

THE ORISSA MINERALS DEVELOPMENT COMPANY LIMITED
(A Govt. of India Enterprise)
P.O. Thakurani, Via- Barbil,-758035. Dist.Keonjhar (Orissa)
Telephone No. 06767-275530, 275058, 276131
Head Office: Ground Floor- 271, BidyutMarg, Unit-IV, Shastri Nagar,
Bhubaneswar -1(Odisha)

TENDER DOCUMENTS

FOR

HIRING OF 01 NO. SUITABLE EXCAVATOR FORWEIGHT ADJUSTMENT (OVER LOADING & UNDER LOADING)AT ROIDA WEIGH BRIDGE TO DISPATCH OF 1, 00,000 MT.(APPROX.) i.e. 25 nos. RAKE of IRON ORE FINES TO RINL FROM BHADRASAHI MINES THROUGH RAIL.

TENDER NOTICE NO:-OMDC/BSM/2023-24/276

DATED: 26/08/2023

Name of the Tenderer.....

Address of tenderer.....

.....

.....

THE ORISSA MINERALS DEVELOPMENT COMPANY LIMITED
(A Govt. of India Enterprise)
P.O. Thakurani, Via- Barbil,-758035. Dist.Keonjhar (Orissa)
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Bhubaneswar -1(Odisha)

CHAPTER-I

Tender Notice

TENDER NOTICE NO:-OMDC/BSM/2023-24/276, DATED: 26/08/2023.

1. Sealed tenders in prescribed format are invited from the experienced agencies having working experience on hiring of 01 no. suitable excavator for weight adjustment (over loading & under loading) at Roida weigh bridge to dispatch of 1, 00,000 MT.(APPROX.) i.e. 25nos. Rake of iron ore fines to RINL from Bhadrasahi Minesthrough Rail.
2. In case of downloaded tender, the bidder has to submit an undertaking on the company's letter head that, no amendments have been made in the tender document downloaded from co's website. The cost of Tender Document is **Rs.700/-**.
3. The tender shall be opened in the presence of the tenderer or their authorized representatives at 4.00 p.m. on dated 19/09/2023 in the office of the Business Head, At/P.O. Thakurani, Via – Barbil, Dist-Keonjhar (Odisha). In this respect the decision of the company shall be final and binding on the contractor.
Note: (Bids received after 4.00 p.m will be rejected).
4. The expected date of commencement of work shall be from the date of issuance of work order.
5. The interested agencies are advised to contact personally with the Manager (Mines), Roida to acquaint themselves with the nature of works.
6. The Company reserves the right not to accept the lowest offer. The company also reserves the right to cancel the tender and in such an event no claim of any tenderer for such a discussion by the company shall be entertained.
7. The validity of the offer shall be for 30 days from the date of opening of the tender.
8. Bidders are required to give an undertaking that they will abide by all the terms & conditions of the tender document as per format given in annexure – I.
9. All other terms and conditions are stipulated in the under document/schedule.

BUSINESS HEAD
OMDC LTD.

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CHAPTER-II

1. **Technical Specifications**

Hiring of 01 no. suitable excavator for weight adjustment (over loading & under loading) at Roida weigh bridge to dispatch of 1, 00,000 MT. (APPROX.) i.e. 25 nos. Rake of Iron ore fines to RINL from Bhadrasahi Mines through rail.

2. **SCOPE OF WORK:**

Supply of 01 no. suitable excavator for weight adjustment (over loading & under loading) at Roida weigh bridge to dispatch of 1, 00,000 MT.(APPROX.) i.e. 25 Rake of iron ore fines to RINL from Bhadrasahi Mines through rail.

3. **EARNEST MONEY DEPOSIT:**

3.1. The tenderer is required to deposit a lump sum amount of Rs. 6,000.00 (Rupees six thousand only) as Earnest Money Deposit(EMD) in any of the forms mentioned here below, failing which the tender shall be not be considered.

3.2. Earnest Money Deposit (EMD) of Rs. 6,000.00(Rupeesixthousand only) in shape of Demand Draft/Bankers Cheque/ Pay Order drawn on any nationalized bank favouring "The Orissa Minerals Development Company Limited" payable at Barbil, Dist.Keonjhar(Odisha).

3.3. Tender without EMD will be rejected.

3.4. EMD of successful bidders will be converted into Security Deposit.

4. **SECURITY DEPOSIT (SD)**

4.1. EMD of successful bidders will be converted into Security Deposit which shall be released after completion and successful execution of contract.

4.2. 5% of running bill from every month shall be retained as security deposit which shall be released after completion and successful execution of contract.

5. **CONTRACT PERIOD**

The period of work shall be to completion of 1,00,000 Mt (APPROX). i.e. 25 nos. Rake of iron ore fines dispatched from Bhadrasahi mines to RINL through railway siding.

OMDC management has sole authority to increase or decrease the dispatch quantity.

6. **ELIGIBILITY CONDITION:**

In order to qualify in the tender, the tender must produce the following documentary evidence in support of the following:-

Techno-Commercial Bid document.

Experience:- Experience of having successfully executed/completed at least one similar work the value of which is Rs. 3,50,000/(three lakh fifty thousand)

only during last 5(five) years ending last day of the month previous to the one in which tender issued. Copy of the work Order/contact including execution certificate (work completed) of the same should be enclosed.

Experience in the name of partners of the firm or that of the Director of the Company will be considered as experience of the firm/company participating in the tender.

Similar works means whose scope is similar to the scope of the current works as specified in the tender which include Loading and shifting of Earth/Sand/Cement/Limestone/Timber/Tar-

Biumen/Coal/Manganese/chromite/Bricks/Iron Ore/Iron Ore Pellets etc. using mechanical equipments.)

- (i) **Average Annual turnover:** Average Annual financial turnover during the last 3(three) years i.e,2020-21,2021-22 & 2022-23 should be at least Rs.2,00,000.00 (two lakh)only copy of Balance Sheet, Profit & Loss A/c & Income Tax Return to be submitted in support of the turnover.
- (ii) Earnest Money Deposit(EMD) of **Rs.6000/-**(Rupees six thousand only) in shape of Demand Draft/ Pay Order/Bankers Cheque/ Bank Guarantee on any Nationalized Bank favoring “The Orissa Minerals Development Company Limited”, payable at Barbil, Dist.Keonjhar(Odisha).
- (iii) **Memorandum &Articles** of association in case of a Limited Company, Notarised Registered Partnership Deed in case of partnership firm & Notarized affidavit in case of a Proprietorship firm.
- (iv) Copy of PAN card.
- (v) Copy of GST registration certificate.
- (vii) Declaration to the effect that the bidder has accepted all the terms &condition of the Tender Document Annexure-1.
- (viii) Undertaking in the agency’s letter head to the effect that the agency has not been blacklisted/debarred by any PSU or OMDC at any point of time as per Annexure-II.
- (ix) Signed Copy of integrity pact as per Annexure –III.

Note:-

i. If any bidder is having a Partner/Director who had been a Partner/Director in a person /firm/company/society, whose contract, such bidder shall not be eligible to participate in the Tender.

ii. Any person/company/society etc., who was awarded such contract in past at OMDC for the work as mentioned in this Tender Notice and was terminated on account of unsatisfactory performance or breach of contract is debarred from participating in this Tender. Any Tender received from such agency is liable for rejection.

iii. Submission of any forged document will attract legal action including the rejection of tender or cancellation of contract at the risk and the cost of the agency, if awarded.

iv. All documents along with the tender shall be self-attested on each and every page by the authorized signatory of the bidder with official seal.

7) EVALUATION OF THE BIDS:-

i. Part – I, i.e. Techno-Commercial Bid shall be opened in the presence of the bidders or their authorized representative at time and date as given in Chapter – 1.

ii. Part – II i.e. Price Bid of the Bidders, whose Techno- Commercial Bids are found acceptable shall be opened afterwards

7. PENALTY

If the job shall not be commenced immediately from the starting date of Rake dispatch or if any work hampered due to machine failure at the time of rake loading,penalty shall be imposed as the penalty imposed by the Rail way to the company.

8. FORCE MAJEURE

The agency shall not be liable any penalty on account of delay or failure to perform the contract for reasons of force majeure such as acts of God acts of the Public, Enemy, acts of Government, Fire, Floods, Epidemics, Guarantee in restriction, Strikes, Freight Embargos and provided that the agency shall within 10 (ten) days from the beginning of such delay notify the owner in writing of the cause of delay the owner shall be verify the facts the grant such extension as facts justify.

9. OTHER TERMS AND CONDTIONS:

9.1. The agency has to arrange tools and implements of his own.

9.2 The agency shall inspect the site and satisfy himself before submitting the tender.

9.3. The amount of any loss or damage of the properties of OMDC by the machinery due to mishandling/carelessness shall be deducted from his bill.

9.4. The agency shall be held responsible for any injury/accident caused to his personnel during the work.

9.5. The company shall not be liable for any delay in submission of the tender documents due to postal delay and no extension of date for tender submission/tender opening shall be given for this reason.

9.6 The rate quoted by the agency shall remain firm and fixed for the dispatch quantity 1,00,000 MT. (APPROX.) i.e. **25 nos. RAKE of IRON ORE** and no escalation of rate will be made during the contract period.

9.7 Each page of the tender schedule must be signed by the tenderer before submission; otherwise the tender will be treated as invalid.

BUSINESS HEAD

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Head Office: Ground Floor- 271, BidyutMarg, Unit-IV, Shastri Nagar,
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CHAPTER – III

GENERAL CONDITION

1. DEFINATION:

- a) Tenderer /Bidder: Tenderer /Bidder means a person, Society,Firm, or Company willing to participate by accepting terms and conditions given in the tender documents.
- b) Tender: Tender means the work to be perform according to the tender documents both technical and commercial) submitted by the tenderer for consideration of OMDC.
- c) Name of the Tender: Name of the tender means the work to be performed by the tenderer.
- d) Techno-commercial bid: Techno-commercial Bid means documents regarding legibility condition as stipulated in the tender documents for qualifying the bidder for consideration of the Price-Bid.
- e) Schedule Rate: Scheduled Rate means the rate quoted by the tenderer in the prescribed format for various activities to be performed by the contractor.
- f) Price Bid: Price Bid means the document containing the schedule rate to be considered for the purpose of evaluation and award of contract.
- g) Contractor: Contractor means the person or society, firm, company whose tender has been accepted by the OMDC.
- h) OMDC : OMDC means “The Orissa Minerals Development Company Ltd. “ A company incorporated in India having its Head Office at Ground Floor- 271, BidyutMarg, Unit-IV, Shastri Nagar, Bhubaneswar-1(Odisha)
- i) Employer: Employer means OMDC
- j) Competent Authority: Competent Authority means MD or any designated officer by MD.
- k) Taxes: Taxes means Income Tax, Surcharge, GST(Central and State) , Educational Cess, Value Added Tax, Entry Tax, and any other Tax, Levy, Fees, as imposed by the Government from time to time.

2. SUBMISSION OF TENDER:

The bidders shall submit the tender in 1 (one) part (Both technical and price bid shall be In one envelop).

Tenders can be submitted either by post, courier service or deposited in the Tender box In this office.

The Company shall not be liable for any delay in submission of the tender documents due Postal/Courier or any other delay and no extension of date for tender submission/ tender Opening shall be given for this reason.

Tenders not received in prescribed form will be liable to be summarily rejected.

Conditional Bids not adhering to the Tendered terms and conditions are liable to be rejected Tenders will be received up to 4.00 p.m. on 19/09/2023 and will be opened on the same day at 4.00P.M. in the presence of bidders or their authorized representatives.

The bidders will be intimated about the date & time of the price bid opening in advance Through letter/Fax/Telephone/e-mail.

Bidders should indicate their Bank A/c details for making payments through RTGS/NEFT.

OMDC reserves the right to accept or reject any or all tenders or distributes the work amongst different bidders without assigning any reason thereof.

The tender document shall have to be signed by the bidder in each page and the terms and conditions must not be altered; failing which, the tender will be rejected .

Tender for containing 'over written' or 'erased 'rate or rates and amount not shown in Figures and words in English will be liable to rejection.

Any tender containing clerical or arithmetical mistakes may be rejected. Any request from the bidder in respect of additions, alterations, modifications etc. of either terms or conditions or rates of his tender after opening of the tender may lead to rejection of his tender.

Note:The tender submitted an agency, who has been debarred by any PSU, will not be eligible to participate in the tender.

3.(A) OPENING OF TENDER :

The tender shall be opened on 19/09/2023 at 4.00 P.M. in the office of Business Head.The Orissa Minerals Development Company Limited, At/P.O. Thakurani near Barbil, Dist.Keonjhar(Orissa) in the presence of thee tenderers Or their accredited representatives.

(B) EVALUATION OF THE BIDS:

The tender shall be evaluated on the basis of the submission of requisite documents as in Support to qualify themselves for consideration of price bids. The price bid of technically Qualified bidders shall be evaluated and the lowest quoted (L1) party shall be awarded the work.

4. Award of Contract

4.1. The company reserves the right to accept or reject any or all tenders or distributes the work amongst different tenderers without assigning any reason thereof.

4.2 Award of contract shall be made at the absolute discretion of OMDC. The company reserves the right to reject any part or whole of the tender without assigning any reason whatsoever. For such cancellation the tenderer shall not be entitled to claim any cost, charges, expense incidental to or incurred by him through or in connection with the preparation with the submission without assigning any reason whatsoever.

4.3. OMDC also reserves the right not to accept the lowest offer and to divide the work to more than one party/parties.

4.4. OMDC shall not be liable for any delay in receipt of the tender document by the Tenderers due to Postal delay and no extension of time to the date of tender opening shall be given for this reason.

5. PAYMENT & SETTLEMENT OF BILLS:

Monthly Bills in triplicate shall be raised after completion of every month of the work and submitted to Manager(Mines) and DGM(Mines) who will forward the same to Business Head for approval who will forward the same to finance department for consideration of the payment. The agency shall submit necessary bank a/c details for getting payment through RTGS/NEFT.

Payment will be made as follows:

| Sl.No. | Nature of Job | % of payment |
|---------------|--|---|
| 1 | Completion of job for each month as per scope of work. | 95% of monthly work value shall be considered for payment duly certified by concerned Manager (Mines) and DGM (Mines) and remaining 5% shall be retained as Security which shall be released after Completion of dispatch quantity(1,00,000 M.T) APPROX i.e 25 nos. Rake of Iron ore fines. |

6. INCOME TAX: Shall be deducted at the prescribed rate as per the income Tax Act from the gross value of his bill. The agency has to submit the copy of the Income tax Pan Card.

7. EXIT CLAUSE:

Both the parties have the right to exit from this contract/agreement by serving **One Month**

Notice in writing.

ARBITRATION:

Any dispute or difference under or arising out of or in respect of the Agreement /Accepted contract may be referred to the sole Arbitration of a person appointed by the Chairman cumManaging Director, The Orissa Minerals Development Company Limited, Ground Floor-271, BidyutMarg, Unit –IV, Shastri Nagar, Bhubaneswar-1(Odisha) and his decision in the matter will be final and binding on the contractor and the company. The arbitration shall be carried out as per Arbitration Act -1996 and Rules made there under as amended from time to time.

Note: The Court of Keonjhar& High Court at Cuttack will have the jurisdiction to address any Unsettled dispute.

**BUSINESS HEAD
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Bhubaneswar -1(Odisha)

PRICE BID

TENDER NOTICE NO. – OMD/BSM/2023-24/276 DATED:26/08/2023

Sub: Hiring of 01 no. suitable excavator for weight adjustment (over loading & under loading) at Roida weigh bridge to dispatch of 1, 00,000 MT.(APPROX.) i.e. 25 nos. Rake of iron ore fines to RINL from Bhadrāsahi Mines through rail.

| <u>Sl.No.</u> | Description of job | Rate in Rs. Per Tone(A) | Quantity(M.T) (B) | Total (inRs.) C= (Ax B) |
|----------------------|---|------------------------------------|------------------------------|-------------------------------------|
| 1 | Hiring of 01 No. suitable excavator for weight adjustment near Weighbridge at Bhadrāsahi Mines,Roida. | | 1,00,000 M.T | |
| Grand Total | | | | |
| In words | | | | |

Note :

- i. L-1 bidder will be evaluated on the basis of lowest quoted Grand Total Value in the price Bid.
- ii. GST will be paid extra as applicable.
- iii. In case there is any discrepancy between figure and word then the amount quoted in word will be considered for evaluation.

Signature of the Tenderer
With seal and date

Annexure-I

DECLARATION BY THE BIDDER

To

The Business Head,
The Orissa Minerals Development Company Limited,
Thakurani, Barbil,
Keonjhar(Orissa)

Sub: - Sub: Hiring of 01 no. suitable excavator for weight adjustment (over loading & under loading) at Roida weigh bridge to dispatch of 1, 00,000 MT.(APPROX.) i.e. 25 nos. Rake of iron ore fines to RINL from Bhadrasahi Mines through rail.

Ref.:- Tender Notice No.: -OMDC/BSM/2023-24/276, Dated:-26/08/2023

Dear Sir,

In response to the tender invited by you, I/We have examined the general conditions and other terms and conditions of the contract and I/we agree to abide by all instructions in these documents attached hereto and hereby bind myself/ourselves to execute the work as per schedule stipulated in the Tender Notice.

I/We further agree to sign and execute all agreements/bonds as may be required by OMDC to abide by the general conditions and other conditions of the contract and to carry out all work as per specifications, failing which, I/We shall have no objection for the forfeiture of the security money deposited with the company.

I/We also agree to comply the conditions laid down in Mines Act 1952.

I/We enclose herewith the required documents.

Yours faithfully,

**SIGNATURE OF THE BIDDER
WITH SEAL & DATE**

Encl: List of documents.

- i) Tender Schedule
- ii) Part-I Techno Commercial Bid
- iii) Part-II Price Bid,
- iv) Cost of Tender & EMD

UNDERTAKING

To

The Business Head,
The Orissa Minerals Development Company Limited
Thakurani, Barbil
Keonjhar (Odisha)

Sub: - Sub: Hiring of 01 no. suitable excavator for weight adjustment (over loading & under loading) at Roida weigh bridge to dispatch of 1, 00,000 MT. (APPROX.) i.e. 25 nos. Rake of iron ore fines to RINL from Bhadrasahi Mines through rail.

Ref.:- Tender Notice No.:OMDC/BSM/2023-24/276, Dated:- 26/08/2023

Dear Sir/Madam,

In response to the tender invited by you, I/We have examined the general conditions and other terms and conditions of the contract and I/We agree to abide by all instructions in these documents attached hereto and hereby bind myself/ourselves to execute the work as per schedule stipulated in the Tender Notice.

I/We further agree to sign and execute all agreements/bonds as may be required by OMDC to abide by the general conditions and other conditions of the contract and to carry out all work as per specifications, failing which, I/We shall have no objection for the forfeiture of the earnest money/security money deposited with the company

I/We also undertake that I/ We have not been blacklisted by any PSU or debarred by OMDC at any time.

I/We enclose herewith the required documents.

Yours faithfully,

SIGNATURE OF THE BIDDER
WITH SEAL & DATE

INTEGRITY PACT

THIS AGREEMENT is entered into between the following Parties:

THE ORISSA MINERALS DEVELOPMENT COMPANY LIMITED (OMDC) hereinafter referred to as **“The Principal”**.

AND

M/s.....,
hereinafter referred to as **“The Tenderer/Contractor”**

PREAMBLE

The Principal intends to award a contract, following its laid down organizational procedures, for carrying out the work for weight adjustment (over loading & under loading) at Roida weigh bridge to dispatch of 1, 00,000 MT.(APPROX.) i.e. 25 nos. Rake of iron ore fines to RINL from Bhadrasahi Mines through rail.

The principal values full compliance with all relevant laws and regulations and the principles of economical use of resources and of fairness and transparency in its relations with its Tenderer(s) and/or Contractor(s).

In order to achieve these goals, the principal co-operates with the renowned international Non-Governmental Organization, “Transparency International” (TI). Following TI’s national and international experience, the Principal will appoint an Independent External Monitor (IEM) who will monitor the tender process and the execution of the Contract for compliance with the principles mentioned above.

IT IS AGREED AS FOLLOWS:

1. Definitions:

- a) **“Principal”** means THE ORISSA MINERALS DEVELOPMENT CO. LTD (**OMDC**) incorporated under the Companies Act, 1956, having their registered Office at Plot No.271, Ground Floor, BidyutMarg, Shastri Nagar, Unit-IV, Bhubaneswar-751001 and includes their successors.
- b) **“Tenderer/ Bidder”** means the person, firm or company submitting a tender/bid against the Invitation to Tender and include his/its/their staff, consultants, parent and associate and subsidiary companies, agents, consortium and joint venture partners, sub-contractors and suppliers, heirs, executors, administrators, representatives, successors.
- c) **“Contractor”** means the person, firm or Company whose tender has been accepted and shall be deemed to include his/its/their successors, representatives, heirs, executors and administrators unless excluded by the Contractor.

- d) **“Independent External Monitor”** means a person, hereinafter referred to as IEM, appointed, in accordance with Clause 8.a below, to verify compliance with this agreement.

“Party” means a signatory to this agreement.

“Contract” means the contract entered into between the Principal and Tenderers/ Contractors.

1. Commitments of the Parties:
2. Commitments of the Principal: The Principal commits itself to take all measures necessary to prevent corruption (inducement to violate duty assigned to its employees) and to observe the following principles:

No employee of the Principal, personally or through family members or any third person, will in connection with all stages of tendering or the execution of Contract, demand or take a promise, or accept, for him/herself or any third person, any material or immaterial benefit which he/she is not legally entitled to.

The Principal will, during the tender process, treat all Tenderers with equity and reason. The Principal will in particular, before and during the tender process, provide to all Tenderers the same information and will not provide to any Tenderer any information/clarification through which the Tenderer could obtain an advantage in relation to the tender process or the Contract execution.

The Principal will not take, directly or indirectly, any steps, which could unduly influence the functioning of IEM.

If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the relevant Anti-corruption Laws of India/guidelines of Govt./guidelines of CVC/guidelines or Principal, or if there be a substantive suspicion in this regard, the Principal will inform its Vigilance Department and in addition can initiate disciplinary actions.

If the Principal obtains information of conduct of a bidder, contractor or sub-contractor or of an employee or a representative or an associate of a bidder, contractor or sub-contractor, which constitutes corruption, or if the Principal has a substantive suspicion in this regard, the principal will inform the Vigilance Department.

Commitments of the Tenderer/ Contractor: The Tenderer/Contractor commits himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the Contract execution.

The Tenderer/Contractor will not directly or through any other person(s) or firm, offer, promise or give to the Principal, or to any of the principal’s employees involved in the tender process or the execution of the Contract or to any third person any material or immaterial benefit which he/she is not legally entitled to in order to obtain, in exchange, an advantage during the tender process or to vitiate the principal’s tender process or the execution of the Contract.

The Tenderer/Contractor will not enter with other Tenderers into any illegal agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contractors, submission or non-submission of bids or actions to restrict competitiveness or to vitiate the principal's tender process or the execution of the contract.

The Tenderer/Contractor will not commit any criminal offence under the relevant Anti-corruption Laws of India; further, the Tenderer/Contractor will not use improperly, for purposes of competition or personal gain, or pass on to others, any information provided by the principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.

The Tenderer/Contractor 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.

The Tenderer/Contractor will not take, directly or indirectly, any steps, which could unduly influence the functioning of IEM.

The Tenderer/Contractor will not instigate third persons to commit offences outlined above or be an accessory to such offences.

3. Obligation to Ensure Compliance:

Each Party will take all reasonable steps to ensure that the provisions of this Agreement which are binding on it are complied with by all of its staff, consultants, and parent and associated and subsidiary companies, agents, consortium and joint venture partners, sub-contractors and suppliers.

4. Equal treatment of all Bidders/Contractors/Sub-Contractors:

The bidder/contractor undertakes to obtain from all sub-contractors a commitment consistent with this integrity pact, and to submit it to the principal at the time of seeking approval of the principal for appointment of sub-contractors.

The principal will enter into agreements with identical conditions as that of this Integrity pact, with all bidders/contractors.

5. Disqualification from tender process and exclusion from future contracts:

If the Tenderer, before Contract award, has committed a transgression through a violation of any of the terms **under Clause 2.b** or any other form such as to put his reliability or credibility as tenderer into question, the Principal is entitled to disqualify the Tenderer from the tender process or to terminate the Contract if already signed, for such reason.

- b) If the Tenderer/Contractor has committed a transgression through a violation of any of the terms under clause 2.b or in any other form such as to put his reliability or credibility into question, the principal is entitled also to exclude the Tenderer/Contractor from 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 transgressions, the position of the transgressors within the Company hierarchy of the tenderer/Contractor and the amount of the damage. The exclusion will be imposed for a minimum of 6 months and a maximum of 3 years.

- c) If the tenderer/Contractor can prove that he has restored/recouped the damage caused by him and has installed a suitable corruption prevention system, the principal may revoke the exclusion prematurely.
- d) A transgression is considered to have occurred if, in light of all available evidence, no reasonable doubt is possible.

6. Compensation for Damages:

- a) If the principal has disqualified the Tenderer from the tender process prior to the award according to clause 5 above, the Earnest Money Deposit (EMD) furnished, if any along with the offer as per the terms of the Invitation to Tender (ITT) shall be forfeited. This is apart from the disqualification of the tenderer as may be imposed by the Principal as brought out at Clause 5 above.
- b) If the principal has terminated the Contract according to Clause 5 above, or if the Principal is entitled to terminate the Contract according to Clause 5 above, the EMD/Security Deposit furnished by the Contractor, if any, as per the terms of the ITT/Contract shall be forfeited. This is apart from the disqualification of the tenderer, as may be imposed by the Principal, as brought out at Clause 5 above.

7. Previous Transgression:

- a) The Tenderer hereby declares that no previous transgressions occurred in the last 3 (three) years with any other Company in any country conforming to the TI approach or with any other Public Sector Enterprise in India and, as such, there is no case of his exclusion from the tender process.
- b) The Tenderer hereby concedes that if he has made/makes incorrect statement in regard to this aspect, he can be disqualified from the tender process or the Contract, if already awarded, can be terminated for that reason.

8. Independent External Monitor (IEM)

- a) The principal, will appoint a competent and credible IEM for the duration of this agreement in consultation with the Central Vigilance Commission (CVC).
- b) The IEM will assess, on an independent and objective basis, the extent to which the Parties comply with their obligations under this Agreement.
- c) The parties will, after submission of a tender:
allow the IEM unrestricted access to all books, records and staff relevant to such tender;

ensure that the IEM has unrestricted access to the relevant books, records and staff of their consultants, parent and associated and subsidiary companies, agents, consortium and joint venture partners, sub-contractors and suppliers.

- d) The parties will, after the award of any Contract to them, and for the duration of the Contract.
- allow the IEM unrestricted access to all books, records and staff relevant to the contract;
 - ensure that the IEM has unrestricted access to all books, records and staff of their consultants, parent and associated and subsidiary companies, agents, consortium and joint venture partners, sub-contractors and suppliers relevant to the contract.
- e) In the event that the IEM believes that there is Prima facie evidence that there has been a failure by a party to comply with any provision of this Agreement, the IEM will take the following actions:

He will include full details of such suspected non-compliance in a written report, which will be circulated simultaneously to the Chief Executives of each of the parties. The report will provide details of, all suspected or actual breaches of the provisions of this Agreement actions taken by the IEM and the parties in relation to such breaches any reports made by the IEM to criminal authorities, professional associations or other bodies.

If any such non-compliance has been carried out, or assisted by an individual who is a member of a professional association, and such non-compliance may constitute a breach of any disciplinary code of such professional associations, the IEM will report such matter to the professional association.

If any such non-compliance may constitute a criminal offence, either in the country in which the Contract is being carried out, or in the home country of the Organization or individual which carried out or assisted such non-compliance, the IEM will report such matter to the criminal authorities in those territories.

- f) Upon receipt of a report from the IEM, the Chief Executives of all the Parties will discuss and try to agree upon the appropriate action to be taken in line with Clause 5, 6 & 7 to deal with such non-compliance.

The IEM has no power to require any of the Parties to undertake any actions. No statement by the IEM, whether oral or in writing, is binding on any of the Parties. All reports and other documentation issued by the IEM can be used by any Party in legal or dispute resolution proceedings. The IEM can be called as a witness in legal or dispute resolution proceedings.

Free and/or any other incidentals including traveling/conveyance expenses, if any, payable to IEM shall be borne by the Principal.

The IEM can only be removed from his appointment, if:

1. all of the Parties agree in writing to remove him, or
2. he resigns; or
3. he is removed from his Office by order of a Court having appropriate jurisdiction.

If the IEM is removed from his appointment, the Principal will appoint another IEM as per **Clause 8.a** above for the remaining duration of this agreement.

9. Breaches of this Agreement:

In the event that any party believes that there is Prima Facie evidence that there has been a failure by a Party to comply with any provision of this Agreement, such Party will take the following actions:

It will report full details of such suspected non-compliance to the IEM with copies to the Chief Executives of each of the Parties.

If any such non-compliance has been carried out, or assisted by an individual who is a member of a professional association, and such non-compliance may constitute a breach of any disciplinary code of such professional association, such Party may report such matter to the professional association.

If such non-compliance may constitute a criminal offence, either in the country in which the contract is being carried out, or in the home country of the Organization or individual which carried out or assisted such non-compliance, such Party may report such matter to the criminal authorities in those territories.

In the event that any Party breaches any provision of this Agreement, the other Parties may, in addition to the rights under this agreement, claim damages against the defaulting Party, and exercise any other rights they may have against the defaulting party.

The Parties will take appropriate disciplinary or enforcement action against any of their staff, consultants, parent and associated and subsidiary companies, agents, consortium and joint venture partners, sub-contractors and suppliers who cause or assist in any breach of any provision of this agreement.

10. Duration of Agreement:

- a) This agreement comes into force as soon as all the Parties have signed it. It cannot be terminated or varied except by the written agreement of all the Parties.
- b) This Agreement will expire after 12 (twelve) months from the date of the last payment under the respective Contract for the Contractor, and for all other Tenderers 6 (six) months after the award of the Contract.

11. Other provisions:

- a) The Principal will disqualify from the tender process Tenderer/Tenderers who does/do not sign this pact or violate its provisions.

- b) Should any occasion arise entailing IEM to undertake any investigation under the provisions of this agreement, the venue for such investigation shall generally be Bhubaneswar.
- c) This agreement is subject to Indian law. Place of performance and jurisdiction is the Corporate Office of the Principal
- d) Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.
- e) Address along with other relevant details of the Chief Executives of the parties are as given under:

| | |
|---|---|
| <p>1. Principal Managing Director, THE ORISSA MINERALS DEVELOPMENT CO. LTD. Plot No. 271, Ground Floor, BidyutMarg, Shastri Nagar, Unit-IV, Bhubaneswar- 751001</p> | <p>Email- dcdkm@vizagsteel.com and bh.omdc@birdgroup.co.in</p> |
| <p>2. Details of Tenderer are to be filled in by Tenderer concerned ></p> | |

- f) 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.
- g) If the Contractor is a partnership or consortium, this agreement must be signed by all partners or consortium members.

(Signature)

(signature)

For the Principal

For the Tenderer/ Contractor

Place: _____

Witness 1: _____

Date: _____

Witness 2: _____