

OFA. No.MSTC/OMDC/MNFines22-24Road/Aug/10-11/3290

06-08-2010

**ON LINE FORWARD AUCTION NOTICE**

1. The following material is available on **Ex-plot/Ex-Mines Roida** for sale through online forward auction process. Contract period up to 15.10 2010.

**THOSE HAVING LEASED HOLDING / OWNERSHIP OF ANY IRON ORE MINES ARE BARRED FROM PARTICIPATING IN THE ONLINE AUCTION.**

**THE BIDDER WILL POSSES VALID TRADE LICENSE FOR LIFTING/PROCUREMENT OF MATERIAL.**

Sl. No	Lot Number	Item Description	Quantity	Location	Bidding Basis
1	01-03	Manganese Ore Fines 22-24% Mn Size-(-10 mm).	Total 1500 MT in units of 500 MT per unit, by Road. Qty. Tol. +/- 15%	<b>Ex-plot/Ex-Mines Roida</b>	Rs/MT, <b>Ex-plot/Ex Mines</b> basis

The bid value shall be the basic price of the material exclusive of all applicable levies namely royalty, sales taxes and other govt. levies as applicable at the time of dispatch in Rs/MT. Dispatch by Road only on Ex-plot/ ex mines basis.

2. Last date of submission of OFA documents with Pre Bid Security Deposit: upto 15.00Hrs. on 11.08.10  
Auction Date: 11.08.10.  
Auction Start Time: 16.00HRS.

3. All those intending to participate in the Online Forward Auction would be required to submit the following documents to M/S MSTC Limited, 2<sup>nd</sup> Floor, AJC Bose Road, Kolkata 700 020 or any other office of MSTC Limited within the last date and time of submission of Security Deposit and OFA documents as mentioned in clause 2 above.

i) Pre-Bid Earnest Money Deposit(EMD):

Non Interest bearing Pre-Bid Earnest Money Deposit of Rs 92000 (Rupees Ninty two thousand Only) per lot in the form of Demand Draft / Pay Order drawn on any schedule/nationalized bank in favour of "The Orissa Minerals Development Co. Ltd.", payable at Kolkata. Those interested in participating for more than one lot need to submit Pre-Bid EMD for the total number of lots they intend to participate in (e.g. For Y no. of lots the Pre-Bid EMD will be Rs 92000 x Y).

ii) A letter of interest duly signed and stamped. Annexure A

iii) Online forward auction notice duly signed and stamped on every page.

iv) Special Terms and Conditions signed and stamped on every page & also Form A which is to be filled up.

v) General Terms & Conditions of sale of OMDC for sale through online forward auction – OMDC FA1 signed and stamped on every page (Annexure B).

vi) General Rules and Regulations governing conduct of online forward auction signed and stamped on every page. Annexure C.

vii) Definition of key terms duly signed and stamped. Annexure D.

viii) Valid Sales Tax registration certificate along with PAN Card copy.

ix) Participants have to give an under taking to the effect that they are not lease holders of any Iron Ore mines. Lease holder of Mines are not eligible for participation. If it is detected that any such party has bid in the auction then the SD/EMD, as applicable will be forfeited .

If it is detected that any such party has bid in the auction without any of the above documents then the SD/EMD, as applicable will be forfeited .

MSTC Limited will issue a user ID and password to each such eligible bidder.

NOTE: It is the responsibility of the willing parties who have submitted documents expressing interest to participate in the particular Online Auction, to go through the requirements and submit all documents as per conditions mentioned in this auction document. Hence the parties are advised to carefully go through the requirements of this auction document and submit all relevant information. Any deviation to the requirements of this auction document (lack of information etc) will be construed as Conditional and measures as decided by OMDC will be applicable. The decision of OMDC in this regard will be final & binding on the bidder.

4. Before actual participation, the bidders may obtain necessary help from MSTC Limited so as to enable them to participate in the online forward auction process without any difficulty.

5. Final bids given by the bidders in the online forward auction should be kept valid for 10 (ten) working days from the date of conduct of online forward auction for acceptance by OMDC.

6. If for any reasons beyond the control of OMDC all the materials offered through the online forward auction or part thereof cannot be delivered by OMDC, the liability of OMDC will be limited only to refund of proportionate amount paid by the customer as applicable for the quantity not delivered and EMD for the subject lot.

7. The sale of materials shall be governed by Online forward auction notice, Special terms and conditions and OMDC FA1 General Terms and Conditions of sale from OMDC for sale through online forward auction. However, the Auction Notice, Special terms & conditions will over ride any similar clause laid out in OMDC FA1.

8. Placing a bid on the service providers platform and being allocated by the system does not entitle the bidder on any rights on the material. The bids placed are strictly subject to approval by OMDC. OMDC reserves the right to cancel or reject any or all bids without assigning any reason whatsoever and the decision of OMDC in this regard shall be final and binding and not liable to be questioned in any court or before any authority. OMDC reserves the right to withdraw from the sale after advertising, Auction or after issue of sale offer of any

quantity of the material without assigning any reasons thereof to the bidder and customer. OMDC will not be responsible for any damages/loss what so ever to the bidder and customer on account of such withdrawal.

The e-auction will be conducted through the site <http://www.mstcecommerce.com/auctionhome> . Auction document containing terms and conditions of the auction maybe obtained/downloaded from any of the following websites:[www.birdgroup.gov.in](http://www.birdgroup.gov.in), and <http://www.mstcindia.co.in>.

9) Sales Tax:

**FOR CST SALES:**

In case of domestic buyers outside the state of Orissa, concessional sales tax will be charged as per prevailing rate of sale tax against C form. In absence of C form, full rate of sales tax, as applicable would be charged. For Domestic purpose, buyers shall keep the differential amount i.e. Full rate of Sale Tax minus concessional rate on value of materials with Seller towards security for Sales tax till sale tax assessment is over. Presently Concessional rate of Sale tax is 2% against C form.

In absence of C form, full rate of sales tax, presently 3%, would be charged

In addition to the above buyers shall keep 1% value of materials with seller towards security deposit for Sales Tax till sale tax assessment is over.

**FOR EXPORT SALES:**

If material is to be procured for export purpose, attested copies of Export House certificate issued by DGFT or Valid trading license obtained from concerned statutory authority.

No Sales Tax will be paid for Export and in that case Form – H with other relevant documents are to be submitted within the stipulated time.

For Export purpose, the buyer shall keep equivalent amount on the basis of prevailing rate of Sales Tax for the total value of material with seller towards security for Sales Tax till the Sales tax assessment is over. Presently rate of Sale tax (VAT) is 4% and entry tax is @1% on the total value of materials.

**If the buyer prefers to take refund of the amount retained with seller towards sales tax security deposit, they shall have to furnish irrevocable Bank Guarantee of Nationalised/Scheduled Bank as per OMDC's format for an amount equal to Sales tax Security deposit plus ten (10) percent , after completion of the relevant financial year. Such Bank Guarantee would be initially valid for one year and would have to be extended from time to time till the sales tax assessment is completed. It shall be the responsibility of the buyer to extend the period of the Bank Guarantee at least 30 days before the expiry of Bank Guarantee, otherwise the Bank Guarantee would be revoked without any intimation to the buyers.**

**FOR VAT SALES:**

For the domestic buyer within the state the applicable sales tax (VAT) shall be levied and concessional entry tax as per prevailing rate on the total value of materials against submission of documentary evidence for manufacturer otherwise full rate of entry tax on the total value of material will be charged.

Presently VAT is charged at the rate of 4% and entry tax @ 0.5% on the total value of material for manufacturer & entry tax @ 1% on the total value of material for others against submission of documentary evidence.

If there is any changes in the rate of sales tax the same shall be at the cost of the buyers.

For registration and submission of documents please contact any of the numbers of M/s MSTC Ltd. as given below.

**KOLKATA:**

225-C, A.J.C. Bose Road, Kolkata-700020

**Contact No. :** (033) 2290-0964, 2287-7557 / 0568 / 9627

**MUMBAI :**

607-608 Raheja Centre, Nariman Point, Mumbai-400021.

**Contact No. :** (022) 2288 6261 / 22823767 / 22872011 / 22822789.  
(022) 2202 2296.

**NEW DELHI :**

30/31A Jeevan Vikas Building ,

1<sup>st</sup> Floor, Asaf Ali Road ( Opp. Hamdard) New Delhi-110002.

**Contact No. :** (011) 23214201, 23213945.

**CHENNAI:**

Leelavati Building, 2<sup>nd</sup> Floor, 69,Armenian Street, Chennai-600001.

**Contact No. :** (044) 2521 9004, 2522 2842, 2523 1584.

**BANGALORE:**

Ranka Chambers, 1<sup>st</sup> Floor, 31, Cunningham Road, Bangalore-560052.

**Contact No. :** (080) 2225 6367 , 2226 0054 , 22266417.

**VISAKHAPATNAM:**

6<sup>th</sup> Floor “ Jeevan Prakash” LIC Building, Jeevitha Bima Road, Visakhapatnam-530004.

**Contact No. :** (0891) 274 6948, 270 1066.

**VADODARA:**

21, Kamalanjali Apartment, 2<sup>nd</sup> Floor, Opp. Tube Company, Old Padra Road, Akota, Vadodara-390020.

**Contact No. :** (0265) 2339 672, 2310 629.

**BHOPAL:**

76-77, Maharana Pratap Nagar, Zone II , Bhopal-462001.

**Contact No. :** ( 0755) 2552241.

**HALDIA :**

C/o Haldia Telephone Centre, Haldia Cloth Assembly, Durgachak Colony Market ( Near India Hotel),  
Durgachak, Haldia.

**Contact No. :** 9433001043.

**TRICHY:**

Quarter No. K3 / 100F, Type “ B” KR Sector, Nehru Nagar, Tiruchirapalli-620014.

**Contact No. :** (0431) 2521009.

Authorised Signatory for OMDC (signature not required in case of hosted catalogue).

Regd. Office : FD-350, Sector-III, Salt Lake City, Kolkata-700 106 प्रधानकार्यालय : एक डी- 350, सेक्टर - III, सॉल्ट लेक सिटी, कोलकाता - 700 106

Phone ( दूरभाष ) : 2321-3983, 2337-3584 • Fax ( फॅक्स ) : (033) 2321-3874 • E-mail ( ई-मेल ) : birdgroup@vsnl.net • Website ( वेबसाइट ) : www.birdgroup.gov.in

## SPECIAL TERMS & CONDITIONS

### MATERIAL DESCRIPTION & SCOPE OF WORK

1. The material for disposal will be done for Manganese Ore **Ex-plot/Ex-Mines Roida** within the contract period. The mode of dispatch will be **“BY ROAD ONLY”**. However the indicative specifications of the Manganese Ore are as follows:

Manganese Ore Fines 22-24% Mn Size-(-10 mm).

2. **QUANTITY:** A total quantity of 1500 MT ( **One thousand five hundred MT**) in lots of 500 MT ( **Five hundred MT**) is intended to be offered for disposal within the contract period. OMDC shall in no way be responsible to deliver the indicated quantity.

### 3. **CONTRACT PERIOD:**

- a) The validity of the contract shall be as specified in the e-auction catalogue. If any goods for which release order / delivery order is issued and could not be delivered to the customer within the stipulated time, either in full or in part due to reasons attributable to OMDC, extension of delivery period may be granted by OMDC for the days commensurate to the period of delay which will be at the sole discretion of OMDC.
- b) In case of delivery by road, non-issuance of removal permission in Form – L by the Govt. of Orissa against the concerned Form – J, extension may be granted by OMDC for the days commensurate to period of delay which will be at the sole discretion of OMDC.
- c) For any consideration of request for extension of delivery period on the above stated ground at (a) & (b), it is necessary that the buyers should have made full payment towards value of material and other dues strictly as per terms of e-auction.
- d) In the event of non-lifting of material due to the reasons stated at (a), (b) & (c), the OMDC may, at its own discretion, either extend the delivery period or refund EMD for the concerned lot. The decision of OMDC in this regard shall be final and binding on buyers.
- e) OMDC also reserves the right to sell surplus available quantity, if any, within the stipulated period or during the extended period to any of the parties who participated in the e-auction at the H1 rate and other applicable terms and conditions. Any decision in this regard shall be the sole discretion of OMDC which cannot be challenged.

4. **RATE:** Best rate is to be quoted online on internet site <http://www.mstcecommerce.com/auctionhome> per MT basis on Explot/ex mines basis, exclusive of Royalty, Sales Tax, and other applicable levies. Applicable taxes and duties during the pendency of the contract including Royalty,sales tax,etc will be charged extra. Any increase/decrease in taxes,,Royalty, etc or imposition of any new duties & taxes by Statutory Authorities would be on the account of buyers and payable by the buyers.

This Rate should be valid for 10 (ten) working days from the date of online auction for acceptance by the Company. Once the rate is accepted by OMDC the price shall remain firm during the period of contract. OMDC will be under no obligation to communicate to the bidders in case the rate obtained on the service providers system is not acceptable.

## 5. **BIDDING:**

The price bidding would consist of a single stage.

a) In this Stage of Online Auction, the bidders have to bid for the PMT price and the number of units they want to book at that price with a maximum limit of Units for which bidders had provided Pre Bid EMD.

b) Methodology for this stage online bidding is mentioned here under.

The above is illustrated below for unit wise bidding.

Assume that the total quantity available is 580 Units and bidders bid for certain number of units at a certain price as illustrated in the following.

Bidder	Bid Time (Hr: Min)	Bid Quantity (no. of Units)	Bid Price (Rs/Mt.)	Allocated (no. of units)
B	9.40	100	9500	100
F	9.39	200	9250	200
D	9.36	150	9250	150
A	9.32	100	9250	100
E	9.34	100	9250	30
C	9.30	300	9000	00

Explanation for the Allocation of Quantity

A. Bidder B is the highest bidder @ Rs.9500/MT, hence the system allocates his bid number of units i.e, 100 units.

B. There are 4 bidders @ Rs.9250/MT.

1. Since bidder F's bid was for 200 units (Highest at Rs.9250/MT) the system allocates his bid quantity in full.
2. Bidder D's bid was for 150 units and since the quantity was still available at Rs.9250/MT, the software allocates bidder D 150 units.
3. Since bidder A placed his bid earlier than bidder E ie 9.32 Hrs hence the software gives first preference to Bidder A and allocates him the available quantity first.
4. After this allocation, since only 30 units are available the same is allocated to Bidder E.

Since, all the quantity is exhausted at higher bid price than Rs.9000/MT, therefore no units are allocated to Bidder C. If Bidder C wants to win any units then he/she has to place bid in terms of higher price.

So in summary, allocation is carried out by the e-Sale software on following basis:

1. First preference is given to highest bid price
2. If two or more parties bid the same price then preference for allocation is given to party that placed the bid for a higher quantity.
3. In case two or more parties bid the same price and quantity, then preference is given to the party that placed the bid earlier.

**Bid Increment during euction**

Sl No	Description of Items	Normal Bid Increment (Rs PMT)	Bid Increment during extension period (Rs PMT)
01	Iron Ore Fines	10	20
02	Iron Ore CLO/Lumps	20	40
03	Manganese Ore Lumps/Fines	50	100
04	Sponge Iron Lumps/Fines	100	200

5c) The price and quantity bided online should remain valid for a period of 10 (ten) working days from the date of online auction for acceptance by OMDC. Any modification / variation made thereto by the bidders during the above period of 10(ten) working days shall be construed as withdrawal from the OFA and in that event, OMDC shall reserve the right to cancel the bid and forfeit the Pre Bid EMD without any further reference to the bidder. OMDC will notify to all successful bidders (SB) whose bid has been accepted, by issuing Sale offer in prescribed format.

**6. TERMS OF PAYMENT:**

**Security Deposit (SD):**

The Pre-Bid EMD of successful bidders (SB) will get automatically converted into Security Deposit.

**The SD will be released on the following terms:**

- After lifting the allocated quantity / lot by the successful bidder (SB) within the specified time.
- The minimum lifted quantity should be as specified in the catalogue,
- SD will be released after one month from the date of completion of the contract.
- OMDC may refund the EMD of the concerned lot to the successful bidder if its decide not to extend the delivery period in the eventuality as mentioned in clause no 3 of Special terms and conditions.

**The SD will be forfeited:**

- Each lot will be treated as an independent contract and will be bound by the terms & conditions specified in the catalogue.
- For each individual lot, the successful bidder has to lift minimum quantity against each of the concerned lots as specified in the catalogue.
- If the successful bidders are unable to lift the quantity due to any reason whatsoever, then the amount of SD for the incomplete lots will stands forfeited, if extension is not granted by OMDC as stipulated in clause 3 of Special Terms & Conditions are decided to be refunded as stipulated in 6(a) above.

In case they are unable to lift the minimum quantity (Lot/Unit Size minus tolerance limit as specified in the catalogue ) against each of the concerned lot ,then the amount of SD for the incomplete lots will stand forfeited.

However in case of allotment of multiple lots to a single bidder, minimum quantity ( successful lifting )shall be determined on the basic of whole allotted quantity minus tolerance limit as specified in the catalogue.

#### CLARIFICATION FOR ROAD DESPATCH :

In case of allotment of multiple lots to a to a single bidder, the successful bidder shall be determined on assumption that the bidder has successfully lifted the full minimum quantity (Lot quantity minus tolerance limit) of first lot and the residual quantity shall then be adjusted against minimum quantity of next lot and so on. Under this method the Security Deposit (S.D)of such lot will stand for forfeited against which the bidder has failed to lift the minimum quantity. For further clarification the following example is being given :-

Lot Size : 4000 MT ,Quantity tolerance +/- 15%.  
 Allotted Quantity to the buyers 12000 MT i.e. 3lotsof 4000 MT.

##### Example A.

If the buyer lifted 10320 MT against allotted quantity of 12000 MT (3 lots ) i.e. 86% of aggregate quantity ( 14 % less than the full allotted quantity ),the calculation shall be as follows.

	1 <sup>st</sup> Lot	2 <sup>nd</sup> Lot	3 <sup>rd</sup> Lot	Total
Lot Size.	4000 MT	4000 MT	4000 MT	12000MT
Tolerance @ 15%.	600 MT	600 MT	600 MT	1800MT
Minimum quantity to be lifted	3400 MT	3400 MT	3400 MT.	10200MT
Distribution of the total 3400 MT Lifted qty among the Lots	3400 MT	3400 MT	3520 MT (balancing figure )	10320MT

In this case it is considered that the buyers has successfully lifted the minimum quantity of all the 3 lots against their allotted quantity.

##### Example B.

If the buyer lifted 10080 MT against allotted quantity of 12000 MT (3 lots ) i.e. 84% of aggregate quantity ( 16 % less than the full allotted quantity ),the calculation shall be as follows.

	1 <sup>st</sup> Lot	2 <sup>nd</sup> Lot	3 <sup>rd</sup> Lot	Total
Lot Size.	4000 MT	4000 MT	4000 MT	12000MT
@ 15%.	600 MT	600 MT Tolerance	600 MT	1800MT
Minimum quantity to be lifted.	3400 MT	3400 MT	3400MT	10200MT
Distribution of the total 3400 MT Lifted qty among the Lots	3400 MT	3400 MT	3280 MT (balancing figure )	10080MT

In this case it is considered that the buyers has successfully lifted the minimum quantity of 1<sup>st</sup> lot and 2<sup>nd</sup> lot but has failed to lift the minimum quantity against 3<sup>rd</sup> lot .Hence his S.D for the 3<sup>rd</sup> lot shall stand forfeited.

Payment for lifting of material:

The successful bidders shall be required to deposit non-interest bearing advance payment covering full value of 100% of the material within 10 working days from date of issuance of sale offer.

All payments towards material value, taxes, levies, etc are to be made in the form of DD/PO or any electronic money transfer system approved by RBI in favour of “**The Orissa Minerals Development Co. Ltd**” drawn on a Scheduled/nationalised Bank and payable at Kolkata and are to be deposited with OMDC Kolkata. Bank collection charges, if applicable shall be borne by the successful bidders.

Failure to deposit payments:

Failure to deposit any or all of the above payments within the stipulated period will result in termination of contract without any notice to the successful bidder (SB), forfeiture of Pre bid EMD / SD as the case may be.

**7. MODE OF DISPATCH:**

**A. Delivery will be by Road only on Ex-plot /ex mines basis.**

The delivery of materials in terms of Delivery Order issued shall be taken by the successful bidder (SB) within the stipulated period mentioned in the Delivery Order and also strictly according to any other instructions / delivery programme given by the concerned OMDC Management from time to time.

The SBs shall make necessary arrangements for lifting and transportation of materials Ex-Stock/plot basis at their own cost.

- i. Responsibility of OMDC:-  
OMDC shall apply for lifting permission in Form - J to the Dy. Director (Mines) under rule 10(5) of Orissa Minerals (Prevention of theft, smuggling and illegal mining & regulation procession, storage, trading and transportation) Rules, 2007 for obtaining ores removal permission. After completion of all formalities DDM (Joda) will issue the stack removal permission in Form- “L” mentioning dimension of stack, quality, quarry particulars and lifting period with transit pass in Form – “M”.
- ii. Responsibility of BUYER:-  
After obtaining ore removal permission in Form “L”, buyer shall apply in Form “H” to DDM (Joda) for issuing a permit to them with due observance of OM (PTS&QUA) rule, 2007. Thereafter DDM (Joda) shall issue Form- “I” to the buyer for lifting of material.(OMDC shall endeavor to hand over Form – “L” at least 7 days before of the expiry of the delivery period.)
- iii. If successful bidder fails to lift the material within the stipulated time of the contract, the EMD for the lot shall stand forfeited with the closing hour of the contractual period, until the contractual period is extended under clause 3 of SPECIAL TERMS & CONDITIONS [Contract Period]. If the bidder fails to lift the quantity even during the extended period, the EMD for the lot shall stand forfeited with the closing hours of the extended period..

The party has to ensure that all the pollution norms/Forest Rules as applicable in the State during loading and transportation are followed. For any violation of pollution norms/Forest Rules by the party OMDC can't be held responsible on any account in this regard.

## 8. Variation in Rate:

- a) Bonus: If Mn content of any consignment is found to be more than the Mn content as specified in the lot description, then the rate for such consignments shall be one and half times of the single pro-rata for every % increase in Mn content.
- b) Penalty: Any consignment analyzing below the specified Mn %, the same will be accepted with a penalty at the rate of single prorata for every percentage decrease in Mn Content.

**9. SAMPLING & ANALYSIS:** Sampling will be conducted at the loading point by any reputed Public analyst appointed by the seller and their analysis shall be final for payment and binding on both the parties. The cost of sampling & analysis shall be borne by the seller.

## 10. WEIGHMENT:

### A) ROAD:

The weighment will be made at the State Government approved weighbridge nearest to the loading point which shall be accepted by both the parties. Such weighment should be supervised by the buyers representative /Transporter and Sellers representative and same shall be binding on both the parties. Necessary arrangement for lifting & transportation is to be made by the buyer at their own cost.

11. **DELIVERY SCHEDULE:** Successful bidders have to lift the total offered quantity within the contract period.

## 12. TERMINATION CLAUSE:

If the SB fails to arrange payment as per provision of clause related to Terms of Payment above, OMDC will terminate the contract without any notice to SB, forfeit the Pre Bid Earnest money deposit/Security Deposit.

13. **ABANDONED GOODS:** The SBs must effect complete removal of the goods from the site within the date specified in the delivery order/s issued by OMDC. In case goods are not removed in full within the specified date, delivery order/s for the left over quantity will be treated as cancelled. The goods so left over will be treated as abandoned goods at the risk and cost of the SB. OMDC will have full right on such abandoned goods and will be entitled to release or dispose off the same in any manner it deems fit without any reference to the SB. The SB will have no claim on goods treated as abandoned goods. The SB shall further be held liable for all commission and other charges and losses suffered by OMDC, which would be recovered from the security deposit or any other sum due to the SB.

14. **ARBITRATION:** Any dispute or difference under or arising out of or to in respect of the Agreement/ Accepted OFA may be referred to the sole arbitration of a person appointed by The Chairman cum Managing Director, The Orissa Minerals Development Co. Ltd., FD – 350, Salt Lake City, Sector – III, Kolkata – 700 106 and his decision in the matter will be final and binding on the Buyer and the company. The arbitration will be carried out as per Arbitration Act, 1996 and Rules made there-under as amended from time to time.

15. **AWARDING AUTHORITY:** Decision of OMDC Management shall be final and binding. OMDC reserves the right to accept/reject any bid without assigning any reason whatsoever. OMDC also reserves the right to split the order as it deems fit.

16. **JURISDICTION:** All kinds of Legal proceedings against “The Orissa Minerals Development Co. Ltd.” In any matter arising out of the purchase shall be under the jurisdiction of appropriate Court of Kolkata.

17. Interested parties may visit Mines to inspect the materials by prior arrangement with office, Thakurani (Phone No 06767-276131/275530) with prior appointment on any working day.
18. Successful bidders whose bid has been approved by OMDC, should intimate the name & address of their local representative who should be present at the work site and coordinate with the executing Deptt. to carry out the job properly. All-important communication with successful bidder shall be through letters and / or notices put up in Notice Boards at Thakurani mines office and it will be obligation of successful bidder not to overlook such Notices. Any plea of ignorance of such Notices / letters put up in the Notice Board at Thakurani mines office shall not be accepted.
19. OMDC accepts no liability towards any claim, compensation / damage that may arise out of non-fulfillment of contracts between the successful bidder and any third party. OMDC will give no cognizance to such 3<sup>rd</sup> party with whom it has no privity of the contract.
20. A contract shall be deemed to have been concluded between successful bidder & OMDC upon acceptance of the bid by OMDC in writing and the terms & conditions herein shall be binding on both the parties.
21. In the event of any internal requirement of materials including those from Steel Plants under SAIL and Government, OMDC shall reserve the right to curtail quantity A/C 'Successful Bidder' or cancel the contract.
22. In the event the successful bidders whose bid has been approved by OMDC, desires that the challans are to be issued stipulating consignee and destination subject to the provision of the relevant Sales Tax Act, the same may be considered provided the successful bidders makes a written request to that effect and indemnify OMDC against non-delivery of materials to the nominated consignee / destination for which the successful bidder/s shall be responsible for all cost and consequences.
23. The bidders shall adhere to the Mines Act, Rules, Mines Regulations and Order issued under them.
24. Preference will be given to Government and Public Sector Units as per Government guidelines.
25. It shall be the responsibility of the persons submitting the applications to ensure that the documents have been submitted in the formats and as per the terms and conditions prescribed in the OMDC/MSTC website and no change is made therein before submission of their documents in the event of any doubt regarding the terms and conditions / formats, the person concerned may seek clarifications from the authorized officer of OMDC/MSTC. In case any tampering/unauthorized alteration is noticed in the documents submitted, from the documents available on the OMDC/MSTC website, the said documents shall be summarily rejected and OMDC/MSTC shall have no liability whatsoever on the matter. However, deviation if any, proposed by the applicant maybe separately indicated be for acceptance or otherwise of OMDC. Such proposed deviation will not be treated as tampering for the purpose of application of this clause.

## Annexure A

### LETTER OF INTEREST

To  
**Dy General Manager (Commercial),**  
The Orissa Minerals Development Co. Ltd.  
FD – 350, Sector – III  
Kolkata – 700 106

**THROUGH:** M/s MSTC Limited.

**REF. :** Online Forward Auction vide Auction Notice No ----- Dt -----

Dear Sir,

(1) We \_\_\_\_\_ are interested in participating in the Online Forward Auction notified vide your notice under reference, for \_\_\_\_\_ Ex \_\_\_\_\_ .

(2) We are hereby submitting a Pre Bid Earnest Money Deposit (EMD) of Rs. \_\_\_\_\_ (Rupees only) vide DD/PO. No. \_\_\_\_\_ dated \_\_\_\_\_ drawn on \_\_\_\_\_ (Bank) in favour of The Orissa Minerals Development Co. Ltd., payable at Kolkata for participating in the above mentioned Online Forward Auction.

(3) We agree to abide by all the instructions contained in the above indicated Online Forward Auction notice, your special terms and conditions and your General Terms and Conditions of Sale of Material from units of OMDC as per OMDC- FA1 for sale through online forward auction available on OMDC's/Service provider's website.

(4) I/We understand that my/our bid in an e-selling event would be construed as my/our acceptance to the "OMDC FA1- general terms and conditions of sale from Stock/units of OMDC for sale through online forward auction (FA)", General Rules & Regulations governing the conduct of Online Auctions on the Service Provider Platform, Auction Notice, Special Terms & Conditions & Definition of Key Terms, also available at OMDC's/Service Provider's website. I/We understand that if our bid is accepted by the service provider, and approved by OMDC, I/We are obliged to complete the transaction and abide by all Terms & Conditions mentioned in this auction document.

(5) I/We agree that I/we have been provided training by service provider in order to participate in Online Forward Auctions. I/We agree to update ourselves regarding any changes made to the catalogue from the website of the Service Provider/OMDC and bid accordingly.

(6) I/We request service provider to allot User-id and password to me/us and activate the same to participate in the above mentioned online forward auction.

(7) I/We agree that I/we shall change the password on receipt by me/us and keep it confidential. I/We agree that Service Provider shall not be held responsible in any way for any losses that may be suffered by me /us as a result of disclosure of the password to any other person by me.

(8) I/We understand that my/our inability to participate in an e-selling event due to disruption of my /our internet services, or due to bandwidth problems with my/our local internet service providers are beyond the control of the Service Provider.

(9) In the event of any failure on our part to comply with all or any of the Terms & conditions regarding the online forward auction, I/We irrevocably agree for the forfeiture of our Pre Bid EMD and Security deposit ( if applicable) .

(10) I/We are providing the following details to

you:-NAME OF THE FIRM: ADDRESS OF THE

FIRM:

\_\_\_\_\_  
\_\_\_\_\_

a) Name of the Contact Person on our behalf:

b) Our contact Telephone Nos:

c) Our FAX No:

d) Our contact e-mail Particulars:

e) Bank name:

f) Branch name :

g) Branch address:

h) Branch telephone no:

i) Account type:

j) Account no.:

k) Lot nos. for which EMD is submitted:

l) Other documents required by OMDC. If any

Yours faithfully

\_\_\_\_\_  
(Name & Signature of the authorised person signing)

Date:

For M/S \_\_\_\_\_

Place:

(With Company's Seal)

FORM A

APPLICATION FORM A FOR PARTICIPATION IN ONLINE FORWARD AUCTIONS HELD ON BEHALF OF THE ORISSA MINERALS DEVELOPMENT COMPANY LTD

**ALL PHOTOCOPIES TO BE SELF ATTESTED WITH STAMP**  
IT IS THE RESPONSIBILITY OF THE APPLICANT TO ENSURE THAT ALL DOCUMENTS SUBMITTED ARE VALID AND SELF ATTESTED.

**PROOF OF EXISTANCE OF FIRM :**

Documents submitted towards proof of existence of Company/Firm(Photostat copy of organizational status, i.e Proprietorship/Partnership Deed/Article of Association / Memorandum of Association etc) :

(Please tick as applicable and specify document submitted.

Proprietorship firm

Partnership firm

Private Ltd Co.

Public Ltd Co

Document submitted: \_\_\_\_\_

\_\_\_\_\_

I/We are submitting the valid Sales Tax Registration Certificate (please tick if same is being submitted).

Photocopy of PAN No (please tick if same is being submitted).

**Procurement & Plant details (please tick which ever is applicable):**

I/We are interested in the procurement of:

Iron Ore Fines

Sponge Iron Gr. Lumps

Sponge Iron Gr CLO

Belkundi CLO

BF Gr CLO

BF Gr LUMP

Others (Please specify: \_\_\_\_\_)

**Purpose of Procurement:**

Own use (For Fines & Belkundi Calibrated Lump Ore)

Self consumption (Blast Furnace Grade Ore & Lump)

Export (Fines)

For Export purpose :

I/We are submitting the valid Export House certificate issued by DGFT

OR

I/We are submitting the valid trading license obtained from \_\_\_\_\_  
(please tick if document is being submitted).

In the event of any failure on our part to comply with all or any of the Terms & conditions regarding the online forward auction, I/We irrevocably agree for the forfeiture of our Pre Bid security deposit OR earnest money deposit ( whichever is applicable).

I declare that all the above mentioned information is true to the best of my knowledge.

Yours faithfully

Signature of Authorised Person

(Name of the person signing)

Place: (With Company's Seal)

**OMDC FA1**  
**General Terms & Conditions of Sale of OMDC**  
**for sale through Online Auction / Forward Auction ( FA )**

**1**

**Definitions**

A reference herein to different expressions / abbreviation used shall mean the following :-

1.1 “OMDC” shall mean “The Orissa Minerals Development Co. Ltd.,” incorporated under the Companies Act, 1956 and having their registered office at FD – 350, Sector – III, Salt Lake City, Kolkata – 700 106, India and their Stock / unit, which term or expression unless excluded by or repugnant to the context shall include their successors and permitted assigns. Online forward auction is conducted for The Orissa Minerals Development Co. Ltd. (hereinafter referred as the “Client”) on MSTC Limited. Platform (hereinafter referred as the “Service Provider”).

LOI – Letter of intent DO – Delivery order

1.2

SD – Security Deposit (SD)

1.3

EMD – Pre Bid Earnest Money Deposit

1.4

FA – Forward Auction

1.5

FOT – Free on Truck / Trailer

1.6

FOR – Free on Rail

1.7

DD – Demand Draft

1.8

PO – Pay Order

1.9

1.10 BC – Banker’s Cheque AIWIB

1.11

– As is where is basis

1.12

“The Contract” shall mean and include the OMDC FA1 : General Terms & Conditions of sale from Mines & Units of OMDC for sale through online auction / Forward Auction (FA), Auction notice, General Rules & Regulations governing conduct of Online Forward Auction, Definition of key terms, Letter of interest cum undertaking, Acceptance of offer by OMDC / Sale Offer, Delivery order / Release order along with subsequent amendments if any and other documents issued by OMDC pertaining to the referred auction through internet. Bidding on the service providers platform and being allotted by the system does not grant any rights on the material to the bidder. The highest bid is subject to approval by

1.13

#### 1.14 Online Auctions

Online auctions refer to those auctions conducted through the internet with the bidders (from one or more locations) simultaneously bidding to be selected for buying the item(s) of auction subject to approval by OMDC. In other words, the venue for the auction is an Internet web site / platform. The Service Provider's web site assigned by Service Provider would constitute venue for the purpose of the online auction.

1.15 Bidder is the individual / business entity participating in the auction, intending to buy the item(s) from the Client.

2 The responsibility for fulfillment of the contract rests between the bidders and the client and the responsibility of the Service Provider shall be restricted to the extent of the services provided by them.

3

#### **Inspection of Material (for material available on ground)**

3.1 The bidders are advised to inspect the materials before offering their bid prices. Interested parties will be permitted to inspect the materials as per dates / duration mentioned in the notice for online auction through Internet. Necessary entry pass / permission can be obtained from concerned Authority.

3.2 **The bidders shall be deemed to have inspected the materials they are bidding for, whether they have inspected the materials or not and that the principle of 'Caveat Emptor' shall apply. The material will be lifted from the site of storage with all faults and errors in description or otherwise, if any. Quantity, quality, size measurement, marks and number stated in the tender documents are approximate and no warranty or guarantee shall be implied.**

OMDC does not give any guarantee that the Acceptance of offer / Sale offer / Offer letter quantity will be actually available. The above quantity is merely indicative and no claim for compensation / delay or for any shortfall in the quantity shall lie against OMDC.

4

For Material likely to be generated in future

4.1 The materials offered for sale which are likely to be generated in future are on "NO COMPLAINT" basis. The material will be lifted with deviations, if any. Quantity, quality, size measurement stated in the notice for online auction through Internet is approximate and no warranty or guarantee shall be implied.

If the material under sale is from mining only in the process of production, it may be provided either from the stock or future mining subject to availability.

5 Any Party intending to participate in online forward auctions need to duly sign and stamp each page of “OMDC FA1: General Terms & Conditions of Sale from Mines & Units of OMDC for sale through Online Auction / Forward Auction (FA), General Rules & Regulations governing conduct of Online Forward Auction, Definition of key terms, Auction Notice, Special terms and conditions, General Terms & Conditions of Auction, Application & Letter of interest cum undertaking” and submit them to the Service Provider along with necessary Pre Bid EMD as stated in auction notice. Then the Service Provider will issue a user ID and a password to the bidder.

Bidders are also requested to change the passwords allocated to them by the Service Provider to keep their confidentiality. However it would be bidder’s sole responsibility to ensure the security and privacy of the same and he / they would not hold the Client / Service Provider responsible in any manner whatsoever for any misuse of these User IDs and / or password.

Before actual participation, the bidders may obtain necessary help from the Service Provider so as to enable them to participate in the online forward auction process, without any difficulty.

## 6 Pre Bid Earnest Money Deposit

6.1 The parties intending to bid in the Online Auction shall be required to deposit a non interest bearing EMD for the amount prescribed in notice for auction through internet in the form of Demand Draft / Pay Order on a nationalized / scheduled bank drawn in favour of “Orissa Minerals Development Co.Ltd”, payable at Kolkata branch as mentioned in the auction notice for auction through internet to participate in the online auction through internet process to the Service Provider.

6.2 Cheques will not be accepted towards Pre Bid Earnest Money deposit.

6.3 It will only be possible to adjust Pre Bid EMD from any other sum of money due from OMDC, on account of pending bill, Pre Bid Earnest money Deposit or Security Deposit (SD) paid towards another auction / tender after approval from OMDC.

6.4 Public Sector Undertakings / Govt. Departments are exempted from submission of Pre Bid EMD as per prevailing OMDC / Govt. policy.

6.5 In the case of unsuccessful bidders, the Pre Bid EMD will be returned after conduct of auction.No interest shall accrue on the amount of Pre Bid EMD

6.6 OMDC reserve the right to adjust the EMD/SD with the material value in the consecutive auctions for the bidders who has successfully lifted the materials adhering to the terms and conditions of the previous auction.

7. Bidders hereby confirm that they will participate in the online auction as informed by Service Provider and shall commit to lift the product (being bid for) at the price entered by them at the time of auction, if the bid is approved by OMDC and sale offer for the same is issued by OMDC. All prices entered shall be legally binding on the bidders.

## 8 Award at the Auction

Normally the bidder who quotes the highest price for the lots he wants to be allocated by the system to him, is awarded the item being auctioned, in case the bid is approved by the client and Sale offer issued. The total quantity offered might be distributed to multiple successful bidders in case the bid is approved by the client and Sale offer issued at variable rates, based on the outcome of the auction. See bidding method for further guidance.

## 9 Validity of bids

The bid quoted should remain valid for acceptance by OMDC within the specified number of days from the date of conduct of auction as stipulated in the notice for auction through internet.

## 10 Unsolicited offers

Bidders must be very careful to submit bids. After submitting bids, they shall not withdraw their bids or modify any terms and conditions thereof, without being asked to do so. If the bidders fail to observe the foregoing stipulation, their SD or Earnest Money Deposit, as applicable, shall be forfeited.

- 11 The OMDC reserves the right to accept or reject any or all the bids and this decision shall be final and binding and not liable to be questioned in any court or before any authority.
- 12 Each bidder shall, before participating in auction through internet, submit his declaration as to whether the proprietor or any partner of the firm or Director of their Company, as the case may be, has any relation with any employee working in OMDC; and if so, give the name of the employee and the relationship. Information shall also be provided whether any of them has a relationship within the meaning of Section – 6 of the Companies Act 1956 with any of the Directors of OMDC; if so, give details.
- 13 Any bidder giving false information / particulars may be debarred from any future dealings with OMDC as per prevailing procedures and also as stipulated in special terms & conditions of sale, if any.
- 14 The bidder shall not be liable to claim any costs, charges, expenses of and incidental to or occurred by him through or in connection with his submission of bids.
- 15 Joint participation in bidding by two or more firms shall not be accepted.
- 16 OMDC reserves the right to defer or prepone date for conduct of auction through internet mentioned in the notice for auction through internet at its sole discretion. Conditional bids will not be considered.

Unless specified otherwise all the payments whether against Pre Bid EMD /SD and value of materials as advance, shall be subject to the following :-

Payment should be made by way of Demand Draft / Pay Order/ any electronic money transfer system approved by RBI on a nationalized / scheduled bank drawn in favor of “Orissa Minerals Development Co.Ltd” and payable at Kolkata branch as specified in the notice for auction through internet.

In the process of encashment of such DDs / Pos, if any bank collection charge is paid / involved, the same shall be debited to the customer .

No interest shall be payable against any deposit whatsoever whether the same is as Pre Bid EMD or Security Deposit (SD) Advance value of materials, regardless of whether the contract is wholly or partially executed or remain unexecuted.

## **18 Acceptance of Offer / Sale offer / Offer Letter**

When a bid is accepted by OMDC, the successful bidder (SB) shall be notified by an “Acceptance of offer / Sale offer / Offer Letter” which will be dispatched by post / courier / fax / email or handed over to the authorized representative of customer.

## **19**

### **Security Deposit and Payment towards material value**

- 19.1 As defined in the Special Terms & Conditions of the auction.
- 19.2 No interest shall accrue on SD.
- 19.3 OMDC will be entitled to recover from the SD all the money due to OMDC concerning the sale and other statutory liabilities from the customer.
- 19.4 The refund of SD is subject to the satisfactory execution of the auction. The SD will be refunded after completion of lifting within the contract period and claimed by the party.
- 19.5 Taxes and Duties
  - 19.5.1 As mentioned in the Auction Notice.
  - 19.5.3 The penalty imposed by the Excise authorities for non-observance of Excise procedure by the customer shall be borne by the customer.
- 19.6 Failure to make payment
  - As defined in Special Terms & Conditions of the auction.

## **20 Release Order / Delivery Order**

- 20.1 On receipt of full payment from the customer/SB, OMDC will issue a “Release Order / Delivery Order” .
- 20.2 The customer who has signed the documents as mentioned in clause no 5 is required to sign on the

Release Order / Delivery Order for taking delivery. If this is not possible and if the customer desires to take delivery through his authorized representative, he must authorize the nominated person by a letter of authority which has to be presented to the concerned departments. The letter of authority shall bear the specimen signature of the authorized representative duly attested by the customer. OMDC, may at its sole discretion, decline to act on any such letter of authority and it shall be in all cases, for the customer to satisfy the concerned department that the authority is genuine.

## 21 Delivery

- 21.1 The delivery of the materials will be effected 'In situ' by the Management. The goods sold will have to be removed by the customer from the site within the date specified in the Auction Notice/Special Terms & Conditions/Release order / Delivery order.
- 21.2 Delivery of materials will be made during working hours on all working days on presentation of the release order / delivery order by the customer to the concerned officer in-charge, who may suspend the release order / delivery order for a particular period of time for want of any clarification or other technical / operational reasons.
- 21.3 The customer will make their own arrangement for collection / removal and transportation of items / lots purchased and will not be entitled to claim any facilities or assistance for the transport / removal of the goods / lots from the premise. OMDC may subject to the availability, extend at its discretion certain facilities such as cranes etc. on chargeable basis for handling the lot. The fact that such application has been made to OMDC or any delay on the part of the management to grant such facilities does not entitle the customer for any extension of the delivery date.
- 21.4 No picking, sorting, cutting, cleaning or breaking up of goods or materials sold will be permitted except in certain special circumstances where prior permissions have been accorded by the management in writing. Such permission will only be accorded on the quantity for which payment has been made.
- 21.5 Where the material will be sold on 'FOT' basis, the material will be loaded by the company into trucks to be brought by the customer.
- 21.6 Delivery through proxy will be at the sole risk and responsibility of the customer and no claim shall be entertained against OMDC on this account, whatsoever, if delivery is effected to wrong persons.

Where goods are sold by weight, delivery will be given on actual weighment. The weight of the empty and full truck / trailer / wagon will be taken on the weighbridge installed in the OMDC disposal yard (or in any of the public weighbridges at the discretion of OMDC ) and the net weight so recorded shall be acceptable and binding on the customer. Complaints regarding the difference in scale weight will not be entertained.

21.8 The customer shall arrange wherever necessary for bailing the loose goods into compact units for facilitating weighment and transportation. The customer shall not lift or remove any material, which is not conforming to the release order / delivery order. The customer shall remove the goods / lots only from the area earmarked / specified in the release order / delivery order and OMDC's decision shall be final and binding on the customer in this regard.

21.9 Customer should get acquainted with system and procedure of loading, weighment and dispatch of materials. They should also get conversant with approved route to be followed by trucks / trailers inside the OMDC premises.

21.10 All loading by customer must only be done in presence of authorized representative of OMDC & /or CISF/competent agency.

21.11 Extension of Delivery Date:

If any goods for which release order/delivery order is issued could not be delivered to the customer within the stipulated time, either in full or in part due to reasons attributable to OMDC, OMDC may extended the date fixed for removal of the goods for a period as deemed fit. OMDC also reserve the right to sell the surplus available quantity within the stipulated period or during the extended period to any of the parties who participated in the e-auction at the H1 rate and other applicable terms and conditions.

## **22 Shortage of goods :**

22.1 Where goods are sold in lots and not in number or units, any reference to the quantity, quality, size, measurement number and weight in the notice or other documents shall not be a point of dispute and the customer shall have no claim against, OMDC for refund of whole or any part of the customer's money or for loss of profit, interest, damage or otherwise.

22.2 Where materials are sold by weight or number and the customer is denied delivery of the

whole or a portion of the goods sold, he shall be entitled to make a claim for the proportionate refund to the sale value of the undelivered quantity. He shall not be entitled to claim any damages, loss, profit, interest or compensation on any account due to such short delivery.

23

#### **Re-sale**

Re-sale will not be recognized by OMDC. Acceptance of offers / Sale offer / Offer letters and Release orders / Delivery orders will be made out only in the name of actual customer.

#### **24 Withdrawal of goods from sale**

24.1 OMDC reserves the right to withdraw from the sale after advertising or after issuance of acceptance of offer / sale offer / offer letter for any item of any quantity of the materials by number or weight without assigning any reasons thereof to the customer. OMDC will not be responsible for any damages / loss whatsoever to the customer on account of such withdrawal.

#### **25 Abandoned goods**

The customer must effect complete removal of the goods from the site within the date specified in the release order / delivery order issued by OMDC. In case goods are not removed in full within the specified date, release order / delivery order for the left over quantity will be treated as cancelled. The goods so left over will be treated as abandoned goods at the risk and cost of the customer. OMDC will have full right on such abandoned goods and will be entitled to release or dispose off the same in any manner it deems fit without any reference to the customer. The customer will have no claim on goods treated as abandoned goods. Action shall be taken as per special terms & conditions. The customer shall further be held liable for all commission and other charges and losses suffered by OMDC, which may be recovered from the EMD or any other sum due to the customer.

26

#### **Quantity Tolerance**

In the event, goods are found in excess of the quantity specified in the release order / delivery order, OMDC may at its discretion offer the surplus quantity as per terms mentioned in the Auction Notice & Special terms & conditions. The customer will be allowed to deposit the cost only after an amendment to that effect has been issued by OMDC. OMDC also has the right either to demand the customer to remit the additional amount due and obtain a valid receipt before removing the excess quantity.

27

#### **Recovery of due**

Any sum of money due and payable to the customer including EMD (returnable to him under this contract) may be appropriated by OMDC and / or any unit of OMDC and adjusted against any claim / dues recoverable by them from the customer arising out of or under any other contract auction / tender made by customer with OMDC or any unit of OMDC.

## 28 Payment of Interest

No interest will be paid on the amount paid by the customer and subsequently found refundable under any of the condition mentioned herein.

29 In case the customer or his representative is found involved in any unlawful activity and unauthorized or wrongful removal of materials not sold or in case of any attempt for such removal, this shall amount to breach of contract and OMDC shall be entitled to cancel the contract and forfeit the entire Pre Bid Earnest Money Deposit/ Security Deposit (SD). They shall be further liable for all the losses that might be caused to OMDC on account of such unlawful activity and unauthorized / wrongful removal. In such cases OMDC may initiate proceedings for banning of business dealing with such customer as per procedure prevailing in the Mines / Units.

## 30 Damage to OMDC properties

The customer shall be fully responsible for any loss / damage that may be caused to the premises, equipment, machinery, and other installations of OMDC in the course of removing the lot / lots bought by him, and the customer is fully liable to reimburse to OMDC the cost of such damages. OMDC fully reserves the right to recover the cost of such damages including recovery from any sum due to the customer.

32

### Illegal gratification

Any bribes, commission, gifts or advantage given, promised or offered by or on behalf of the bidder / customer or his partner, agent, or servant to any officer, servant, representative, or agent of the company in relation to the obtaining or to the execution of this or any other contract with the company for showing or for bearing to show favour or disfavour to any person shall be resulting into the cancellation of this contract.

## 33 Compliance of Labour Laws and Safety Rules

33.1 During the period the customer's workers deputed within the plant / unit premises, will be governed by the labour laws and rules, Factory Act and rules and OMDC Plant / Unit's Security rules and safety rules as applicable and it shall be the responsibility of the customer to ensure that the statutory provisions are complied with fully.

33.2 The customer shall provide and ensure proper use of safety appliances by his personnel. He shall be liable for any damages or compensation payable in respect of or in consequence of any accident or injury to any of the personnel employed by the customer or his subcontractor. The customer shall at all times indemnify OMDC against all claims, or compensation under the provision of Workman's Compensation Act, 1923 or any other law for the time being in force.

33.3 Customer shall take full responsibility and include in his bid all costs of ensuring

compliance of the safety norms right from the initial stage as well as providing safe working conditions to his workmen and / or any other persons employed by him at site i.e. either inside the plant / unit or outside OMDC's premises within the quoted price. He shall also ensure that the safety and health of the employees, plant / unit and any other property of the company, as well as other contractors working in the vicinity are not affected by his activities. He will also ensure that all equipments and other materials / supply etc. brought by him at site i.e. either inside the plant / unit or outside OMDC's premises as per the terms of the contract are safe to the workmen in accordance with the relevant Act ( including its latest amendments ).

33.4 OMDC has to be indemnified against any accident / injury to the workmen deployed by customer or engaged by OMDC and damage to plant / unit & machinery that may occur in course of loading of materials and customer shall provide safety appliances as required to the workforce at his cost.

33.5 Safety Appliances, Training, Precautions

The customer shall supply all types of safety appliances and maintain the same in good working conditions. The customer shall appraise the site personnel in regard to various risk and hazards associated with their job. In addition, customer shall also include safety consciousness amongst his personnel and provide necessary training.

33.6 The customer shall take full responsibility for accidents caused due to his / her or his agent's or employee's negligence or carelessness in regard to observance of the safety requirement and pay compensation for injuries / loss of life as per statutory rules promptly.

33.7 The customer shall be fully responsible for the safety of his workmen and employees. The customer shall however, follow all instructions and direction that the Safety Engineering Department of the concerned Plant / Unit may issue from time to time in regard to safety measures and shall be responsible for reporting without delay all accidents, however and where ever occurring in the works to the Safety Engineering Department of the concerned Plant / Unit. The customer shall also assist the said department in regard to the enquiry and implementation of safety measures.

33.8 The customer must abide by the security as well as Safety rules of the Company as may be obtained by the competent authority of the Company from time to time.

33.9 Violation of safety requirements

In the event of violation of safety requirements, company may direct stoppage of work and direct the customer to remedy the defects or supply the facility / equipment as the case may be. The customer shall not proceed with the work until he has complied with such directions to the satisfactions of the Concerned Authority / Safety Dept. The above provisions are also without prejudice to any other right that the company may have against the customer for contribution or any other action including recovery of any damage that may be caused to or suffered by the company either under relevant statute or any other law of India as may be applicable, in the facts and circumstances of an individual case in the event of any injury to any person who may be either an employee of the company or a contract labour or any other person within the premises of the company's factory / mines for any act of omission by or on behalf of the

customer in relation to the discharge of obligation for the customer under the contract.

33.10 Where applicable and loading / dismantling / processing of the lot is allowed, the customer shall be responsible for security / safety of the workmen like the lifters, labourers, drivers of trucks, loaders etc., engaged by him, for which customer shall have to observe all safety rules inside the company premises and Plant / Unit shall in accordance with this condition accepted by customer, stand indemnified against any accident / injury to the workmen deployed by him, that may occur in course of processing, dismantling, handling, loading, transportation etc. of the material. Customer shall provide safety appliances to the workforce at his cost.

34 All important communication with customer shall be through letters / couriers / faxes / emails and / or notices put up in notice board at concerned Plant / Unit and it will be the obligation on their part not to overlook such notices. Any plea of ignorance of such notices / letters put up in the notice board at concerned Plant / Unit shall not be acceptable.

35

#### **Third party insurance / Indemnity Bond**

- 35.1 It shall be the responsibility of the customer for effecting necessary insurance under the Indian Workmen's Compensation Act, Third Party Liability Insurance or any other insurance in accordance with the relevant laws and regulations, at his own cost.
- 35.2 OMDC shall not be responsible for any damage to the trucks / trailers / other handling equipment etc. suffered by the customer while executing the contract. The customer in his own interest shall obtain suitable and sufficient cover from underwriters and no claim / correspondence on this account shall be entertained by OMDC.
- 35.3 The customer shall conform in all respects with the provisions of any statute, ordinance or laws and the rules, regulations, bye-laws of any local or other duly constituted authority which may be applicable in carrying out the contract. The customer shall assume responsibility for and shall indemnify and save OMDC of all liabilities, claims, costs, expenses, attorney's fees and Court costs which are or may be required with respect to any breach of any such statute, ordinance, law, rules, regulations or for which the customer has assumed responsibility under the contract.
- 35.4 The customer must take a third party insurance covering losses / damage to premises, equipment, machinery and other installation of the OMDC Plant / Unit, wherever applicable, as well as any accidents / deaths of either the OMDC Plant / Unit employees or to the customer's workmen. The sum insured / indemnified will depend on cost of equipment, machinery and other installations at the site wherefrom material is to be lifted and / or after dismantling etc. wherever applicable, the number of employees etc. and will be specified in the acceptance of offer / sale offer.

### 36 Death, Bankruptcy etc.

If the customer shall die, dissolve or become bankrupt or insolvent or cause or suffer any receiver to be appointed on his business or any assets thereof or compound with his creditors, or being a corporation commence to be wound up not being a members' voluntary winding up for the purpose of amalgamation or reconstructions, or carry on its business under a receiver for the benefits of its creditors or any of them, the legal successor shall intimate OMDC in writing of such happening within one week from the date of such event and OMDC shall be at liberty to cancel or terminate the contract of sale forthwith upon coming to know of the happening of any such event as aforesaid by notice in writing to the customer or to the receiver, liquidator or any person, in whom the contract may become vested or to give such receiver, liquidator or other person the option of carrying out the contract of sale subject to his providing a guarantee for the due and faithful performance of the contract of sale.

### 37 Conciliatory Body

In case of any dispute & prior to appointment of Arbitrator, the point of dispute will be reviewed by a conciliatory body which will be formed with one representative from Plant / Unit of OMDC, one representative of the party and a representative of Legal Cell of respective Plant / Unit.

### 38 Arbitration Clause

- 38.1 All questions, claims, disputes or differences of any kind whatsoever arising out of or in connection with or concerning this contract, at any time, whether before or after the determination of this contract, other than questions, claims, disputes or differences for the decision of which specific provisions have been made in the foregoing clauses of these conditions ( hereinafter referred to as "excepted matters" and decision on which excepted matters according to the said specific provisions shall be final and binding on the parties to this contract and shall not be re-opened or attempted to be reopened on the ground of any informality, omission, delay or error in the proceeding or on any other ground whatsoever ) shall be referred by the parties hereto for the decision by a sole arbitrator to be appointed as hereinafter mentioned.
- 38.2 The notice regarding the invoking of the arbitration clause shall be served by the parties hereto by registered post / courier at their address given in the contract.
- 38.3 Matters in question, dispute, claim or difference other than the excepted matters in respect of this contract to be submitted to arbitration as aforesaid shall be referred for decision to a sole arbitrator to be appointed by Chairman cum Managing Director of the Company in which arbitration is invoked.

In case the designation of the Chairman cum Managing Director is changed or his

office abolished, the officer who for the time being is entrusted with the functions of the Chairman cum Managing Director, OMDC by whatsoever designation such officer is called, shall be the person designated to appoint the Sole Arbitrator. The arbitrator so appointed shall adjudicate upon the disputes between the parties hereto.

38.5 The sole arbitrator appointed as stated above, shall from the time of his appointment and throughout the arbitral proceedings, without delay, disclose to the parties in writing any circumstances likely to give rise to justifiable doubts as to his independence or impartiality provided that the mere fact that such sole arbitrator is an employee of the OMDC, Plant / Unit shall not be regarded as such circumstance. The arbitrator shall decide the questions, claims, disputes or differences submitted to him by the parties in accordance with the substantive law for the time being in force in India.

38.6 The arbitrator shall hear the cases independently and impartially and shall not represent the interest of any party.  
The venue of arbitration shall be decided by the arbitrator.

38.7 The question of procedure for conduct of the arbitration proceedings shall be decided by the Arbitrator in consultation with the parties before proceeding with the reference. The arbitrator may hold preparatory meeting(s) for this purpose. In the preparatory meeting(s) aforesaid the arbitrator in consultation with the parties shall also determine the manner of taking evidence, the summoning of the expert evidence and all such matters necessary for the expeditious disposal of the arbitration proceedings. The arbitrator shall be entitled to actually incurred expenses only, in respect of preparatory meeting(s).

38.8 The provisions of the arbitration and conciliation act, 1996 and the rules framed thereunder, if any, and all modifications / amendments thereto shall deem to apply and / or be incorporated in this contract as and when such modifications / amendments to the act / rules are carried out.

### 39 Legal Jurisdiction

All kinds of legal proceedings against “The Orissa Minerals Development Co Ltd” in any matter arising out of the purchase shall be under the jurisdiction of the appropriate Court of Kolkata.

### 40 Force Majeure conditions

40.1 If in the event either or both the parties to the contract is / are prevented from discharging its / their obligation(s) under the contract by reason of one or more of the events such as arrest(s), restraint(s) by Government of people, blockade(s), revolution(s), insurrection(s), mobilization(s), strike(s), civil commotion(s), riot(s), accident(s), Act(s) of God or other natural calamities or on account of any other act(s) beyond the control of the parties to the contract, the time of delivery shall be extended by the period equal to the period of delay / constraints occasioned by one or more of the aforesaid Force Majeure conditions. However in the event of customer invoking the Force Majeure condition(s), OMDC shall have the option to cancel the contract for

reasons of any or all of the Force Majeure conditions notified by the customer without being able to pay any compensation whatsoever to the seller.

40.2 On the occurrence of any of the above Force Majeure conditions, the party concerned shall notify the other party in writing of such occurrence(s) within 7 days of occurrence(s) stating therein -

- i) The date of occurrence(s) of Force Majeure disability and
- ii) The nature of such Force Majeure disability along with a certificate from the appropriate Statutory Authority and / or Chamber of Commerce of the concerned state certifying the fact of the Force Majeure condition during the relevant period.

#### 41 Contract closing

The customer shall ensure removal of workmen, tools, tackles etc. on termination / expiry of the contract at his cost immediately thereafter wherever applicable.

42 Any conflict between OMDC FA1 & the Auction Notice along with the Special terms & conditions, the the Auction Notice along with Special terms & conditions will be overriding and finally will be binding on the customer.

**GENERAL RULES AND REGULATION GOVERNING CONDUCT OF ONLINE AUCTIONS ON THE “SERVICE PROVIDER” PLATFORM**

**INTRODUCTION :**

This Online Forward Auction is being conducted for The Orissa Minerals Development Co. Limited (hereinafter referred as the “**Client**”) on the Auction Platform of MSTC Limited (hereinafter referred as “**Service Provider**”).

The General Rules and Regulations provided herein govern the conduct of Online Forward Auctions arranged by “**Service provider**” on its Auction Platform. These rules cover the **roles and responsibilities** of the parties in the online Forward Auctions on the Auction Platform.

**Acceptance in-toto to these General Rules and Regulations governing conduct of online auctions is a pre-requisite for securing participation in the online auctions.**

The key terms pertaining to the online Forward Auctions are provided in the “**Annexure- D**”. Prospective bidders are advised to read through the same.

**ROLE OF “SERVICE PROVIDER”**

“Service Provider” is the agency (operator) primarily providing the service of the Forward auction to the “client”. Input of the Auction items and defining the bidding rule in the auction engine.

1. Finalisation of the auction items in consultation with the Client.
2. Defining of bidding rules for each auction in consultation with the Client.
3. Enhancing bidder awareness of and comfort with the auction mechanism and bidding rules.
4. Enlarging the bidder base by introducing new bidders.
5. Collection of Pre Bid Security Deposit, Letter of Interest etc. from the willing bidders and forwarding the same to the Client.
6. Providing access to the eligible bidders to participate in the Auction.
7. Summarising the Auction proceedings and communicate the outcome to the Client.

The responsibility of fulfillment of the contract rests between the bidders and the client and the responsibility of the “Service Provider” shall be restricted to the extent of the services provided by them.

**ROLE OF BIDDER**

The role of the bidder is outlined below:

1. The bidder would participate in the auction with the aim of bidding to secure the auctioned item in the auction.
2. The bidder would be provided access to the Auction through a “User ID” protected by a “Password”. The bidder needs to ensure that the “User ID” and “Password” is not revealed to unauthorized persons. Bidders are

also requested to change the password allocated to them by the “Service Provider” to keep their confidentiality. However it would be bidder’s sole responsibility to ensure the security and privacy of the same and he/they would not hold the “Client” / “Service Provider” responsible in any manner whatsoever for any misuse of these user IDs and/or Password.

3. Access to the auction mechanism shall be provided to all the eligible bidders subsequent to obtaining their written consent to the General Rules & Regulations and the Letter of Interest. Payment of Pre Bid EMD **as decided by the client** before the start of the Forward auction will be one of the necessary conditions for participating in the auction.

4. Bidders hereby confirm that they shall commit to lift the item (being bid for) at the price entered by them in the auction engine if the bid is approved by the client in writing AND at the terms and conditions specified herein by the Client. All Prices entered shall be legally binding on the bidders. Bidders are strongly advised to exercise due diligence while placing bids. Failure to honour the bids placed during online bidding shall render the bidders liable for penal action as deemed fit by “Client” / “Service Provider”.

5. In the event of winning an allotment in the auction mechanism, the bidder shall commit to fulfill outlined obligations under the contract, provided the same is approved by the Client, in writing.

6. The bidders shall bid on the terms specified by the client & place their bids in the auction engine in the manner specified by “Service Provider”. The bidders shall not stipulate any conditions on their own unless the terms of the client (the client’s terms & conditions) expressly permit such conditions being stipulated by the bidder. Bids entered with conditions attached shall be considered Conditional bids & “service provider” retains the right of rejecting these bids even without intimating the client.

### **BIDDING RULES**

The Bidding Rules refer to the information and terms defined specifically for a particular auction. The purpose of the Bidding rules is to provide eligible bidders with the information and terms specific to the auction in which they are bidding. This would include:

1. Definition of the bidding unit.
2. Start Time and duration of the auction.
3. Any extension of the duration of the auction in the event of bids being received towards the end of the pre-specified duration.
4. Start Bid Price.
5. Specified Unit for Bidding.
6. Price Increments and any reduction in the price increment in the auction in the event of inactivity
7. Other attributes (informational/non-negotiable in nature)

While it shall be the endeavour of “Service Provider” to specify these rules at the earliest for each online auction, the “Service Provider” shall retain the right to delay the announcement of these bidding rules or modify rules specified earlier at the time of the online bidding. These details would be available to the bidders on the Auction Engine at the time of bidding. Participation in the auction process presumes complete awareness and understanding of the bidding rules.

### **CONDUCT OF THE AUCTION:**

Only those bidders who have been approved by the “Client” and/or handed over stamped and manually signed “General Rules and Regulations governing conduct of online auction along with Letter of Interest, required pre bid Pre Bid Earnest Money Deposit amount and other necessary

documents (Auction Notice, Special Terms & Conditions & OMDC FA1 along with all Forms) to the “Client”/ “Service Provider” within the specified time will be given “Login ID” and “PASSWORD” to enable them view and participate in online auction.

The Auction shall be conducted on pre-specified date. The Key Terms pertaining to the conduct of Auction such as “START TIME”, “DURATION”, “END TIME” AND “AUTO EXTENSION FACILITY” Shall be specified separately for each Auction.

“Service provider” retains the right to cancel or reschedule the auction, with the approval of the

Competent Authority of the Client, on any of the following reasons:

1. The number of confirmed bidders is deemed insufficient to conduct the auction.
2. Some of the confirmed bidders are unable to access the module due to infrastructure problems such as sustained power failure or telecommunication breakdown.
3. There are no bids which are equal to or below Start Bid Price.
4. Any other reason which in the opinion of “Service Provider” / “Client” requires such action to be initiated.

The duration of auction may also vary from the pre-specified period of time either on account of termination of the auction by “Service Provider” on the advice of the Client

**Or**

In case of situations where it is felt that continuance of the auction proceedings is prejudicial to the smooth conduct and / or the integrity of the auction process.

**Or**

due to Auto Extension during the Auction, duration may increase from specified period.

In the event of any problems being faced in the smooth conduct of the auction, “Service Provider” with the approval of the Competent Authority of the Client, shall have the right to undertake one or more of the following steps:

1. Cancellation/ premature termination of the auction with/ without a subsequent rerun of the auction on a mutually decided date
2. Cancellation of a bid
3. Locking / deactivate a bidder’s account (suspension of operations in the account), etc.

In case of failure of net connection, bidder will give his best price to the “Service Provider”. “Service Provider” will bid on behalf of the bidder with the minimum increment until the bid price reaches the best price offered by the bidder, by proxy bidding mechanism.

The best price communicated by the bidder will have to be authenticated by written confirmation or fax to the “Service Provider” and will be kept confidential between the “Service Provider” and the bidder. Bidder will be bound by the price offered.

### **LIABILITY OF “SERVICE PROVIDER”**

“Service Provider” shall not be liable to the client/ bidders participating in the auction or any other person(s) for:

1. Any breach of contract by any of the parties in the fulfillment of the underlying contract.
2. Any delays in initiating the online auction or postponement / cancellation of the online auction proceedings due to any problem with the hardware / software / infrastructure facilities or any other shortcomings.

While, reasonable care and diligence will be taken by “Service Provider” in discharge of its responsibilities such as design of the online bid, communication of bid details and rules, guidance to client/ bidders in accessing the Auction Engine and placing bids, etc. the bidders shall specifically indemnify “Service Provider” from all liabilities for any shortcomings on these aspects.

It is clearly understood that these activities are undertaken by “Service Provider” to assist the bidders in participation but the ultimate responsibility on all these counts lies totally with the bidders.

### **RIGHT OF THE CLIENT:**

The Client reserves the right to partially or totally accept or reject any / all bids placed in the Online Auction without assigning any reason whatsoever. The decision of the client would be final and binding on the bidder in any such case.

### **CONFIDENTIALITY CLAUSE:**

“Service Provider” undertakes to handle any sensitive information provided by the client or confirmed bidders for the auctions conducted with utmost trust and confidentiality.

### **JURISDICTION**

Any disputes relating to the online auction module shall be subject to the sole jurisdiction of Kolkata High Court only.

## **DEFINITION OF KEY TERMS**

### **Auction.**

Auction refers to a forum where the requirement for one/more lots of an item is stated and the participants (bidders) are required to bid down the price to be selected to supply the requirement after approval of the client.

### **Online Auctions.**

Online auctions refer to those auctions conducted through the Internet with the bidders (from one or more locations) simultaneously bidding to be selected for supplying the item/s on auction. In other words, the venue for the auction is on an Internet website/ platform. The "Service Provider's" website assigned by "Service Provider" would constitute venue for the purpose of the online auction.

### **Award at the Auction.**

In a single winner format, only one bidder (normally the bidder who quotes the highest price) is awarded all the units of the item being auctioned. The bidder quoting the highest price is normally allotted the item subject to approval by the client.

### **Client.**

Client is the individual/business entity who has contracted "Service Provider" to conduct such auction. In case of auction, the purpose would be the genuine intent to sell the selected item/s (Lot) to the bidders desiring to buy these items from the Client.

### **Bidder.**

Bidder is the individual/business entity participating in the auction, intending to buy the item/s from the Client.

**Start Bid Price (SBP) :** The SBP sets the starting price of auction for the lot. No one can provide less bid than SBP. SBP in any case should not be treated as the price at which the Client will decide to sell the lot.

### **Auction Engine.**

Auction Engine refers to the software that encapsulates the entire auction environment, processing logic and information flows. "Service Provider" is the sole owner of the auction engine and retains exclusive right over the utilisation of the same.

### **Timings of the Online Bid.**

All the timings of the Online Bid shall be based on the time indicated by the Server hosting the Auction Engine. It shall be the endeavour of "Service Provider" to ensure that the Server Time reflects as closely as possible the Indian Standard Time (IST) i.e. GMT + 0530 hrs. However, in the event of any deviations between the Server Time and the Indian Standard Time, the functioning of the Auction Engine (Launch, operation, and closure) would be guided by the Server Time. Bidders are advised to refresh both the windows of the Auction Module check the exact Server Time (displayed in both the windows).

### **Preview Time.**

Preview Time refers to the period of time that is provided prior to the commencement of bidding. This is to facilitate eligible participants to view the auction details such as item specifications, bidding details and bidding

rules. The purpose is also to familiarize participants with the functionality and screens of the auction mechanism. It is not mandatory for "Service Provider" to provide Preview Time.

**Start Time.** Start time refers to the time of commencement of the conduct of the online auction. It signals the commencement of the Price Discovery process through competitive bidding.

**Duration of the Auction.**

It refers to the length of time the price discovery process is allowed to continue by accepting bids from competing bidders. The duration of the auction would normally be for a pre-specified period of time. However, the bidding rules may state the conditions when the pre-specified duration may be curtailed/ extended. The conditions include:

1. Curtailment of auction duration in the event of no bids for a specified period of time (Inactivity Time)
2. Automatic extension in the event of bids being entered towards the end of the scheduled duration to facilitate the other bidders to view and react to the bid.
3. Extension to enable any bidder to bid in the event of Power failure/Connectivity disruption or any other reason for which he is unable to bid and has conveyed to the Service Provider about such a situation. However, the period of extension shall be determined solely at the discretion of the Service Provider.
4. Power failure or any connectivity issue/server issue etc at the end of the Service Provider.
5. Any other reason of the Client/Service provider to facilitate the auction process.

**Auto Extension of the Auction Timings.**

In the event of bids in the last few minutes of the scheduled bid time, the Bid Timings are automatically extended for a specified period from each such bid. Such Auto Extension shall continue until no bids are placed for the specified period (Engine remains inactive for the specified period). The Inactivity Time for Auto Extension purpose is normally X minutes. "Service Provider" however retains the right to change the same. The Inactivity Time applicable for the particular Online Bid shall be visible to the bidders under the Bidding Rules module on the engine.

**End of the Auction.**

End of the Auction refers to the termination of the auction proceedings signaling an end to the price discovery process.

**Auction Report.**

"Service Provider" would provide an Auction Report to the Client containing a summary of the auction proceedings and outcome. The Auction Report would constitute the official communication from "Service Provider" to the client about the outcome of the Auction for approval / rejection of the rates by the client.