway Siding of Neelachal Ispat Nigam Limited, Duburi (Siding Code-NINS), Sukinda Road Railway Station, Distt. Jajpur, Odisha.

### CLAUSE 5

#### **Preloading**

Seller has to ensure loading of material in the wagons fit for loading of coking coal and arrange packing of doors properly to prevent loss of cargo en-route destination. The seller must clean each and every wagon before loading of the material to avoid any contamination of material.

### CLAUSE 6

#### **Price**

Price shall be in Indian Rupees per MT delivered at NINL Plant Railway Siding and clearly specifying the name of the loading station. The price shall be all inclusive of taxes/ duties etc.

In case the Seller arranges the supplies of the cargo within the state of Odisha, MMTC shall be the Buyer and Seller shall raise the sale invoice on MMTC, Bhubneswar, who shall issue the Purchase Order.

In case the Seller arranges the supplies of cargo from outside the state of Odisha, NINL shall be the buyer and seller shall raise the Sale invoice directly on NINL who shall issue the Purchase Order.

## **CLAUSE 7**

### **Penalty**

Penalties shall be imposed by the Buyer on Seller as per details given in **Annexure I**.

In case of any short supply in the agreed quantity, Buyer shall levy a Penalty of 5% of the value of short delivered quantity on the Seller.

## **CLAUSE 8**

### **Weight**

Quantity shall be final at destination at NINL plant and shall be determined as per the weight at NINL Plant rail weigh bridge.

## **CLAUSE 9**

### **Sampling and Analysis of cargo**

Rake-wise Sampling and Analysis will be conducted at NINL plant, Duburi, by an approved / recognized Public Analyst appointed by MMTC/NINL, who shall draw samples and analyze for the quantity delivered by the seller. The Public Analyst shall determine the specifications (Chemical and Physical) of the coking coal. The Public Analyst shall provide an analysis certificate showing detailed analysis results.

The Public Analyst shall prepare five sample packets. The Seller and Buyer are free to nominate their representatives to witness the sampling and sealing process of the sample packets. Out of above, two sample packets will be handed over to the representative of buyer, one to seller's representative and one will be retained by the Public Analyst to conduct the analysis. In case recourse has to be taken for umpire analysis, the fifth set of sample packets (i.e. the umpire's sample) preserved under the safe custody of the analyst concerned, will be used.

Cost of such sampling / analysis by the public analyst will be to the seller's account.

**Alternatively** the Seller can accept the Analysis Report as determined at NINL Laboratory in NINL plant at Duburi.

## **CLAUSE 10**

### **Payment**

Provisional Payment of 80% will be made by the Buyer to Seller on receipt of material at NINL plant and after receipt of Analysis Certificate from NINL Lab at Duburi.

Balance 20% and final payment will be released on the basis of Analysis Report of a Third Party Independent Inspection Agency, appointed by the Buyer for Sampling and Analysis purposes.

#### **CLAUSE 11**

##### **Default in Delivery**

In the event of any default in the delivery schedule or non-performance of the contract by the Seller, the Buyer reserves the right to forfeit the Performance Bank Guarantee.

#### **CLAUSE 12**

**Performance Bank Guarantee (PBG to be valid for three months from the date of issue of the Purchase Order).**

**PBG for 5% of total cargo value to be submitted by the Seller within 3 working days from the date of issue of the Purchase Order.**

**MMTC/NINL can extend the delivery period at sole discretion beyond 31<sup>th</sup> May, 2017 subject to pre determined liquidity damages@1% per week.**

**In case of supplies from within the state of Odisha, MMTC shall issue the purchase order and the pro forma of the Performance Bank Guarantee is as per Annexure II.**

Bidders are requested to forward the banking details as under to the PBG issuing Bank at the time of getting PBG issued. This is done to obtain the confirmation of the PBG issued through SFMS (Structural Financial Messaging System):

MMTC Ltd.,  
State Bank of India,  
CAG Branch,  
1, Tolstoy Marg,  
New Delhi- 110001  
IFSC Code: SBIN0009996

On receipt of Performance Bank Guarantee, Purchase Order will be issued by MMTC Bhubaneswar and thereafter EMD shall be returned to the successful bidder. Unsuccessful bidder(s) shall also get back their EMD(s) after 5 working days from the date of Purchase Order issued to the successful bidder.

However, in case the supplies are from outside the state of Odisha, the seller shall issue a Performance Bank Guarantee as per the proforma of NINL which shall be provided to the L1 bidder by NINL. On receipt of Performance Bank Guarantee, Purchase Order will be issued by NINL and thereafter EMD shall be returned to the successful bidder. Unsuccessful bidder(s) shall also get back their EMD(s) after 5 working days from the date of Purchase Order issued to the successful bidder.

### CLAUSE 13

**Arbitration** : Any dispute or difference whatsoever arising between the parties out of or relating to construction, meaning, scope, operation of this contract or validity or breach thereof shall be settled by Arbitration by Sole-Arbitrator to be nominated by the General Manager, MMTC, Bhubaneswar. The provisions of Arbitration and Conciliation Act, 1996 shall apply to such arbitration proceedings. The Venue of the arbitration shall be Bhubaneswar, Odisha. The law governing this Purchase Order shall be laws of Arbitration and Conciliation Act 1996 and its subsequent amendments. The language of Arbitration shall be English. All disputes shall be subject to the jurisdiction of the competent courts of Bhubaneswar, India.

### CLAUSE 14

#### **Force Majeure**

In case at any time during the existence of the contract, either party is unable to perform in whole or in part any obligation under the contract because of war, hostility, military operation of any character, civil commotions, sabotage, quarantine restrictions, acts of Government, fire, floods, explosions, epidemics, strikes, embargoes, blockages, mobilizations, earthquake, cyclone, **plant shut down restrictions** or any other unforeseen circumstances beyond the reasonable control of the parties concerned then the date of fulfilment of any obligations shall be postponed during the time when such circumstances are operative.

Any waiver / extension of time in respect of the delivery of any instalment or part of the goods shall not be deemed to be waiver/extension of time in respect of the remaining deliveries. If operation of such circumstances exceeds by one month, the affected party will have the right to refuse further performance of the contract in which case neither party shall have the right to claim eventual damages.

The party which is unable to fulfil its obligations under the present contract, must within 10 days of occurrence of any of the cause mentioned in the contract shall inform the other party of the existence of the circumstances preventing the performance of the contract. Certificate issued by a Chamber of Commerce of Industry or any other competent authority connected with the cause shall be sufficient proof of the existence of the above circumstances and their duration. Non-availability of material will not be an excuse to the Seller for not performing their obligations under the contract.

The delivery period in respect of undelivered quantities may be extended at Buyer's option.

If no mutual agreement for extension of time for supply of cargo is arrived at, the contract may be terminated at the option of the buyer without any liability.

### CLAUSE 15

#### **Authorisation of Agent/Representative**

For the bid submitted by agent / representatives, the name, address & bank attested specimen signature of their principal is to be furnished along with a letter of authority issued by the principal authorizing the agent/representatives to participate on their behalf.

## CLAUSE 16

### Contract

Tender documents shall be signed by the bidder on each page and furnished along the Technical Bid as token acceptance of the terms and conditions. One copy of the Purchase Order(s) to be issued by buyer to the successful bidder(s) shall also be duly stamped & signed by the supplier & submitted to buyer.

## CLAUSE 17

### Submission of Tender Bid

The bid (s) is/are to be submitted in the following manner:

- (a) **Techno-Commercial Bid:** As per details given in Clause under Eligibility Criteria.
- (b) **Price Bid:** Price per MT in Indian Rupees clearly specifying the name of the loading station.

Both the envelopes super scribing **Part – I** and **Part-II** separately for Tender NIT No.MMTC/C&HC/17-18/HCC/03 dated 13.04.2017 for supply of Prime Hard Coking Coal are to be put in one sealed envelope. The envelopes should be addressed to Addl. General Manager (Coking Coal) and be dropped in a sealed condition in the Tender Box to be kept on 3<sup>rd</sup> Floor, MMTC Limited, Scope Complex, 7, Institutional Area, Lodhi Road, New Delhi-110003.

## CLAUSE 18

### General Conditions:

- (a) For evaluation of the bid, the landed cost at NINL plant, Duburi, Jajpur, Odisha shall be considered.
- (b) Buyer reserves the right to cancel or, reject any or all bids without assigning any reason whatsoever and the decision of Buyer in this respect shall be final and binding and shall not be liable to be questioned in any court or before any authority.
- (c) Buyer also reserves the right to allocate the full quantity to a single supplier or split the full quantity to different suppliers who accepts the L-1 price.
- (d) The technical bids will be opened as per due date. After scrutiny of technical bids, the price bids of only those bidders whose technical bids are acceptable will be opened and considered further.
- (e) Incomplete offer or offers received after the closing time and date shall not be accepted. Price bid of only those bidders, who qualify in technical bid, shall be considered for evaluation. Price bids of successful bidder (technical) will be opened as per due date. Any bidder willing to participate in the tender opening process, may attend directly or

depute their representative. EMD of the unsuccessful bidder will be returned back and for the successful bidders it will be retained and returned after successful completion of the contract.

(f) Proper authorisation on their letterhead with signatures in original clearly stating the name of firm, person, designation and his/her signatures (as per Annexure-III).

(g) The Seller is an independent legal entity with power and authority to enter into contracts solely on its own behalf under applicable Laws of India and general principles of contract Laws. Government of India is not a party to any agreement as per these terms and conditions and is not and shall not be liable for any acts, omissions, commissions breaches or other wrongs arising out of any agreement as per these terms and conditions and the BUYER shall waive, release and forego any and all actions for claims including loss claims, impleads claims or counter claims against Government of India arising out of this contract and shall not sue the Government of India as to any manner, cause of action or thing whatsoever arising of or under this agreement.

(h) MODIFICATIONS/WAIVERS: No change in respect of these terms and conditions are valid unless both the parties agree the same to in writing. All previous negotiations/ understandings between parties are cancelled while entering into an agreement as per these terms and conditions. Failure to enforce any conditions hereunder contained shall neither be deemed as waiver of the conditions itself nor authorize any subsequent breach thereof.

## **CLAUSE 19**

### **Termination of Contract**

The buyer may at any point of time by notice in writing summarily terminate the contract without any complain whatsoever from the seller.

i) In the event of insolvency of the seller/insolvency of any partner of the seller's firm/dissolution of the seller's firm/winding up of the sellers company on appointment of receiver.

ii) If the seller commits the breach of the contract even though not specifically provided for herein, provided always that such determination shall not prejudice any right of action or remedy which shall accrue or shall accrue thereafter to the buyer and provided also that the seller shall be liable to compensate the buyer for damages, claims, losses and expenses etc.

## **CLAUSE 20**

### **Validity**

The tendered price will remain valid till 1730 HRS on 15<sup>th</sup> May, 2017 from the date of opening of the tender (price bid), for acceptance by buyer.

The details of tender will be available in the MMTC website [www.mmtclimited.gov.in](http://www.mmtclimited.gov.in) & Govt e-procurement portal [www.eprocure.gov.in/cppp/](http://www.eprocure.gov.in/cppp/) or <https://mmtc.eproc.in>

#### **CLAUSE 21**

##### **Integrity Pact**

Seller will have to sign Integrity Pact with the buyer which shall be an integral part of contract between Buyer and Seller.

**NIT No. MMTC/C&HC/17-18/HCC/01    Date –13.04.2017**

**(Last Date of submission of Bids: 27<sup>th</sup> April, 2017 at 1500 Hours)**

#### **CLAUSE 22**

##### **Evaluation of Bids**

Bids received on C&F FO Paradip basis and bids received from domestic suppliers for delivery till NINL Plant Railway Siding will be evaluated separately.

(End of Technical Bid portion)

**PART-II (For Domestic Suppliers)**

**PRICE BID**

**Price**

Price Rs. \_\_\_\_\_ per MT all inclusive of taxes/duties/levies etc. delivered at NINL Plant railway siding clearly specifying the name of the loading station.

In case the Seller arranges the supplies of the cargo within the state of Odisha, MMTC shall be the Buyer and Seller shall raise the sale invoice on MMTC, Bhubaneswar, who shall issue the Purchase Order.

In case the Seller arranges the supplies of the cargo from outside the state of Odisha, NINL shall be the buyer and seller shall raise the Sale invoice directly on NINL who shall issue the Purchase Order.

The price offered shall remain valid till 1730 hrs. on 18<sup>th</sup> April, 2017 for acceptance by buyer.

Place: Signature of the Bidder with Official Seal

Date:



**Part B: Terms for Foreign Suppliers**

Delivery Terms (for foreign suppliers)	Prompt shipments on C&F FO, Paradip basis. Coking Coal to be shipped on or before May 15, 2017. The delivery on C&F FO, Paradip basis . (See Annexure VIII)
EMD and PBG	Bidders need to submit EMD of US\$ 50000 and successful bidder shall submit a Performance Bank Guarantee for 5% of the contract value. However, MTPL, Singapore shall be exempted from submission of EMD and PBG.
Documents (w.r.t Clause 1, Part I)	MTPL Singapore and other foreign suppliers are exempted from submission of copies of Pan Card, Vat Registration Certificate, Service Tax Registration Certificate, CST Registration Certificate for coking coal etc. However, foreign suppliers need to submit NOC from mine owners regarding shipment of offered cargo( if bidder is a trader and is offering material of some mine.)
SAMPLING AND ANALYSIS:	<p>1.1. The sampling and analysis of the materials delivered at the port of loading in each consignment shall be conducted in accordance with the relevant British standard specifications (BS specifications)/Specifications of the American Society for Testing and Materials (ASTM Specifications/Specifications of the International Organization Standard(ISO Specifications) through internationally reputed independent Inspection Agency nominated, appointed and paid directly by the “Buyer” and reimbursed by the “SELLER” subsequently but before final settlement of accounts with the Seller by the Buyer. Such an inspection agency shall issue a Certificate of Sampling and Analysis (2 Nos.) in original to the Seller. The Buyer at their option and at their own expense, may also depute their representative(s) to witness the sampling and analysis by the inspection agency at load port and may also obtain a part of the Load port sample for testing. The Seller shall provide necessary assistance in this regard to the Purchaser’s representative(s). In case the actual specifications at load port exceed the guaranteed maximum/minimum specifications, penalties shall be applicable as per Annexure-VII.</p> <p>1.1.1. The gross sample of the MATERIALS delivered in each consignment, drawn for the purpose of determination of load port analysis, shall be divided into three parts.</p> <p>1.1.2. The first part of the composite sample shall be used by the independent inspection agency at load port for determination of the load port analysis.</p>

	<p>1.1.3. The second part of the composite sample shall be retained (for a period of six months) by the independent inspection agency at the load port in suitably packed and sealed condition and shall be treated as "BUYER SAMPLE".</p> <p>1.1.4. The third part of the composite sample shall be retained (for a period of six months) by the independent inspection agency at the load port in suitably packed and sealed condition and shall be treated as "LOADPORT REFEREE SAMPLE".</p> <p>1.2. The SELLER shall furnish to the Buyer, the Certificate of Sampling and Analysis issued by the independent inspection agency of repute at the load port indicating:</p> <p>LOADPORT ANALYSIS:</p> <ul style="list-style-type: none"> <li>(a) Total Moisture</li> <li>(b) Proximate Analysis covering Ash and Volatile Matter.</li> <li>(c) Total Sulphur.</li> <li>(d) Crucible Swelling Number (CSN).</li> <li>(e) Mean Max. Reflectance of Vitrinite</li> <li>(f) Vitrinite Percentage</li> <li>(g) Vitrinite Distribution ( V9-V16)</li> <li>(h) Maximum Fluidity (DDPM)</li> </ul> <p>Note: i) The Certificate of Sampling and Analysis shall be got prepared in 2(Two) originals, copy of which shall be e-mailed/faxed by the SELLER to the Buyer within 3(three) days from the date of Bill of Lading in respect of the consignment and the two originals shall be submitted by the SELLER along with other shipping documents for drawing payment.</p> <p>ii) The Certificate should clearly specify that the coal loaded on the</p>
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	<p>vessel, sample of</p> <p>which was analyzed by the Independent Inspection Agency at load port is</p> <p>_____ brand of freshly mines washed / unwashed straight coking coal and</p> <p>mined from _____ mine in _____.</p> <p>1.3 The results of analysis of the MATERIALS carried out by the approved independent inspection agency at load port shall be final and shall form the basis of the SELLER'S invoice.</p> <p>1.4 The supplies of the MATERIALS should be as per the guaranteed specifications specified in the tender document. However, for any deviations in exceptional cases, in the Certificate of Sampling and Analysis at the Load port, referred to in Para 1.2 specifications laid down in hereinabove, from the quality</p> <p>Of the coking coal stated in the tender document, the SELLER shall allow rebate(s)/diminution in price in his invoice covering the delivery of the MATERIALS in the consignment where such deviations are noticed, as per Annexure VII.</p> <p>1.5 Utmost precaution shall be exercised by the SELLER at the time of delivery of each consignment to ensure that the Guaranteed Specifications stipulated at Col 3 of Technical Specifications to the Agreement are strictly complied with. The Buyer reserves the right to terminate the Agreement in case there are frequent deviations from the Guaranteed Specifications.</p>
<p>TERMS OF PAYMENT:</p>	<p>In case of foreign suppliers who have offered cargo on C&amp;FFO basis, payment to such suppliers shall be made in US\$. Payment shall be made by MMTC to the Seller and MMTC shall open Letter of Credit for 100% cargo value.</p> <p>Buyer shall establish irrevocable Letter(s) of Credit on shipment to shipment basis covering approximate value of each shipment upon nomination of vessel. Such Letter of Credit shall be valid for a period of 45 days from the date of opening, for shipment and negotiation provided that all the terms and conditions of this L/C are strictly complied with and negotiating bank has sent authenticated swift certificate to that effect, the negotiating Bank will be authorized to claim reimbursement after 5 (five) banking days of the date of receipt of documents at counters of the L/C opening bank. All Bank charges in India connected with opening of L/C, amendment of L/C relating to increasing its value and also Bank charges connected therewith, will be for the Buyer's account. In case the Seller</p>

desires any amendment, the expenses shall be for the Seller's account. Documents presented within the validity of L/C shall be acceptable. Stale Bill of Lading and Third party Commercial Invoice shall not be acceptable.

Confirmation of the L/C can be arranged at the cost of the seller. Transferable L/C is not acceptable. L/C to provide for payment on sight on submission of standard shipping documents duly complying with the provisions of terms of LC. The documents constituting standard shipping documents are as under:

1. 3/3 sets of original clean on Board Bill(s) of Lading made out to order and

blank endorsed marked Notify "MMTC Ltd., Alok Bharati Complex, 7th Floor,

Sahid Nagar, Bhubneshwar 751 007, INDIA". The Bills of Lading must be issued in 'CONGENBILL FORM' only.

Note: Charter Party Bill(s) of Lading marked "Freight Pre-paid" (in case of C&F(FO) basis will be acceptable.

2. Signed Commercial Invoices-in quadruplicate.

3. Certificate of Sampling and Analysis issued by the independent inspection

agency at load port clearly specifying that the sampling and analysis pertains

to the named Brand loaded on the vessel – in duplicate. On no account, the

Analysis result of any technical parameter shall exceed the absolute maximum/absolute minimum tolerance limit stipulated under Column of

Technical Specifications of the tender document.

4. Certificate of Origin issued by Chamber of Commerce or a similar authorized agency in duplicate.

5. Loadport Draught Survey Weight Certificate issued by the independent

inspection agency of repute at loadport-in triplicate.

6. SELLER'S Certificate-in quadruplicate, confirming that four non-negotiable copies of Bill of Lading (b)(

Two signed copies of Commercial Invoice(s) six copies of the

Certificate of Sampling and Analysis at loadport (d) two copies of

	<p>Certificate</p> <p>of Origin (e) two copies of Loadport Draught Survey Weight Certificate and (f) copy of SELLER'S Fax/e-mail advice of shipment to the Buyer referred</p> <p>to in hereinabove, have been sent direct through Courier Service direct to the</p> <p>Buyer "MMTC Ltd., Alok Bharati Complex, 7th Floor, Sahid Nagar, Bhubneshwar 751 007, INDIA", within seven days from the date of Bill(s) of</p> <p>Lading.</p> <p>7. Copy of SELLER'S FAX/e-mail advice of shipment to the Buyer in quadruplicate.</p> <p>8. Within 7 (seven) days from the date of Bill of Lading in respect of the consignment, the SELLER shall send through Courier Service, direct to the</p> <p>Buyer at "MMTC Ltd., Alok Bharati Complex, 7th Floor, Sahid Nagar, Bhubneshwar 751 007, INDIA", the following documents in respect of each</p> <p>shipment:</p> <p>(a) Four non-negotiable copies of B/L.</p> <p>(b) Two signed copies of Commercial Invoice.</p> <p>(c) Six copies of the Certificate of Sampling and Analysis at loadport.</p> <p>(d) Two copies of Certificate of Origin.</p> <p>(e) Two copies of loadport Draught Survey Weight Certificate.</p> <p>(f) Copy of SELLER'S FAX/e-mail advice of shipment to the Buyer referred</p> <p>hereinabove.</p> <p>9. The SELLER shall email copies of signed Bills of Lading, Commercial Invoice, Certificate of Sampling and Analysis, Certificate of Origin and Loadport Draft Survey Certificate, Seller's Certificate stated at Clause 8 hereinabove and Seller's advice to shipment stated at Clause 7 hereinabove to the Buyer at e-mail <a href="mailto:smodi@mmtclimited.com">smodi@mmtclimited.com</a> with the scanned documents within 5 working days after the Bill of Lading Date.</p> <p>In case of amendment of LC on request of Seller, the charges so</p>
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	<p>incurred shall be payable by Seller.</p> <p>The Invoices so raised by Seller should follow provisions of Annexure VII Pertaining to penalty for deviations.</p> <p>MMTC reserves the right to request the supplier for hatch wise Bill of Ladings/ split B/L's.</p>
<b>Arbitration</b>	<p>Any dispute or difference whatsoever arising between the parties out of or relating to construction, meaning, scope, operation of this contract or validity or breach thereof shall be settled by Arbitration by Sole-Arbitrator to be nominated by the General Manager, MMTC, Bhubaneswar. The provisions of Arbitration and Conciliation Act, 1996 shall apply to such arbitration proceedings. The Venue of the arbitration shall be Bhubaneswar, Odisha. The law governing this Purchase Order shall be laws of Arbitration and Conciliation Act 1996 and its subsequent amendments. The language of Arbitration shall be English. All disputes shall be subject to the jurisdiction of the competent courts of Bhubneshwar, India.</p>
<b>Force Majeure</b>	<p>In case at any time during the existence of the contract, either party is unable to perform in whole or in part any obligation under the contract because of war, hostility, military operation of any character, civil commotions, sabotage, quarantine restrictions, acts of Government, fire, floods, explosions, epidemics, strikes, embargoes, blockages, mobilizations, earthquake, cyclone, <b>plant shut down restrictions</b> or any other unforeseen circumstances beyond the reasonable control of the parties concerned then the date of fulfilment of any obligations shall be postponed during the time when such circumstances are operative.</p> <p>Any waiver / extension of time in respect of the delivery of any instalment or part of the goods shall not be deemed to be waiver/extension of time in respect of the remaining deliveries. If operation of such circumstances exceeds by one month, the affected party will have the right to refuse further performance of the contract in which case neither party shall have the right to claim eventual damages.</p> <p>The party which is unable to fulfil its obligations under the present contract, must within 10 days of occurrence of any of the cause mentioned in the contract shall inform the other party of the existence of the circumstances preventing the performance of the contract. Certificate issued by a Chamber of Commerce of Industry or any other competent authority connected with the cause shall be sufficient proof of the existence of the above circumstances and their duration. Non-availability of material will not be an excuse to the Seller for not performing their obligations under the contract.</p> <p>The delivery period in respect of undelivered quantities may be</p>

	<p>extended at Buyer's option.</p> <p>If no mutual agreement for extension of time for supply of cargo is arrived at, the contract may be terminated at the option of the buyer without any liability.</p>
<b>Authorisation of Agent/Representative</b>	For the bid submitted by agent / representatives, the name, address & bank attested specimen signature of their principal is to be furnished along with a letter of authority issued by the principal authorizing the agent/representatives to participate on their behalf.
<b>Contract</b>	Tender documents shall be signed by the bidder on each page and furnished along the Technical Bid as token acceptance of the terms and conditions. One copy of the Purchase Order(s) to be issued by buyer to the successful bidder(s) shall also be duly stamped & signed by the supplier & submitted to buyer.
<b>Termination of Contract</b>	<p>The buyer may at any point of time by notice in writing summarily terminate the contract without any complain whatsoever from the seller.</p> <p>iii) In the event of insolvency of the seller/insolvency of any partner of the seller's firm/dissolution of the seller's firm/winding up of the sellers company on appointment of receiver.</p>
<b>Validity</b>	<p>The tendered price will remain valid till 1730 HRS on 15<sup>th</sup> May, 2017 from the date of opening of the tender (price bid), for acceptance by buyer.</p> <p>The details of tender will be available in the MMTC website <a href="http://www.mmtclimited.gov.in">www.mmtclimited.gov.in</a> &amp; Govt e-procurement portal <a href="http://www.eprocure.gov.in/cppp/">www.eprocure.gov.in/cppp/</a> or <a href="https://mmtc.eproc.in">https://mmtc.eproc.in</a></p>
<b>Integrity Pact</b>	<p>Seller will have to sign Integrity Pact with the buyer which shall be an integral part of contract between Buyer and Seller.</p> <p><b>NIT No. MMTC/C&amp;HC/17-18/HCC/01    Date –13.04.2017</b></p> <p><b>(Last Date of submission of Bids: 27<sup>th</sup> April, 2017 at 1500 Hours)</b></p>

**PROFORMA FOR PRICE BID (For Overseas Suppliers)**

1. Name of the Bidder :
2. Address :
3. (a) Brand/Name of freshly mined prime Quality washed / unwashed coking coal offered :
- (b) Country of origin of the Coal :

**4.**

b) In case Bidder wishes to submit C&FO Offer:

C&F (Free Out) Paradip	US\$.....	(in figures as well as in words)
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Note: The vessel Dimensions should be suitable for berthing at Paradip Port without lighterage.

Break up of C&F(FO) price quoted above	US\$	
: _____		
FOB(T) component.		
Freight	US\$	
: _____		
Total C&F(FO) price per metric ton		`US\$
: _____		

**Break-up of cost and freight for discharge at Paradip should be indicated separately, distinctly and invariably under C&F(FO) quotation.**

**5. Quantity offered: \_\_\_\_\_ Metric Tons**

**6. Total value of the Quantity offered  
 On C&F (FO) Basis : US\$**

**7. Validity of the Offer expires on :**

**8. Shipment \*----- :**

**NAME & SIGNATURE OF THE  
 AUTHORISED SIGNATORY OF THE BIDDER  
 (NAME OF THE BIDDER)**

**(\*) Bidder to indicate lay can**



**TENDER NO.MMTC/C&HC/TENDER/17-18/HCC-01**

**DATED: 13/04/2017**

**PENALTY FOR DEVIATION FOR PRIME HARD COKING COAL/ PENALTIES FOR EVALUATION OF OFFERS FOR PRIME HARD COKING COAL (For Domestic Suppliers)**

Sl. No	Technical Particulars	Basis for application of <b>Penalty</b> in price for evaluation of <b>Guaranteed Specifications</b>	Penalty in price in INR per MT
1	2	3	4
(i)	Ash	Penalty for every increase of 0.5% (Fractions pro-rata) in Ash Content in excess of guaranteed limit of <b>8.90%</b> upto absolute Maximum Tolerance Limit of <b>10 %</b>	INR 75 (Indian Rupees Seventy five only)
(ii)	Sulphur	Penalty for every increase of 0.1% (fractions pro-rata) in Sulphur content, in excess of guaranteed Limit of <b>0.60%</b> upto absolute maximum tolerance limit of 0.80%.	INR 60 (Indian rupees sixty only)
(iii)	Moisture	Where the Total Moisture (on "As received" basis) in the MATERIALS as disclosed in the "Certificate of Sampling and Analysis" at Load port exceeds Guaranteed limit ( <b>10%</b> ), the Invoice Weight shall be reduced by the excess percentage of Total Moisture over Guaranteed limit @ 1.3% for every 1.00% increase over Guaranteed limit (fractions pro-rata), upto an Absolute Maximum Tolerance Limit of <b>12 %</b> . Material with Total Moisture content exceeding Absolute Maximum Tolerance limit of <b>12%</b> should not be supplied in any case.	
No bonus/increment will however be applicable for improvement in specification observed over the values offered and guaranteed by the seller.			

**ANNEXURE- II**

**PERFORMANCE BANK GUARANTEE**

MMTC LIMITED.  
CORE NO 1, SCOPE COMPLEX,  
7 INSTITUTIONAL AREA,  
LODHI ROAD,  
NEW DELHI 110 003.

1. WHEREAS, MMTC LIMITED, Core NO 1, SCOPE Complex, 7, Institutional Area, Lodhi Road, New Delhi 110 003 INDIA (hereinafter called MMTC) have entered into contract No.....DATED (hereinafter called the CONTRACT) for.....with M/s (name).....address.....(hereinafter called the Seller).
2. AND WHEREAS the “Seller” under the CONTRACT is required to furnish a Security for the performance of the CONTRACT and MMTC has agreed to accept the Bank Guarantee in lieu of security deposit of the said sum of INR .....
3. AND WHEREAS at the request of M/s .....(Name of the Seller) We.....(Name & Address of the Bank) do hereby irrevocably and unconditionally guarantee and undertake payment to MMTC Ltd., New Delhi immediately on demand upto and not exceeding the sum of INR .....(Name of the Seller) payable by the “Seller” in the event of failing to perform any or all their obligations under the CONTRACT. The decision of the MMTC that the “Seller” has failed to perform all or any of its obligations under the CONTRACT shall be conclusive, final and binding on us.
4. We.....(Bank) undertake to pay the amount demanded by MMTC, not exceeding the sum of Rupees.....only without any demur, delay, protest and without any reference to recourse to M/s.....(bidder) notwithstanding any dispute raised by .....(bidder) in any suit proceedings relating there to pending before any court or tribunal our liability under these presents being absolute and unequivocal. The payment shall be made to the MMTC across the Counter of the bank immediately on receipt of invocation of this Bank Guarantee.
5. NOTWITHSTANDING anything to the contrary contained hereinabove, liability under the Guarantee is restricted to INR .....(date). Our guarantee shall remain in force until.....(date).
6. All your rights under the Guarantee shall be forfeited and we shall be relieved and discharged from all liability there-under unless a claim under the Guarantee is made on our Bank in writing on or before .....(expiry date.)
7. Your letter of demand in writing duly signed and sealed by the authorized signatory of MMTC Ltd may be presented to the Bank by

courier/fax/airmail/speed post/ Registered Post or in person and the same shall be binding on us.

8. We further agree that MMTC shall have the fullest liberty without our consent and without effecting any manner, our obligations hereunder to vary any of the terms and conditions of the delivery or extend time of performance by the .....from time to time or to postpone for any time or from time to time, any of the powers exercisable by MMTC against the said .....and to forbear or enforce any part of the terms and conditions relating to the said CONTRACT and we shall not be relieved from our liability by reason of any such variations or extension being granted to the said M/s.....
9. This guarantee will not be discharged due to change in the constitution of the Bank or the said M/s (Seller).
10. The liability of this bank under this guarantee shall be discharged upon receipt of INR .....only by MMTC.
11. We .....(Bank) lastly undertake not to revoke this guarantee during its currency except with the previous consent of MMTC LIMITED in writing.
12. This Guarantee is governed by the Laws of India and comes into force forthwith.
13. We have the power to issue this guarantee in your favour under the Charter of our Bank and the undersigned has full power to execute this Guarantee under the Power of Attorney granted to him by the Bank.

**SIGNED/ISSUED at AND DELIVERED THIS .....DAY OF .....2017**

Yours faithfully,  
For & on behalf of....

(Bank)  
address  
( BANKER'S SEAL)

**FORMAT FOR AUTHORISATION LETTER TO BE SUBMITTED BY THE PRINCIPALS ON LETTER HEAD (IN ORIGINAL)**

Ref: MMTC/

DATE:

To,  
Addl. General Manager (Coking Coal)  
MMTC Limited,  
New Delhi

**Sub: Authorization to Agent for submission / participation in E-Tender –Reg.**

**Ref: MMTC Notice Inviting E-Tender No: \_\_\_\_\_ Dated \_\_\_\_\_.**

Dear Sir,

This is with reference to your Notice Inviting E-Tender (NIT) bearing No. \_\_\_\_\_ Dated \_\_\_\_\_ regarding authorization.

In this connection, we M/s \_\_\_\_\_ (name & Address) as Principal, hereby appoint / authorize M/s \_\_\_\_\_ (name & Address), as an Agency on behalf of us to quote/submit/participate in the above referred e-tender bearing No. \_\_\_\_\_ Dated \_\_\_\_\_.

Further, our agent will enter/ sign the contract with MMTC on acceptance of our e-tender. We hereby undertake that we as a Principal hold full responsibility for all acts/ deeds of M/s \_\_\_\_\_ in connection with this e-tender.

Thanking you.

Yours faithfully,

(Signature & Seal of the Authorized signatory of the Principal)

Signature of Authorised person

( M/s. \_\_\_\_\_ )

**INTEGRITY PACT**

BETWEEN

MMTC LIMITED HEREINAFTER, REFERRED TO AS “MMTC”,

AND

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

**PREAMBLE**

WHEREAS, MMTC IS AN INTERNATIONAL TRADING COMPANY DEALING IN EXPORT/IMPORT/SALE/PURCHASE OF VARIOUS COMMODITIES;

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

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

**SECTION 1 – COMMITMENTS OF MMTC**

1. MMTC COMMITS ITSELF TO TAKE ALL NECESSARY MEASURES TO PREVENT CORRUPTION AND TO OBSERVE THE FOLLOWING PRINCIPLES:

- A) NO EMPLOYEE OF MMTC, PERSONALLY OR THROUGH FAMILY MEMBERS, WILL IN CONNECTION WITH THE TENDER FOR, OR THE EXECUTION OF A CONTRACT, DEMAND, TAKE A PROMISE FOR OR ACCEPT, FOR HIMSELF/HERSELF OR THIRD PERSON, ANY MATERIAL OR NON-MATERIAL BENEFIT WHICH HE/SHE IS NOT LEGALLY ENTITLED TO.
- B) MMTC WILL, DURING THE TENDER/AUCTION/E-AUCTION/E-SALE/SALE/PURCHASE PROCESS, PROVIDE TO ALL BUYER(S)/VENDOR(S)/BIDDER(S) THE SAME INFORMATION AND WILL NOT PROVIDE TO ANY BUYER/VENDOR/BIDDER ANY CONFIDENTIAL/ADDITIONAL INFORMATION THROUGH WHICH THE BUYER/VENDOR/BIDDER COULD OBTAIN AN ADVANTAGE IN RELATION TO THE TENDER/AUCTION/E-AUCTION/E-SALE/ SALE/PURCHASE PROCESS OR THE CONTRACT EXECUTION.
- C) MMTC WILL EXCLUDE FROM THE PROCESS ALL KNOWN PREJUDICED PERSONS.

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

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

1. THE BUYER(S)/VENDOR(S)/BIDDER(S) COMMITS HIMSELF TO TAKE ALL MEASURED NECESSARY TO PREVENT CORRUPTION. HE COMMITS HIMSELF TO OBSERVE THE FOLLOWING PRINCIPLES DURING HIS PARTICIPATION IN THE TENDER/AUCTION/E-AUCTION/E-SALE/SALE/PURCHASE PROCESS AND DURING THE CONTRACT EXECUTION.
  - A) THE BUYER(S)/VENDOR(S)/BIDDER(S) WILL NOT, DIRECTLY OR THROUGH ANY OTHER PERSON OR FIRM, OFFER, PROMISE OR GIVE TO ANY OF MMTC'S EMPLOYEES INVOLVED IN THE TENDER/AUCTION/E-AUCTION/E-SALE/SALE/PURCHASE PROCESS OR THE EXECUTION OF THE CONTRACT OR TO ANY THIRD PERSON ANY MATERIAL OR NON-MATERIAL BENEFIT WHICH HE/SHE IS NOT LEGALLY ENTITLED TO, IN ORDER TO OBTAIN IN EXCHANGE ANY ADVANTAGE OF ANY KIND WHATSOEVER DURING THE TENDER PROCESS OR DURING THE EXECUTION OF THE CONTRACT.
  - B) THE BUYER(S)/VENDOR(S)/BIDDER(S) WILL NOT ENTER WITH OTHER BUYER(S) INTO ANY ILLEGAL AGREEMENT OR UNDERSTANDING, WHETHER FORMAL OR INFORMAL. THIS APPLIES IN PARTICULAR TO PRICES, SPECIFICATIONS, CERTIFICATIONS, SUBSIDIARY CONTRACTS, SUBMISSION OR NON-SUBMISSION OF BIDS OR ANY OTHER ACTIONS TO RESTRICT COMPETITIVENESS OR TO INTRODUCE CARTELIZATION IN THE BIDDING PROCESS.
  - C) THE BUYER(S)/VENDOR(S)/BIDDER(S) WILL NOT COMMIT ANY CRIMINAL OFFENCE UNDER THE RELEVANT ANTI-CORRUPTION LAWS OF INDIA; FURTHER THE BUYER(S) /VENDOR(S)/BIDDER(S) WILL NOT USE IMPROPERLY, FOR PURPOSES OF COMPETITION OR PERSONAL GAIN, OR PASS ON TO OTHERS, ANY INFORMATION OR DOCUMENT PROVIDED BY MMTC AS PART OF THE BUSINESS RELATIONSHIP REGARDING PROPOSALS, PLANS, BUSINESS DETAILS INCLUDING INFORMATION CONTAINED OR TRANSMITTED ELECTRONICALLY.
  - D) THE BUYER(S)/VENDOR(S)/BIDDER(S) OF FOREIGN ORIGIN SHALL DISCLOSE THE NAME AND ADDRESS OF THE AGENTS/REPRESENTATIVES IN INDIA, IF ANY. SIMILARLY THE BUYER(S)/VENDOR(S)/BIDDER(S) OF INDIAN NATIONALITY SHALL FURNISH THE NAME AND ADDRESS OF THE FOREIGN PRINCIPALS, IF ANY. FURTHER, ALL THE PAYMENTS MADE TO THE INDIAN AGENTS/REPRESENTATIVE HAVE TO BE IN INDIAN RUPEES ONLY.
  - E) THE BUYER(S)/VENDOR(S)/BIDDER(S) WILL, WHEN PRESENTING HIS BID, DISCLOSE ANY AND ALL PAYMENTS HE HAS MADE, IS COMMITTED TO OR INTENDS TO MAKE TO AGENTS, BROKERS OR ANY OTHER INTERMEDIARIES IN CONNECTION WITH THE AWARD OF THE CONTRACT.
2. THE BUYER(S)/VENDOR(S)/BIDDER(S) WILL NOT INSTIGATE THIRD PERSONS TO COMMIT OFFENCES OUTLINED ABOVE OR BE NECESSARY TO SUCH OFFENCES.

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

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

SALE/SALE/PURCHASE PROCESS OR TO TERMINATE THE CONTRACT, IF ALREADY SIGNED, FOR SUCH REASON.

- A) IF THE BUYER(S)/VENDOR(S)/BIDDER(S) HAS COMMITTED A SERIOUS TRANSGRESSION THROUGH A VIOLATION OF SECTION 2 ABOVE OR IN ANY OTHER FORM SUCH AS TO PUT HIS RELIABILITY OR CREDIBILITY AS BUYER/VENDOR/BIDDER INTO QUESTION, MMTC IS ENTITLED TO ALSO EXCLUDE THE BUYER(S)/VENDOR(S)/BIDDER(S) FROM THE FUTURE CONTRACT AWARD PROCESSES. THE IMPOSITION AND DURATION OF THE EXCLUSION WILL BE DETERMINED BY THE SEVERITY OF THE TRANSGRESSION. THE SEVERITY WILL BE DETERMINED BY THE CIRCUMSTANCES OF THE CASE, IN PARTICULAR THE NUMBER OF TRANSGRESSION, THE POSITION OF THE TRANSGRESSORS WITHIN THE COMPANY, HIERARCHY OF THE BUYER AND THE AMOUNT OF THE DAMAGE. THE EXCLUSION WILL BE IMPOSED FOR A MINIMUM OF 6 MONTHS AND MAXIMUM OF 3 YEARS.
- B) IF THE BUYER(S) /VENDOR(S)/BIDDER(S) CAN PROVE THAT HE HAS RESTORED/RECOUPED THE DAMAGE CAUSED BY HIM AND HAS INSTALLED A SUITABLE CORRUPTION PREVENTION SYSTEM, MMTC MAY AT ITS SOLE DISCRETION REVOKE THE EXCLUSION PREMATURELY.
- C) A TRANSGRESSION IS CONSIDERED TO HAVE OCCURRED IF IN LIGHT OF AVAILABLE EVIDENCE NO REASONABLE DOUBT IS POSSIBLE.

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

1. IF MMTC HAS DISQUALIFIED THE BUYER(S) FROM THE TENDER/AUCTION/E-AUCTION/E-SALE/SALE/PURCHASE PROCESS PRIOR TO THE AWARD ACCORDING TO SECTION 3, MMTC IS ENTITLED TO DEMAND AND RECOVER THE DAMAGES EQUIVALENT TO EARNEST MONEY DEPOSIT/BID SECURITY.
2. IF MMTC HAS TERMINATED THE CONTRACT ACCORDING TO SECTION 3, OR IF MMTC IS ENTITLED TO TERMINATE THE CONTRACT ACCORDING TO SECTION 3, MMTC SHALL BE ENTITLED TO DEMAND AND RECOVER FROM THE VENDOR LIQUIDATED DAMAGES EQUIVALENT TO 5% OF THE CONTRACT VALUE OR THE AMOUNT EQUIVALENT TO PERFORMANCE BANK GUARANTEE WHICHEVER IS HIGHER.
3. IF THE BUYER(S) /VENDOR(S)/BIDDER(S) CAN PROVE THAT THE EXCLUSION OF THE BUYER(S) /VENDOR(S)/BIDDER(S) FROM THE TENDER/AUCTION/E-AUCTION/E-SALE/SALE/PURCHASE PROCESS OR THE TERMINATION OF THE CONTRACT AFTER THE CONTRACT AWARD HAS CAUSED NO DAMAGE OR LESS DAMAGE THAN THE AMOUNT OF LIQUIDATED DAMAGES, THE BUYER(S) /VENDOR(S)/BIDDER(S) MAY COMPENSATE ONLY THE DAMAGE IN THE AMOUNT PROVED. IF MMTC CAN PROVE THAT THE AMOUNT OF THE DAMAGE CAUSED BY THE DISQUALIFICATION OF THE BUYER(S)/VENDOR(S)/BIDDER(S) BEFORE CONTRACT AWARD OR THE TERMINATION OF THE CONTRACT AFTER THE CONTRACT AWARD IS HIGHER THAN THE AMOUNT OF THE LIQUIDATED DAMAGES, IT IS ENTITLED TO CLAIM COMPENSATION FOR THE HIGHER AMOUNT OF THE DAMAGES.

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

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

FROM THE TENDER PROCESS.

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

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

1. MMTC WILL ENTER INTO AGREEMENTS WITH IDENTICAL CONDITIONS AS THIS ONE WITH ALL BUYER(S) /VENDOR(S)/BIDDER(S) WITHOUT ANY EXCEPTION.
2. MMTC WILL DISQUALIFY FROM THE TENDER PROCESS ALL BUYER(S)/VENDOR(S)/ BIDDER(S) WHO DO NOT SIGN THIS PACT OR VIOLATE ITS PROVISIONS.

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

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

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

1. MMTC APPOINTS COMPETENT AND CREDIBLE INDEPENDENT EXTERNAL MONITOR (IEM) FOR THIS PACT. THE TASK OF THE IEM IS TO REVIEW INDEPENDENTLY AND OBJECTIVELY, WHETHER AND TO WHAT EXTENT THE PARTIES COMPLY WITH THE OBLIGATIONS UNDER THIS AGREEMENT.
2. THE IEM IS NOT SUBJECT TO INSTRUCTIONS BY THE REPRESENTATIVES OF THE PARTIES AND PERFORMS HIS FUNCTIONS NEUTRALLY AND INDEPENDENTLY. HE REPORTS TO THE CMD, MMTC.
3. THE IEM HAS THE RIGHT TO ACCESS WITHOUT RESTRICTION TO ALL TRADE/ PROJECT RELATED DOCUMENTATION OF MMTC. THE BUYER(S)/VENDOR(S) /BIDDER(S) WILL ALSO GRANT THE IEM, UPON HIS REQUEST AND DEMONSTRATION OF A VALID INTEREST, UNRESTRICTED AND UNCONDITIONAL ACCESS TO HIS TRADE/PROJECT DOCUMENTATION. THE IEM IS UNDER CONTRACTUAL OBLIGATION TO TREAT THE INFORMATION AND DOCUMENTS OF THE BUYER(S)/ VENDOR(S)/ BIDDER(S) WITH CONFIDENTIALITY.
4. MMTC WILL PROVIDE THE IEM SUFFICIENT INFORMATION ABOUT ALL MEETINGS AMONG THE PARTIES RELATED TO THE PROJECT/CONTRACT PROVIDED AS MEETINGS COULD HAVE AN IMPACT ON THE CONTRACTUAL RELATIONS BETWEEN MMTC AND THE VENDOR. THE PARTIES OFFER TO THE IEM THE OPTION TO PARTICIPATE IN SUCH MEETINGS.
5. AS SOON AS THE IEM NOTICES, OR BELIEVES TO NOTICE, A VIOLATION OF THIS AGREEMENT, HE WILL SO INFORM THE MANAGEMENT OF MMTC AND REQUEST THE MANAGEMENT TO DISCONTINUE OR TAKE CORRECTIVE ACTION, OR TO TAKE OTHER RELEVANT ACTION. THE IEM CAN IN THIS REGARD SUBMIT NON-BINDING RECOMMENDATIONS. BEYOND THIS, THE IEM HAS NOT RIGHT TO DEMAND FROM THE PARTIES THAT THEY ACT IN A SPECIFIC MANNER, REFRAIN FROM ACTION OR TOLERATE ACTION.
6. THE IEM WILL SUBMIT A WRITTEN REPORT TO THE CMD, MMTC WITHIN 4 TO 6



WEEKS FROM THE DATE OF REFERENCE OR INTIMATION TO HIM BY MMTC AND, SHOULD THE OCCASION ARISE, SUBMIT PROPOSALS FOR CORRECTING PROBLEMATIC SITUATIONS.

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

**SECTION 9 – PACT DURATION**

1. THIS PACT BEGINS WHEN BOTH PARTIES HAVE LEGALLY SIGNED IT. IT EXPIRES FOR THE VENDOR 12 MONTHS AFTER THE LAST PAYMENT UNDER THE CONTRACT, AND FOR ALL OTHER BIDDERS, 6 MONTHS AFTER THE CONTRACT HAS BEEN AWARDED.
2. IF ANY CLAIM IS MADE/LODGED DURING THIS TIME, THE SAME SHALL BE BINDING AND CONTINUE TO BE VALID DESPITE THE LAPSE OF THIS PACT AS SPECIFIED ABOVE, UNLESS IT IS DISCHARGED/DETERMINED BY CMD, MMTC.

**SECTION 10 – OTHER PROVISIONS**

1. THIS AGREEMENT IS SUBJECT TO INDIAN LAW, PLACE OF PERFORMANCE AND JURISDICTION IS THE REGISTERED OFFICE OF MMTC, I.E. NEW DELHI.
2. CHANGES AND SUPPLEMENTS AS WELL AS TERMINATION NOTICES NEED TO BE MADE IN WRITING. SIDE AGREEMENTS HAVE NOT BEEN MADE.
3. IF THE VENDOR IS A PARTNERSHIP OR A CONSORTIUM, THIS AGREEMENT MUST BE SIGNED BY ALL PARTNERS OR CONSORTIUM MEMBERS.
4. SHOULD ONE OR SEVERAL PROVISIONS OF THIS AGREEMENT TURN OUT TO BE INVALID, THE REMAINDER OF THIS AGREEMENT REMAINS VALID. IN THIS CASE, THE PARTIES WILL STRIVE TO COME TO AN AGREEMENT TO THEIR ORIGINAL INTENTIONS.

\_\_\_\_\_  
 (FOR & ON BEHALF OF MMTC)

(OFFICE SEAL)

PLACE : \_\_\_\_\_  
 \_\_\_\_\_

WITNESS 1 : \_\_\_\_\_  
 \_\_\_\_\_

NAME : \_\_\_\_\_  
 \_\_\_\_\_

ADDRESS : \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 (FOR & ON BEHALF OF BUYER/  
 VENDOR/BIDDER)

(OFFICE SEAL)

DATE :

WITNESS 2 :

NAME

ADDRESS

**TENDER NO.MMTC/C&HC/TENDER/17-18/HCC-01 DATED: 13/04/2017**

**MANDATORY INFORMATION OF BIDDER**

Company Name	:	
Registration Number	:	
Registered Address	:	
Name of Partners / Directors	:	
Bidder Type (Foreign/ Indian)	:	
City Name	:	
Postal Code	:	
PAN NO / TAN NO	:	
Company's Establishment Year	:	
Company's Nature of Business	:	
Company's Legal Status	:	
Company Category	:	
Contact Details	:	
Contact Name	:	

Designation	:	
Date Of Birth	:	
Correspondence Email	:	
Phone	:	
Mobile	:	

Signature of the bidder: \_\_\_\_\_

Name

Designation



**PENALTY FOR DEVIATION FOR COKING COAL/ PENALTIES FOR  
EVALUATION OF OFFERS FOR COKING COAL (For Overseas Suppliers)**

Sl. No	Technical Particulars	Basis for application of <b>Penalty</b> in price for evaluation of <b>Guaranteed Specifications</b>	Penalty in price in US\$ per MT
1	2	3	4
(i)	Ash	Penalty for every increase of 0.5% (Fractions pro-rata) in Ash Content in excess of guaranteed limit of <b>8.90%</b> upto absolute Maximum Tolerance Limit of <b>10 %</b>	US \$2.00 (US Dollar only )
(ii)	Sulphur	Penalty for every increase of 0.1% (fractions pro-rata) in Sulphur content, in excess of guaranteed Limit of <b>0.60%</b> upto absolute maximum tolerance limit of 0.80%.	US \$ 1.00 (US Dollar One only)
(iii)	Moisture	Where the Total Moisture (on "As received" basis) in the MATERIALS as disclosed in the "Certificate of Sampling and Analysis" at Load port exceeds Guaranteed limit ( <b>10%</b> ) , the Invoice Weight shall be reduced by the excess percentage of Total Moisture over Guaranteed limit @ 1.3% for every 1.00% increase over Guaranteed limit (fractions pro-rata), upto an Absolute Maximum Tolerance Limit of <b>12 %</b> . Material with Total Moisture content exceeding Absolute Maximum Tolerance limit of <b>12%</b> should not be supplied in any case.	
No bonus/increment will however be applicable for improvement in specification observed over the values offered and guaranteed by the seller.			

**TERMS AND CONDITIONS FOR SHIPMENT OF THE MATERIALS ON  
THE BASIS OF C&F (FREE OUT) PARADIP**

The terms and conditions for shipment of the MATERIALS under the Agreement shall be as follows:

**1. TYPE OF VESSELS:**

1.1. The SELLER shall effect shipments in single-decker, self-trimming type of Handymax / Panamax vessels suitable for bulk discharge with self-discharging gear/cranes fitted with grabs fully automatic requiring no manual operation and capable of maintaining the discharge rates guaranteed by the PURCHASER as per Para 6 hereinbelow. Such vessels shall not normally be over 15 years of age. However, in case of vessels over 15 years of age but not over 20 years of age have to be engaged, the SELLER shall seek prior clearance of the PURCHASER. The holds of each vessel shall be cleaned before loading, to avoid contamination. The vessel nominated to the Purchaser should not carry cargo for any other party than the Purchaser.

1.2. If, on arrival of the vessel at the nominated Indian port of discharge, it is considered by the PURCHASER that the grabs are not capable of lifting minimum 8 tonnes of the MATERIALS per grab per cycle as a result of which the vessel may not be capable of maintaining the discharge rates as guaranteed by the PURCHASER as per Para 6 hereinbelow, a joint survey shall be conducted at the port of discharge to investigate and to assess the capacities of the self-discharging gear/cranes/grabs of the vessel and to establish the effective rate of discharge which the vessel is capable of maintaining. The findings of the joint survey shall be final and binding on both the PURCHASER and the SELLER. In case the owner does not participate in the joint survey even after receiving due notice then the report of the independent surveyor shall be binding on the Seller and Purchaser. The survey charges shall be borne and paid for by the SELLER and the PURCHASER in equal proportions.

1.3. If, according to the findings of the surveyor, the vessel is not found to be capable of maintaining the discharge rate guaranteed by the PURCHASER for the relevant port of discharge, the effective rate of discharge which the vessel may in fact be found to be capable of maintaining as per the findings of the joint survey shall be recorded in the STATEMENT OF FACTS referred to in Para 7 herein below and the computation of laytime used shall be based on the rate of discharge as assessed by independent marine surveyor, wherever it is less than the discharge rate guaranteed by the PURCHASER for the relevant port of discharge.

1.4. Keeping in view the limitations at the port of PARADIP, the SELLER shall ensure that the vessels engaged by them for shipment of the MATERIALS under this Agreement have (a) length overall (LOA) (b) beam length not and (c) arrival draughts (available Water) at PARADIP.

## **2. General provisions to be incorporated in the Charter parties governing shipment of the MATERIALS:**

2.1. The SELLER shall ensure that the charter parties governing shipments of the MATERIALS under this Agreement contain, inter-alia, the following provisions:

2.1.1. On sailing and fourteen days prior to vessel's ETA East Coast India, the Master of the vessel shall give advice to the PURCHASER by fax/e-mail. Thereafter, the Master of the Vessel shall telex/cable/fax at intervals of 10 days/7 days/72 hours/24 hours regarding ETA of vessel, to the PURCHASER as well as to the port offices of the PURCHASER.

2.1.2. The SELLER shall arrange for the vessel to bear and pay all port dues/charges (except port unloading charges) tonnage dues, light dues, and other taxes, assessments and charges which are customarily payable at the Indian Port(s) of discharge on or with respect to the vessel (s).

2.1.3. Each vessel shall hold a valid Gear Certificate in conformity with the International Dock Safety Convention, covering the duration of each voyage and confirming that all the gears have been duly tested. The Gear Certificate shall be made available by the Master of vessel to the representative of the PURCHASER for perusal, after the berthing of the vessel.

2.1.4. The SELLER to ensure that the vessel nominated and accepted comply with ISPS code/requirements. Failure on the part of the vessel to comply with the code's requirements and any delay caused by such failures shall be to vessel/ SELLER's account.

2.1.5. The Master of the vessel shall allow on board the vessel the representatives of the independent cargo inspection agency/marine surveyors appointed by the PURCHASER and provide such information/assistance as may be required by them in connection with the performance of their assigned duties.

2.1.6 The Master of the vessel shall provide free use of light on board the vessel as may be required for working the vessel at the port(s) of discharge at all times and in case free of expense to the PURCHASER.

2.1.7. The opening and the closing of the hatches of the vessel shall always be done by the vessel's crew and the cost involved therein and the time

used therefore shall be to the account of the vessel even if the vessel is on demurrage.

2.1.8. In the event of the Master of vessel exercising lien on the cargo (i.e. the MATERIALS) for non-payment of freight, extra freight, dead freight, demurrage and the damages for detention of the vessel at the Indian ports) of the discharge, the SELLER shall, on receipt of fax / email intimation from the PURCHASER, take immediate remedial measures and shall cause appropriate instructions being issued to the Master of the vessel to proceed with the discharge of cargo (i.e. the MATERIALS). Any time lost between the receipt of notice of lien by the PURCHASER from the Master of the vessel and the withdrawal of such notice shall be to the account of the vessel.

2.1.9 The overtime of the crew shall be to the account of the vessel unless ordered by the PURCHASER.

2.1.10. As regards damages, if any, caused to the vessel by the PURCHASER'S stevedores, the PURCHASER will be responsible only for the damages caused to the vessel during discharge. In principle, claims for such damages are to be settled directly between the ship-owners and the stevedores. Such claims shall be lodged by the Master of the vessel on the Stevedores promptly after the damage has been sustained and then confirmed in writing duly supported by Third Party Damage Report prior to vessel's departure from the port of discharge, failing which the claim shall stand absolved and relieved of all responsibility. The Master of the vessel shall get a joint survey conducted with the stevedores to determine the damages sustained to the vessel. The joint survey must be concluded before the departure of the vessel from the port in which the damage took place. The owners must submit their final claim within 60 days of completion of discharge at the port in which the damage took place. Failure to submit final claim within 60 days will debar the claim and relive stevedores of all responsibility. In the absence of a joint survey, the claim shall stand barred and stevedores shall stand absolved and relieved of all responsibilities.

2.1.11. The time used for grab fixing, gangway placement and draft survey will be on vessels account and time used not to count as laytime even if the vessel is already on demurrage.

2.1.12. Laytime shall not count during rain periods, as mentioned in SOF and on Non Weather Working Days (NWW), declared by the port authorities, even if discharge operation is continued for some part of time unless the vessel is already on demurrage.

### **3. Intimations to be sent by the SELLER to the PURCHASER on nomination of vessels for shipment and on completion of loading of vessels at Loadport:**

3.1. SELLER shall so arrange for each shipment of MATERIALS hereunder to confirm with provisions in Clause 1 of this Agreement and shall nominate each vessel 30 days in advance to the PURCHASER by fax/mail including the following details of the vessel (s) viz. (i) Name



of the vessel (ii) flag (iii) Year built (iv) Name and nationality of the shipowners (v) Class (vi) Type (vii) Length overall (viii) Beam Length (ix) Number of hatches/holds (x) Dimensions of hatch openings (xi) Number of cranes and their capacities (xii) Number of crabs and their sizes and liftings capacity per cycle (xiii) Quantity of the MATERIALS proposed to be loaded (xiv) Laydays and ETA of the vessel at the loading port (xv) Demurrage/ Despatch rate. The PURCHASER shall telex/cable to the SELLER within 72 (seventy two) working hours his acceptance or otherwise of the above nomination.

3.2. The SELLER shall consign the vessel (s) to PURCHASER/their Agent(s) at the Indian Port(s) of discharge at customary agency fees payable by the Vessel/Owners to such agent(s).

3.3. Immediately on completion of loading of the materials into the vessel, the SELLER shall give the following details by fax/email to the PURCHASER: (i) Name of the vessel (ii) B/L weight and value of the cargo (iii) Name of the port of shipment (iv) Date and the time of commencement and of completion of loading (v) Date and time of sailing of the vessel from the port of shipment (vi) ETA East Coast India.

#### **4. Service of Notice of Readiness for discharge of cargo (i.e. the MATERIALS) by the Master of the Vessel (Master's N/R):**

4.1. Upon arrival of the vessel within the port limits at each port of discharge and in free pratique and after being ready in all respects to discharge the cargo, the Master of the vessel shall serve on the concerned port office(s) of the PURCHASER (referred to in Para 2.1.1 hereinabove) the Notice of Readiness of the vessel to discharge cargo (MASTER'S N/R) in writing in Business hours between 0930 hours and 1630 hours on working days (Monday to Friday) and between 0930 to 1200 Hours on Saturday

#### **5. Laytime and expected periods:**

5.1. The laytime at discharge port shall commence 24 hours after Master's N/R is served as per clause 4.1 even if used.

5.2. If the turn time at discharge port expires on Saturday afternoons, Sundays, Holidays, the laytime shall commence at 8 A.M. on the next working day, unless used, if used actual time is to count.

5.3. The time taken by the vessel for proceeding from anchorage to the berth shall be treated as transit time and shall be to the account of the vessel, even if the vessel is on demurrage.

5.4. If, after berthing, the vessel is found by the Port Authorities/PURCHASER not ready in all respects to discharge, laytime will not commence until the vessel is in fact ready in all respects to discharge.

5.5. In the event of breakdown of gear/cranes/winches and other equipment of the vessel by reason of disablement or insufficient power etc. the period of such inefficiency shall not count as laytime, irrespective of vessel is on demurrage or not.

5.6. Time lost by reason of any or all of the following causes preventing discharge of the cargo shall not be computed as Laytime unless the vessel is already on demurrage:

5.6.1. War, Rebellion, Tumult, Political disturbances, Insurrection

5.6.2. Lockouts, Strikes, Riots, Civil Commotion

5.6.3. Epidemics, Quarantine, Landslips, Floods, Frost or Snow, boretimes, bad weather

5.6.4. Stoppage of work, whether partial or general, by Workmen Longshoremen, Tugboat men or other hands essential to the working of the vessel or discharge of cargo from the vessel

5.6.5. Accidents at the wharf

5.6.6. Intervention of Sanitary, Customs and/or other constituted authorities

5.6.7. Stoppage, whether partial or total, on rivers and canals.

5.6.8. Any other cause beyond the control of the PURCHASER.

## **6. Guaranteed Discharge Rates:**

6.1. The SELLER shall deliver the MATERIALS free in vessel's holds in one or two safe berths, one safe port(s), reachable on arrival always afloat at the nominated port(s) of discharge

6.2. The SELLER shall provide such Handymax/Panamax vessels having maximum 5 hatches/holds served by minimum 4 cranes of preferably 30 MT capacity (minimum 25MT capacity) each fitted with grabs of preferably 12 CBM capacity (minimum 8 CBM capacity).

6.3. Subject to the provisions of Para 1.3, Para 5 and 6.2, hereinabove, the PURCHASER shall guarantee discharge rate of 12000 Metric Tonne, SHINC, basis five or more available workable hatches, WEATHER WORKING DAY(WWD) of 24 consecutive hours and prorata for part of WWD, SHINC TERM WILL BE APPLICABLE ONCE VESSEL COMMENCES DISCHARGING.

## **7. Statement of Facts:**

7.1. Immediately after completion of discharge, and before the sailing of the vessel from the port of discharge, a Statement of Facts shall be made out at the port of discharge duly signed by and distributed amongst (a) Master of the vessel/agents of the vessel at the port of discharge; (b) Agents/Representative, if any, of the SELLER at the port of discharge and (c) Representative of the PURCHASER at the port of discharge.

**8. Settlement of Demurrage/Despatch Money Account in respect of each shipment:**

8.1. In the time sheet based on the aforesaid STATEMENT OF FACTS, the computation of Laytime allowed and Laytime used shall be based on the provisions contained in Para 6 and 7 hereinabove. Despatch, if any, shall be calculated on the basis of 'Working time saved'. The rate of Demurrage/Despatch Money shall be as per Charter Party and the same shall be declared at the time of nomination of the vessel. In the case of demurrage, the PURCHASER shall endeavour to remit to the SELLER the agreed amount of Demurrage within about 60 (SIXTY) days from the date of receipt of the claim of the SELLER together with all supporting documents. In the case of Despatch Money, the SELLER shall endeavour to remit to the PURCHASER the agreed amount of Despatch Money within about 60 (SIXTY) days from the date of the claim of the PURCHASER together with the supporting documents. Such claim together with the supporting documents shall be submitted by either party within 45 days from the date of completion of discharge and should be settled on vessel to vessel basis.

FOR AND ON BEHALF OF THE SELLER

FOR AND ON BEHALF OF THE  
PURCHASER