



West Bengal Mineral Development and Trading Corporation Limited (WBMDTCL)

(A Government of West Bengal Undertaking)

Limited Tender Enquiry

Request for Proposal (RFP) from Empaneled MDOs

For

**Selection of Mine Developer and Operator (MDO) of Sand Blocks in Purulia district
(Only for Category A)**

**3rd Floor, DJ - 10 (WBIDC Building)DJ
Block, Sector II, Salt Lake City Kolkata
700 091**

Nodal Officer:

Managing Director, WBMDTC

Contact: 033-23590073

Email id: tenderwbmdtcl@gmail.com

RFP No: **PUR_6_03122022_A06** Dated: **03.12.2022**

Non-Refundable RFP Document Fee: Rs 17,700/- only (Base Rs. 15,000/- + 18% GST)

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1. Abbreviations

Abbreviations	Full forms
CFT.	Cubic Feet
EIA	Environment Impact Assessment
EMD	Earnest Money Deposit
EMP	Environment Management Plan
FY	Financial Year
WBMDTCL	West Bengal Mineral Development and Trading Corporation Limited
GOI	Government of India
GOWB	Government of West Bengal
HEMM	Heavy Earth Moving Machinery
IBM	Indian Bureau of Mines
INR	Indian National Rupees/Legal tender currency of India
WBSMP	West Bengal Sand Mining Policy
LOI	Letter of Intent
MoEF & CC	Ministry of Environment, Forest and Climate Change
MDO	Mine Developer and Operator
PS	Performance Security
RFP	Request for Proposal
RTGS	Real-time gross settlement
SMA	Sand Mining Agreement
TOR	Terms of Reference

2. Bid Data Sheet & Bid Schedule

Name of the Work	Selection of Mine Developer and Operator (MDO) in Sand Blocks in Purulia district
RFP Number and Date	RFP No.: PUR_6_03122022_A06 dated. 03.12.2022
Non-Refundable RFP Document Fee	Rs. 17,700 /- (Base Price- Rs 15,000/- + 18% GST) In the form of Demand Draft as specified in Clause 8.1
Details of the Sand Block	Block ID: PUR_6_03122022_A06 District: Purulia River: Kanshabati Sand block area 10.83 Ha Estimated Annual Mineable Reserves (Cr. Cft.): 0.496 Cr. Cft. <i>Please refer Annexure 1 for geo-coordinates</i>
Mode of submission of Bid	Online (as specified in Clause 8.6)
e-auction portal of Govt. of WestBengal	http://www.eauction.gov.in
Earnest Money Deposit	INR 49,600 /- (INR Forty Nine Thousand Six Hundred only) in the form of Demand Draft as specified in Clause 8.2(b)
Performance Security	To be paid by successful bidder in the form of a Bank Guarantee from a Scheduled Commercial Bank in India payable at Kolkata, West Bengal as per clause 8.3
Date of publication of Tender on website	03.12.2022
Last date of submission of online pre-bid queries	12.12.2022 till 14.00 Hrs.
Online Pre-Bid conference	13.12.2022 at 12.00 Noon.
Link for the Online Pre-Bid conference	Link: https://us06web.zoom.us/j/81674961035?pwd=a2l1L05xRlpLTlkxVRaV1N4c2NaZz09 Meeting ID: 816 7496 1035 Passcode: 034306
Last Date/Time for submission of Bids[Bid Due Date] through Online Mode	21.12.2022 up to 16:00 Hrs.
Last Date/Time for submission of Bids[Bid Due Date] through Offline Mode	21.12.2022 up to 17.00 Hrs.
Conduct of electronic auction	23.12.2022 at 10:00 Hrs.
End of electronic auction	23.12.2022 at 17:00 Hrs. subject to the clause 8.6
Intimation to the Preferred Bidder	To be intimated later
Contact Details	Contact: 033-23590073 Email id: tenderwbmdtcl@gmail.com

Note: Above schedule may be changed by WBMDTCL at any time at its own discretion. Please check the website: <https://mdtcl.wb.gov.in/> and online NIC auction portal from time to time for further updates.

Sd/-

Managing Director West Bengal Mineral Development & Trading Corporation Limited.

3. Disclaimer

- 3.1 This Tender is issued by West Bengal Mineral Development & Trading Corporation Limited (WBMDTCL). Whilst the information in this Tender has been prepared in good faith, it is not and does not purport to be comprehensive or to have been independently verified. Neither WBMDTCL nor any of its officers or employees, nor any of their advisors accept any liability or responsibility for the accuracy, reasonableness or completeness of, or for any errors, omissions or misstatements, negligent or otherwise, relating to the proposed Project, or makes any representation or warranty, express or implied, with respect to the information contained in this Tender or on which this Tender is based or with respect to any written or oral information made or to be made available to any of the recipients or their professional advisers and, so far as permitted by law and except in the case of fraudulent misrepresentation by the party concerned, and liability therefore is hereby expressly disclaimed.
- 3.2 The information contained in this Tender is selective and is subject to updating, expansion, revision and amendment at the sole discretion of WBMDTCL. It does not, and does not purport to, contain all the information that a recipient may require for the purposes for making a decision for participation in this process. Neither WBMDTCL nor any of its officers, employees nor any of its advisors nor consultants undertakes to provide any Party with access to any additional information or to update the information in this Tender or to correct any inaccuracies therein which may become apparent.
- 3.3 This Tender includes certain statements, projections, targets and forecasts with respect to the Project. Such statements, projections, targets and forecasts reflect various assumptions made by the management, officers and employees of WBMDTCL, which (the assumptions and the base Information on which they are made) may or may not prove to be correct. No representation or Warranty is given as to the reasonableness of forecasts or the assumptions on which they may be based and nothing in this Tender is, or should be relied on as, a promise, representation or warranty.
- 3.4 WBMDTCL shall be the sole and final authority with respect to selecting a Bidder through this Tender. The decision of WBMDTCL in qualifying a respondent shall be final and WBMDTCL reserves the right to reject any or all the bids without assigning any reason. WBMDTCL further reserves the right to negotiate with the qualifying agencies to enhance the value through this project and to create a more amicable environment for the smooth execution of the project.

4. Definitions

“Additional Performance Security” means the Bank Guarantee to be submitted by Successful Bidder in accordance with Clause 8.7 of this RFP Document

“Advance Premium Amount” means the amount to be submitted by Successful Bidder in accordance with Clause 8.4 of this RFP Document

“Applicable Laws” shall mean all applicable statutes, laws, by-laws, rules, regulations, orders, ordinances, protocols, codes, guidelines, policies, notices, directions, judgments, decrees or other requirements or official directive of any governmental authority or court or other law, rule or regulation approval from the relevant governmental authority, government resolution, directive, or other government restriction or any similar form of decision of, or determination by, or any interpretation or adjudication having the force of law in India.

“Approvals” mean Mine Plan Approval, Environment Clearance, Forest Clearance (if needed), Consent to Establish (CTE) Consent to Operate (CTO), and all other licenses, permits, consents and permissions necessary under Applicable Law in respect of the scope of work under this RFP for mining, transportation, stocking and loading of sand and sale including performance of any obligation or exercise of any right by a Party herein.

“Authority” shall mean any government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity having jurisdiction over the subject matter(s) in question.

“Bid” shall mean the Bid submitted by Bidder to WBMDTCL in response to this RFP and subsequent correspondence between Bidder and WBMDTCL in this regard, accepted by WBMDTCL in relation to the matters set out in this Tender.

“Bid Due Date” means the date on which the Bid is required to be submitted in accordance with Section 2.

“Bidder” means any entity which has been Empaneled by WBMDTCL and not been terminated since then with reference to the EOI notice number MDTC/SAND/02/011 for participation in this RFP. Bids of the Bidders not empaneled with WBMDTCL or terminated by WBMDTCL shall be rejected. The list of the empaneled bidders is uploaded in the WBMDTCL website vide memo no: MDTC/Sand/002/1027 dated 30th December 2021.

“Cft.” means cubic foot of material as defined by Legal Metrology Rules

“Claim” means any claim, notice, demand, debt, account, action, expense, cost, lien, liability, proceeding, litigation (including reasonable legal costs), investigation or judgment of any nature whatsoever, any losses, damages, charges, interest, assessments, penalties and settlements, including those arising out of or in relation to any claim, suit, arbitration, proceedings and all sums paid in relation to any compromise or settlement of any such claim, suit, arbitration or proceedings.

“Commencement Date of Work” shall be the date on which all statutory clearances are obtained for commencement of mining operation and sand stockyard if applicable. The work of Sand excavation, transportation etc. shall be started from the Commencement Date of work by the MDO.

“Financial Year” means the period of 12 months commencing from April 01 of each year to the March 31

of the following year.

“Floor Price” means the minimum Sand Premium as prescribed under this RFP Document in Clause 8.6

“WBMDTCL” means West Bengal Mineral Development & Trading Corporation Ltd., a fully owned undertaking of the Government of West Bengal (“GoWB”) incorporated as a company under the Companies Act, 1956 on 23 February, 1973 under the direct administrative control of Department of Industry, Commerce & Enterprises.

“Mine Developer and Operator” or “MDO” shall mean the Successful Bidder who has been duly appointed by WBMDTCL for obtaining statutory clearances, excavation & transportation of sand from sand blocks to stockyards if required, setting up and maintenance of stockyards, loading sand on the vehicle and sale of sand to end-consumer and includes their employees, agents, consultants or sub-contractors.

“Minerals” means mineral or minerals as defined in The Mines Act 1952.

“Mining Operation” means any operations undertaken for the purpose of winning any mineral as defined in section 3 (d) of Mines and Minerals (Development and Regulation) Act, 1957.

“Performance Security” means the Bank Guarantee to be submitted by Successful Bidder in accordance with Clause 8.3 of this RFP Document

“Preferred Bidder” shall be the H1 Empaneled Bidder who submits the highest premium as per Clause 8.6 and 50% of the Advance Premium Amount (First Installment as per Clause no.8.4 (1).

“Contract value” for sand block means the product of the Sand Premium per CFT. by the Successful Bidder and total estimated sand quantity for five years. Annual Contract Value shall be calculated by dividing the Contract Value by 5.

“Sand Mining” means excavation of sand from the specified sand block by deploying required resources such as manpower and machinery in line with the Sand Mining Agreement and approved sand mining plan, environmental clearance, CTO, CTE and all other applicable guidelines, clearances and permissions for the said purpose.

“Sand Mining Agreement” or “Agreement” shall mean Sand Mining Agreement (along with all Schedules and Annexure) attached at Annexure 2. The agreement will be signed pursuant to the submission of the Performance Security, Additional Performance Security, if applicable and Advance Premium Amount.

“Sand” means and includes ordinary sand, other than sand used for prescribed purposes, along with the stones, boulders, pebbles and gravels accumulated in the riverbed by natural phenomenon. Sand shall be referred to as one of the minor minerals specified at serial no. XXVII in the Gazette of India dated 10th February 2015.

“Sand Mining Rule” shall mean the West Bengal Sand (Mining, Transportation, Storage and Sale) Rules, 2021, as per The West Bengal Gazette Notification No.: 48-ICE/O/MIN/GEN-MIS/17/2021 dated 25.01.2022

“Stockyard” shall mean the area if required, identified by MDO and further demarcated for stocking the sand excavated by the MDO, and from where sale of sand to the prospective buyers shall be done.

"Successful Bidder" shall be the Preferred Bidder, who has submitted the advance premium amount of the first year and accepted the LOI

"Tender" or "RFP Document" means this RFP Document together with the schedules/ annexures and documents referred herein, including any addendum(s)/corrigendum(s)/amendment(s) to this RFP Document.

"Work" or "Scope of Work" means all the work required to undertaken by the MDO in accordance with Clause 7 of this RFP Document.

5. Introduction & Background

5.1. About WBMDTC Limited

West Bengal Mineral Development and Trading Corporation Limited (WBMDTCL) is the state mining corporation of the Government of West Bengal and is under the administrative control of the Department of Industry, Commerce & Enterprises, Government of West Bengal. WBMDTCL is a profit-making organization, and its scope of mining activities has grown rapidly in the recent few years, and the operations of WBMDTCL span across coal mining, stone quarries, quartz, feldspar, granite, apatite, china clay, fire clay etc.

As per the West Bengal Sand Mining Policy – 2021 (West Bengal Gazette Notification No. 284-ICEIO/MIN/GEN-MIS/02/2021 dated 30-07-21) and West Bengal Sand (Mining, Transportation, Storage and Sale) Rules, 2021, as per The West Bengal Gazette Notification No.: 48-ICE/O/MIN/GEN-MIS/17/2021.dated 25.01.2022 sand deposits have been given to WBMDTCL on management basis. WBMDTCL is interested in selection of a suitable contractor for obtaining clearances,if required, Mining, Transportation, Stocking, Loading and Sale of sand to buyers

In this regard, WBMDTCL published an Expression of Interest with notice no MDTC/SAND/02/011 dated 10.09.2021 for *“EMPANELMENT OF OPERATORS FOR EXCAVATION AND TRANSPORTATION OF SAND FROM SAND MINES TO STOCK- YARDS/DEPOTS, SETTING UP AND MAINTENANCE OF STOCK-YARDS/DEPOTS, LOADING SAND ON THE VEHICLE AND SALE OF SAND TO END-CONSUMER IN THE STATE OF WEST BENGAL”* from the designated sand blocks under 2 (Two) categories and has empanelled MDOs for participation in this RFP stage for award of work. The list of the empaneled bidders is uploaded in the WBMDTCL website vide memo no: MDTC/Sand/002/1027 dated 30th December 2021. (Annexure 3)

5.2. About Sand Blocks

The geo-reference co-ordinate of the sand blocks and approximate quantity is provided in Annexure1
The Estimated First Year Mineable Reserve (Cr. Cft.) mentioned in the Bid Data Sheet and Annexure-I of the RFP Document is subject to grant of Environmental Clearance from SEIAA / MOEF & CC as the case may be. The Annual sand Quantity from subsequent years may vary depending upon the Replenishment Study to be carried out by the Govt. of West Bengal. MDO has to furnish an Annual Extraction Plan every year for the next twelve months based on the declared Replenishment Rate for that particular year.

5.3. Contract Period

- a) The tenure of the Agreement (“Contract Period”) shall be of 5 years from the date of execution of Sand Mining Agreement.
- b) In case, the date of execution of Sand Mining Agreement, does not occur within six months from acceptance of LOI and or one month from the obtaining the Environmental Clearance (EC) of the sand block, whichever is earlier further reasoned decision would be taken by WBMDTCL including cancellation of LOI, EMD and forfeiting one year advance premium amount paid.
- c) During the period between the date of acceptance of LOI and date of expiry/termination of Sand Mining Agreement, all the terms and conditions of the RFP, subsequent corrigendum thereto, letter of award & Agreement will be applicable.

5.4. Validity of Proposal

- a) The Proposals submitted by bidders shall remain valid for a period of 180 (one hundred and eighty) days from the Bid Submission Date. Any Bid with a shorter validity period shall be rejected by WBMDTCL.
- b) Under exceptional circumstances, WBMDTCL may in writing, request the Bidders to extend the Bid validity period of their Bids. A Bidder may refuse the request to extend the bid validity without any adverse impact or damages/ penalty and such Bids will not be evaluated further.

6. Instruction to Bidders

6.1. General

The Bidders are advised to read the instruction, evaluation norms and other terms and conditions described in these documents under different Clauses carefully before submitting their offer. Bidder requiring any clarification regarding RFP may send their pre-bid queries through email at tenderwbmdtcl@gmail.com within the time period mentioned in the bid schedule.

6.2. Site Visit

Bidders are advised to visit the sand block sites to study the actual working conditions, before submitting their bids. The information/ details given in the RFP Document are only to describe magnitude of work and are for mere guidance to the Bidders. Bidders shall submit a site visit completion certificate with declaration as per the **FORM-A: Format for Site Visit Certificate and Declaration** in order to qualify for the next round of auction process.

Any negligence or failure on the part of the Bidder in obtaining necessary and reliable information upon the foregoing or any other matters affecting the contract shall not relieve him from any risks or liabilities or the entire responsibility from completion of the works at the scheduled rates and time in strict accordance with the Agreement. The cost and arrangements incurred by Bidders for site visit shall be borne by the Bidder only.

6.3. Pre-Bid Conference

A pre-bid meeting would be held as per the schedule given in the Bid Data Sheet and Bid Schedule to clarify and discuss issues with respect to the Bidding Process and the Bidding Documents. Pre-bid meeting attendance is not compulsory.

6.4. Issuance of Clarifications, Corrigendum and Amendment

- a) The last date for receipt of pre bid queries by WBMDTCL is indicated in the Bid Data Sheet and Bid Schedule.
- b) At any time prior to the Bid Submission Date, WBMDTCL may at its own discretion, amend the provisions of this RFP Documents/ Amendment(s) to the Tender.
- c) WBMDTCL may in its sole discretion respond to such queries and suggestions submitted by any bidder or amend the RFP as required but is under no obligation to do so.
- d) Any Clarification (s)/ Corrigendum (s) / Amendment(s) issued by WBMDTCL subsequent to the date of issuance of the RFP Document will also be considered an integral part of the RFP Document.
- e) Any Clarification (s)/ Corrigendum (s) / Amendment(s) issued hereunder shall be posted in the website of E-auction portal and WBMDTCL. No newspaper advertisement shall be issued in this regard.
- f) WBMDTCL may, at its discretion, extend the Bid Submission Date.

6.5. Clarifications sought by WBMDTCL on Bids submitted by the Bidders

During Bid evaluation, WBMDTCL may, at its discretion, ask the Bidder for a clarification on any information provided in the Bid. The request for clarification and the response shall be in writing, to be communicated either through e-mail or through a paper-based communication, and no change in the price or substance of the Bid shall be sought, offered or permitted except to confirm the correction of arithmetical errors discovered by the WBMDTCL in the evaluation of the Bids, in accordance with the RFP Document.

7. Scope of Work

- 7.1.** MDO by itself or through some other party, shall assist WBMDTCL TO prepare required documents, Mine Plan and obtain Mine Plan approval, prepare EIA/EMP as required and obtain environment clearance including organizing public hearing (if applicable), prepare required documents & procure CTO, CTE and any other statutory approval from respective Authority for the Sand Blocks and the Stockyard, if applicable on behalf and in the name of WBMDTCL.
- 7.2.** MDO shall make all the statutory payments for obtaining statutory approvals. If any such statutory payments made by WBMDTCL shall be reimbursed by MDO at actual prior to the date of signing of Sand Mining Agreement.
- 7.3.** MDO by itself or through some other party, shall prepare any required regulatory documents including half-yearly air-water monitoring report etc., throughout the Contract Period for compliance with the requirements of EC and CTO/CTE or any other statutory clearances, if applicable on behalf and in the name of WBMDTCL. The payment of such reports shall be borne by MDO.
- 7.4.** MDO shall assist WBMDTCL to procure CTE and CTO for a period of 5 years in the name of WBMDTCL for operating the sand block and sand stockyard if applicable.
- 7.5.** MDO shall deploy manpower and equipment to excavate sand in accordance with the approved Mine Plan and conditions of Environmental Clearance and CTO/CTE.
- 7.6.** MDO shall ensure that the excavation of sand from the sand block, and transportation of sand from sand block to stockyards/buyers is done only during such hours of the day as specified by approved Mine Plan and conditions of Environmental Clearance and CTO/CTE.
- 7.7.** MDO shall develop and maintain the road from sand block to stockyards, stockyard to the main connecting road and sand block to the main connecting road as applicable and take all necessary steps in accordance with the approved Mine Plan and conditions of Environmental Clearance and CTO/CTE
- 7.8.** MDO shall secure perimeter of the dedicated sand bearing area to restrict illegal mining and shall be held responsible in case any illegal sand mining takes place at the designated sand block. The MDO shall make necessary investments and expenses to mitigate all environmental risks.
- 7.9.** MDO shall maintain digital registers of daily excavation, transportation, stocking of sand at the sand block and at the stockyards as may be applicable and sale to the buyers.
- 7.10.** MDO shall set up a display board at prominent place in the sand block, clearly mentioning name and category of sand block, area of the sand block, total deposit of sand, name of operator with contact numbers of manager and supervisor, name and contact numbers of contact person/in-charge in WBMDTCL to be contacted in case of a complaint, etc.
- 7.11.** MDO shall maintain visitor register with respect to the sand block.
- 7.12.** MDO shall strictly adhere to the instructions given by WBMDTCL, with the approval of GoWB from time to time including for information technology related works and interventions.
- 7.13.** MDO shall comply with all orders and judgments of judicial authorities including Hon'ble National Green Tribunals, Hon'ble High Court at Calcutta, and Hon'ble Supreme Court of India, and applicable laws, rules, regulations, notifications, government orders, policies, etc.
- 7.14.** MDO shall make all arrangements for ensuring safety standards and prevention of occupational health hazards as required by orders and judgments of judicial authorities including Hon'ble National Green Tribunals, Hon'ble High Court at Kolkata, and Hon'ble Supreme Court of India; applicable laws, rules, regulations, notifications, government orders, policies, etc.; and best industry practices and standards.
- 7.15.** In case MDO decides to develop and maintain stockyard, MDO shall, in its sole discretion, arrange all statutory permission in this regard. MDO shall arrange and facilitate for

identification of land/area for stockyard within 3 km from the sand block, bear the cost of the rent with inclusive of taxes. However, if suitable area is not available within the 3 Km from the sand block, MDO seek permission with WBMDTCL along with supporting rationale. WBMDTCL may in its sole discretion to allow MDO for selection of area beyond 3 Km from the sand block.

- 7.16.** MDO shall undertake activities including maintenance of approach road from stockyard to nearest access road with proper lighting arrangement in stockyard, public address system, proper management, and security of sand stockyard. MDO shall install CCTV cameras and always keep it operational at the sand mining site/stockyards as per requirements and instructions from WBMDTCL.
- 7.17.** All the aforesaid works shall be carried out by the MDO at his own costs. For the entire project WBMDTCL shall not incur any expenditure
- 7.18.** In addition to the Sand Premium, MDO shall deposit all statutory levies and taxes such as Royalty, DMF, Cess, all taxes, duties, and GST applicable
- 7.19.** The MDO shall carry out all the responsibilities as stated in Clause 9.8 diligently

8. Tender Process

8.1. Cost of RFP Document Fee

The RFP Documents shall be downloaded from e-auction portal as mentioned in Bid Data Sheet and Bid Schedule. The bidder shall submit a non-refundable RFP Document fee in the form of separate Demand Draft in the name of “West Bengal Mineral Development and Trading Corporation Limited” payable at Kolkata as specified in the bid data sheet and schedule. The bidder shall upload a scan copy of the demand draft online and submit the physical copy as a part of RFP Document in a sealed cover. The sealed cover shall be superscribed with the name of the bidder, tender ID, empanelment ID of bidder and date.

This sealed cover should be dropped in the drop box kept at the **WBMDTCL office at WBIIDC Building, 3rd Floor, DJ-10, DJ Block, Sector-II, Bidhannagar, Kolkata-700091** or **Siliguri SDO Office at Vivekananda Bhavan, Near Biswadeep Cinema Hall, Ward-1, Pradhan Nagar, Siliguri, West Bengal-734003** within the scheduled date and time.

8.2. Earnest Money Deposit (EMD)

- a) A non-interest-bearing Earnest Money Deposit (EMD) shall be submitted per Block for which the bidder is bidding.
- b) The bidder shall pay EMD amount as mentioned in bid data sheet and bid in the form of a separate Demand Draft in the name of “West Bengal Mineral Development and Trading Corporation Limited” payable at Kolkata as specified in the bid data sheet and schedule. The bidder shall upload a scan copy of the demand draft online and submit the physical copy as a part of RFP Document in a sealed cover. The sealed cover shall be superscribed with the name of the bidder, tender ID, empanelment ID of bidder and date.
- c) This sealed cover should be dropped in the drop box kept at the **WBMDTCL office at WBIIDC Building, 3rd Floor, DJ-10, DJ Block, Sector-II, Bidhannagar, Kolkata-700091** or **Siliguri SDO Office at Vivekananda Bhavan, Near Biswadeep Cinema Hall, Ward-1, Pradhan Nagar, Siliguri, West Bengal-734003** within the scheduled date and time.
- d) On successful submission of non-interest-bearing EMD amount, the bidder shall continue the further process in the e-auction portal.

8.2.1. EMD shall be returned as per below:

- a) The EMD of the unsuccessful bidders will be returned immediately upon finalization of the Tender.
- b) The EMD of the Successful Bidder may be returned within 30 days from the signing of the agreement.

8.2.2. Forfeiture of EMD

The EMD shall be liable for forfeiture by WBMDTCL as a genuine pre-estimated compensation and damages payable to WBMDTCL for, inter alia, the time, cost, and effort of WBMDTCL without prejudice, in case:

- a) The Bidder withdraws its Bid before completion of the Bidding Process during the Bid Validity Period.
- b) The Bidder is otherwise in breach of the terms of this document.

- c) The preferred bidder does not accept the LOI.
- d) The Successful Bidder does not comply with the requirements of the Bid w.r.t submission of Performance Security, Additional Performance Security (if applicable).
- e) The Bidder submits a conditional Bid.
- f) The bidder is not empaneled with WBMDTCL as MDO for this work.

8.3. Performance Security

The successful Bidder shall submit an irrevocable and unconditional guarantee from a Scheduled Commercial Bank, for the performance of its obligations within such time as per **FORM-B: Format of Performance Security**. The Performance Security shall be calculated as **3%** of total work value (as per % stated by Finance Department from time to time). Total work value shall be calculated as (annual excavation as per Environment Clearance (in Cft.)*quoted rate per Cft. (in Rs.) * 5 years). The Performance Security shall be submitted as mentioned in bid data sheet and bid schedule for the period of the contract and additional 6 months from the last day of contract.

8.4. Advance Premium Amount

1. The H1 Bidder shall submit 50% of the Advance Premium Amount (1st Installment) to WBMDTCL for 1st year within 15 working days from the date of issuance of Notice to the H1 bidder and the rest 50% shall be paid before signing of the agreement.
The Advance Premium Amount for the 1st year shall be payable in two installments, both the instalments shall be paid online. The Advance Premium Amount shall be estimated by multiplying the highest sand premium rate (in Rs.) quoted by the bidder with the total estimated annual sand quantity (in Cft.) for the first one year.
2. At the time of execution of agreement, the advance premium amount shall be calculated by multiplying the highest sand premium rate (in Rs.) quoted by the bidder with the total actual annual sand quantity (in Cft.) as per the Environment Clearance. Any excess amount needs to be paid/adjusted against the payment for the second year as the case maybe.
3. The successful bidder shall submit a Premium Fee Guarantee in the form of Bank Guarantee as per Format D (at the time of execution of agreement), equal to 25% of the amount obtained by multiplying the highest sand premium rate (in Rs.) quoted by the bidder with the total actual annual sand quantity (in Cft.) as per the Environment Clearance valid for a period of 5 years
4. Thereafter Advance Premium Amount shall be paid online annually from the 2nd year onwards at the beginning of the 2nd year/3rd year/4th year/5th year of operation as the case maybe. Excavation permit from second year onwards shall only be generated after payment of the advance premium amount.
5. Non-compliance of submission of 1st Installment under Clause 8.4.1 within the stipulated time line, WBMDTCL may terminate and Blacklist the bidder from the list of empaneled operators for excavation and transportation of sand mines to stock-yards / depots, setting up and maintenance of stock-yards/ depot, loading sand on the vehicle and sale of sand to end-consumer in the State of West Bengal.

8.5. Bid Extensions

- a) Any bid extension timeline shall be duly communicated by WBMDTCL if required.

8.6. Conduct of electronic auction

The Bidders shall be required to submit the bid **online on e-auction portal as mentioned in the bid data sheet and bid schedule** using valid Digital Signature Certificate (DSC) as per the timeline mentioned in the Bid Data Sheet and Bid Schedule.

Bidder shall be required to submit the following:

- Payment towards the non-refundable RFP Document fee
- Payment towards non-interest-bearing EMD
- Submission of site visit completion certificate as per the **FORM-A: Format for Site Visit Certificate and Declaration**

Upon successful submission of the payment/document on the e-auction portal, WBMDTCL shall check the credentials submitted in the portal and approve the list of bidders eligible to participate in the forward e-auction process. It is clarified that the approved bidders are only eligible to participate in the forward e-auction.

The Floor Price over which the bidders are required to quote the Sand Premium is INR 1.00 per Cft.

1. The Bidder shall be permitted to place the Offer on the electronic auction platform, which is higher than the Floor Price as Sand Premium that MDO will be willing to pay to the Government along with executing complete scope of work viz. obtaining statutory clearances, mining, transportation, stocking, sand loading, development of stockyard, if applicable and sale etc.
2. The incremental value of INR 0.05 (five paise) is the minimum amount to be added to the last bid for submitting the next new bid.

Due to certain technical restrictions in the e-Auction portal, decimal points cannot be entered in the box for placement of the bids. To resolve the restrictions, Re. 1.00 will be denoted as 100 paise and the bids have to be placed by the bidder in the same unit i.e., in Paise. Hence Rs. 0.05 or 5 Paise can be placed as "5" in the bidding box during auction.

As per RFP Clause 8.6 the minimum incremental value is Rs. 0.05 or 5 Paise, which will be denoted by "5" units in the box. During e-auction, if any bidder puts a value of 105 units it will mean a bid of 1.05 (One Rupee Five Paise).

Illustration/ Example purposes only: Entry of the bids during e-Auction process

In the E-auction portal the base price of sand per Cft. is Rs. 1 per Cft, now in e auction portal base value is entered as 100, thus for purposes of e-auction rupees is to be read as paise. The incremental value of bids is set as 5 paise per Cft. Now during e auction, if any one puts a value of 5 it will mean an increase of bid from last quoted bid by 5 paise and thus, the new rate quoted of sand is 105 paise.

Base Price (paise per Cft.)	Incremental Bid (paise per Cft.)	New Price (paise per Cft.)
100	5	105
105	5	110
110	5	115
115	5	120
120	5	125
125	5	130
130	5	135
135	5	140
140	5	145
145	5	150
150	5	155
155	5	160
160	5	165
165	5	170
170	5	175
175	5	180
180	5	185
185	5	190
190	5	195
195	5	200
200	No new bids received	H1 bidder

The following table denotes the different values that can be entered by the bidders during e-auction in the box and its actual value in Rupees

Quoted Price in each box by the Bidders	Actual Price (Rs.) denoted by the quoted price
105	1.05
110	1.10
115	1.15
120	1.20
125	1.25
130	1.30
135	1.35
140	1.40
145	1.45
150	1.50
155	1.55
160	1.60
165	1.65
170	1.70
175	1.75
180	1.80
185	1.85
190	1.90
195	1.95
200	2.00

Thus, H1 bid is 200 i.e., 200 paise = Rs.2 per Cft. of sand

3. The e-auction will be closed as mentioned in this bid document. However, if there is any bid within elapse time of ten minutes of closing time, the bid shall automatically be extended by the system by another ten minutes and continued to be extended in the same manner by another ten minutes until there is no bid within the last ten minutes.
4. It shall be the responsibility of the bidders to inspect and satisfy themselves about the parameters of the block mentioned in the bid document placed in the e-auction process.
5. The Bidder that submits the highest Sand Premium (H1) during the electronic auction process shall be declared as the “H1 Bidder”.
6. The bid once submitted cannot be cancelled /withdrawn and the preferred bidder shall be bound to pay the final bid amount.
7. The highest Sand Premium submit by the bidder shall remain valid for 180 days from the Bid Due Date.

8.7. Issuance of LOI and submission of Performance Security, Additional Performance Security, if applicable and Advance Premium Amount

- a) The H1 bidder shall submit the 1st installment of the Advance Premium Amount for the first year as per the Clause 8.4(1) prior to issuance of LOI by WBMDCTL. After successful submission of 1st installment of Advance Premium Amount, he will be the “Preferred bidder” and LOI shall be issued to the preferred bidder.
- b) The Preferred Bidder shall be issued a letter of intent (LOI) by WBMDCTL. The Preferred Bidder shall revert within seven 7 days with acceptance of the LOI.
- c) On receipt of LOI acceptance, the Preferred Bidder shall be declared as **Successful Bidder**.
- d) **The Additional Performance Security maybe be decided by WBMDCTL on case-to-case basis.** The Additional Performance Security shall be submitted in the form of Bank Guarantee as per Form C from a ***Scheduled Commercial Bank in India payable at Kolkata, West Bengal*** and shall not bear any interest whatsoever.
- e) Successful Bidder shall enter into the Sand Mining Agreement with the WBMDCTL on appropriate Stamp Paper (to be provided by the Bidder) as per clause 5.3, by payment of advance premium amount as specified in clause 8.4, Performance Security, Additional Performance Security (if applicable). During this period the Successful Bidder shall arrange all the statutory approval such as Mining Plan/ Obtaining the environment clearance etc., to commence the production of sand in collaboration with WBMDCTL. Sand Mining Agreement shall be signed only after submission of Advance Premium Amount, acceptance of LOI, Performance Security, Premium Fee Guarantee Additional Performance Security, if applicable, and obtaining of all statutory approval.
- f) After approval of the Mining Plan/ Obtaining the environment clearance, the amount of Performance Security, Additional Performance Security, if applicable, and installment of Advance Premium Amount, Premium Fee Guarantee shall be revised, if required, as per the actual production capacity according to the approved Mining Plan/ permissible in Environmental Clearance of respective Sand Mining Blocks.

- g) Performance Security, Premium Fee Guarantee and Additional Performance Security, if applicable shall remain in full force and effect during the period of contract for satisfactory performance and fulfilment in all respect of the Agreement and the Scope of Work. The Performance Security shall also remain valid till six (6) months after the completion of Contract Period as per the Agreement.
- h) In case whole or part of Performance Security, Premium Fee Guarantee, Additional Performance Security, if applicable, is forfeited by WBMDTCL on account of any reason, MDO shall replenish it without any failure within fifteen (15) days of such encashment.
- i) Notwithstanding any dispute or difference between MDO and WBMDTCL pending before any court, tribunal, or any other Authority, WBMDTCL shall have right to invoke the Performance Security and Additional Performance Security, if applicable, and Premium Fee Guarantee as per the terms and conditions of the Sand Mining Agreement.

8.8. Agreement and Commencement of Work

- a) Execution of the Agreement shall be subject, inter alia, to the following conditions having been fulfilled by the Successful Bidder:
 - (i) Submission of Performance Security, Premium Guarantee Fee and Additional Performance Security if applicable, by the Successful Bidder
 - (ii) Obtaining of all statutory approval to commence the production of sand
- b) Agreement shall be signed and executed between WBMDTCL and MDO within six (6) months of submission of its acceptance of LOI, or one month from the obtaining the Environmental Clearance (EC) of the sand block whichever is earlier.
- c) During the period stated above in clause b, MDO shall start the work of procuring statutory clearances from the date of acceptance of LOI and shall in a position to commence the production of sand only after taking all the required statutory clearances and permissions for sand mining on the name of WBMDTCL. In case the agreement is not signed and executed between WBMDTCL and MDO within six (6) months of submission of acceptance of LOI due to reasons attributable to successful bidder, then WBMDTCL may at its discretion forfeit the EMD, and Advance Premium Amount and /or cancel the LOI.
- d) MDO shall start the work within seven (07) days of signing of Agreement
- e) The date from which mining activities can be commenced as per the procured statutory clearances and approvals shall be termed as "Commencement Date of Work".
- f) In case of any necessity, arising after executing the Agreement and during the execution of the work, which requires alteration/modifications in the Agreement, then it can be made after mutual understanding and consent of both the parties.

1. Name of sand blocks: XYZ _ CAT _
2. Area of sand block: 10 Hectares
3. Total production capacity in 5 years: 5 Crore Cft. (estimated)
4. Annual production capacity in 1 year: 1 Crore Cft. (estimated)
5. Floor rate per Cft. for auction: Rs 1 per Cft.
6. Rate quoted per Cft. by H1 bidder: 3 Rs per Cft. (assume)

In this case:

Sl No.	Payment Details	Form of payment	Amount of Payment	Timeline of Payment
1.	Advance Premium Amount for 1 st year (Rate quoted by H1 bidder * 1 year production capacity estimated)	1 st Instalment (50%) Online payment	Rs.3 X 0.50 X 1 Crore Cft. = Rs 1.5 Crore	Within 15 Working days of issue of Notice to H1 Bidder. After payment LOI shall be issued.
		2 nd Instalment (50%) Online payment	Rs.3 X 0.50 X 1 Crore Cft. = Rs 1.5 Crore	Before the execution of agreement
After obtaining LOI, the MDO shall assist WBMDTCL to obtain EC, CTO/CTE and other statutory clearances. Assume that in EC annual production of sand is stated as 0.8 Crore Cft. per year				
2.	Performance Security (3% of total work value as per FD norms)	Bank Guarantee valid for entire contract period + 6 months	3% x (Rs. 3 per Cft. x 0.8 crores Cft. per year x 5 years) = Rs. 0.36 crore	Before the execution of agreement
3.	Premium Fee Guarantee (equal to one year premium amount) X 25%	Bank Guarantee valid for 5 years	Rs. 3 per Cft. x 0.8 crore Cft. X 0.25 = Rs 0.6 crores	Before the execution of agreement
4.	Additional Performance Security (if applicable) shall be 10% of work value	Bank Guarantee valid for entire contract period + 6 months (if applicable)	10% x (Rs. 3 per Cft. x 0.8 crores Cft. per year x 5 years) = Rs. 1.2 crore	Before the execution of agreement (if applicable)
5.	Advance Premium Amount for 2 nd year	Online payment	Rs. 3 crore x 0.8crore Cft. = Rs 2.4 crore Cft. Actual amount to be paid: (Amount paid for 2 nd year)– (excess amount paid in 1 st year): Rs. 2.4 crore – 0.6 crore = Rs. 1.8 crore	Before the beginning of second year of operations
6.	Advance Premium Amount for 3 rd /4 th /5 th year of operation	Online payment	Rs. 3 crore x 0.8crore Cft. = Rs 2.4 crore Cft.	Before the beginning of third/fourth/fifth year of operations

The terms of forfeiture of Performance Security, Premium Fee Guarantee, Additional Performance Security shall be as per the terms and conditions stated in the RFP.

9. Terms & Conditions of Reference

9.1. Sand Premium

- a) Sand Premium is the premium amount per CFT. that MDO will be willing to pay to the Government along with executing complete scope of work viz. obtaining statutory clearances, mining, transportation, stocking, sand loading, development of stockyard, if applicable, sale etc.
- b) Sand Premium is exclusive of Royalty, DMF, Cess, all taxes, duties, and GST applicable which shall be deposited by the MDO in addition to the sand premium quoted.

9.2. Selling of sand

- a) MDO shall sell the sand from the mining area and/or stockyards as applicable, as the procedure laid down in West Bengal Sand (Mining, Transportation, Storage and Sale) Rules, 2021. MDO shall register itself for sale of for each block on the centralized portal
- b) MDO shall sell the sand using the centralized portal only. Dedicated training for all H1 bidders shall be conducted regarding operations on the centralized online portal in due course.
- c) At any point of time, WBMDTCL has right to be the first buyer and the price would be the average selling price of sand by MDO in the last 1 (one) month as recorded in the centralized portal. This is subject to a maximum of 20% of annual production capacity (As per Environmental Clearance for the Year).
- d) In order to ensure sale of sand over the contract period, the MDO may enter into a regular supply agreement with any buyer / client as per their own arrangement (subject to clause 9.2.c).

9.3. Payment terms

- a) MDO shall deposit the amount of sand premium through the centralized portal as specified in Clause 8.4.
- b) In addition to the Sand Premium, MDO shall deposit all statutory levies and taxes such as Royalty, DMF, Cess, all taxes, duties, and GST applicable
- c) Any taxes payable by the Bidder which are not incidental to the Work, including income tax, any such duties on electricity & water, operation, or management expenses etc., shall not be paid or reimbursed by WBMDTCL.

9.4. Escalation/ de-escalation of Sand Purchase Price:

The premium quoted by the bidder shall remain fixed for the Contract Period of the assignment.

9.5. Events of Default

An Events of Default is said to have occurred under the following conditions:

- a) Delay in obtaining all statutory clearances i.e., beyond 6 months from receiving LOI or not executing the lease agreement within one month from obtaining the Environmental clearance.
- b) Delay in production of Sand by more than 1 (one) month from signing of Sand Mining Agreement of Work due to fault of the MDO.
- c) The quantity of Sand to be excavated by the MDO falls short of the Scheduled **Yearly** Capacity as per Environmental Clearance.

- d) The MDO has materially defaulted and failed to comply with the terms and conditions set in the RFP Document and the Agreement.
- e) The production of Sand is discontinued for more than a continuous period of 6 (six) months.
- f) MDO is found to be involved in any type of illegal mining/ illegal transportation/illegal sale/illegal storage of sand.
- g) Preferred Bidder/MDO fails to pay any of the Advance Premium Amount as per the timeline specified in Clause 8.4**
- h) MDO fails to provide sand as per Clause 9.2 upon request by WBMDTCL at the set terms and conditions

9.6. Liquidated Damages

9.6.1. In the case of the occurrence of Events of Default as mentioned in Clause 9.5a ,9.5 b WBMDTCL shall take reasoned decision to seek Liquidated Damages calculated at 1% of the Annual Contract Value for per week delay subject to a maximum of 10% of the Annual Contract Value of Reserve. In case of continuation of such Event of Defaults, WBMDTCL may termination the contract as per its discretion. The termination shall be governed by Clause 9.7.1

9.6.2. In case of occurrence of Events of Default as mentioned in Clause 9.5 (c), WBMDTCL shall take reasoned decision to seek liquidity damages for the shortfall in production quantity as per the below table:

Shortfall in production	Damages to be paid by the MDO
Less than or equal to 25%	Nil
More than 25% and less than equal to 50%	10% of Performance Security
More than 50%	20% of Performance Security

9.6.3. In case of the shortfall in production is more than 50%, occurs in three quarters during the contract period, WBMDTCL shall be entitled to terminate the contract and performance security, Premium Fee Guarantee, additional performance security (if applicable) shall be forfeited.

9.6.4. In case of the occurrence of Events of Default as mentioned in Clause 9.5(d), 9.5(e), 9.5(f), 9.5(g), and 9.5(h) WBMDTCL shall be entitled to invoke 100% of the Performance Security, Premium Fee Guarantee, and Additional Performance Security (if applicable) provided by the MDO. WBMDTCL shall also be entitled to seek termination of contract under such circumstances. The termination shall be governed by Clause 9.7.1

9.7. Termination of Agreement

Termination by WBMDTCL

9.7.1. Termination for Default

- i. In case of the repeated occurrence of Events of Default as mentioned in Clause 9.5 (a) and Clause 9.5 (b), due to the fault of MDO, WBMDTCL may terminate the Agreement by written notice and shall invoke the Performance Security and Additional Performance Security as applicable and full Advance Premium Amount provided by the MDO.
- ii. In case of the occurrence of Events of Default as mentioned in Clause 9.5(c) in three quarters during the contract period, WBMDTCL may terminate the Agreement by written notice.
- iii. In case of the occurrence of Events of Default as mentioned in Clause 9.5 (d), 9.5(e) 9.5 (f), 9.5(g) and 9.5(h) , WBMDTCL after taking appropriate action against the MDO, WBMDTCL may terminate the Contract and in case of termination, WBMDTCL shall invoke the Performance Security, Performance Fee Guarantee Additional Performance Security as applicable provided by the MDO.

9.7.2. WBMDTCL may terminate the Agreement by written notice to the MDO if:

- i. Any Approval (including mining plan, environment clearance, CTO, CTE, or any other license, permit, consent or permission required for the operation of the sand block) is cancelled, suspended or revoked due to fault of the MDO. WBMDTCL shall invoke the Performance Security, Additional Performance Security as applicable and Advance Premium Amount provided by the MDO in case of such a termination.
- ii. The MDO is declared insolvent or goes into liquidation or receivership or if any act is done or events occurs which has a similar effect to any of the foregoing acts or events.
- iii. The MDO is in serious breach of the agreement or any Applicable Law or regulation affecting the Work.
- iv. The MDO assigns any part of the scope of work/ role/ responsibility of MDO under the Sand Mining Agreement without prior written consent of WBMDTCL.
- v. The MDO assigns complete scope of work/ role/ responsibility of MDO under the Sand Mining Agreement to any other organization.
- vi. Any other reason or causes which may be detrimental to the interests of WBMDTCL.

9.7.3. All obligations hereunder incurred prior to and which by their nature would continue beyond the cancellation, termination, or expiration of the Agreement shall survive such termination.

9.7.4. In the event of the expiration or termination of the Agreement mentioned in Clause 9.7.1 and Clause 9.7.2, the MDO shall remove all the MDO's Employees, sub- contractors, all its Equipment and its goods and materials from the Sand Block within 15 days from the receipt of the termination notice.

- 9.7.5. Upon receipt of the termination notice, MDO shall not sale sand from the block and stockyard as applicable. However, if sand is available in stockyard and MDO wants to sale the same in the open market, MDO has to take prior written permission from WBMDTCL for execution of sale

In case of any penal action taken against the MDO as per Clause 9.5, Clause 9.6, Clause 9.7, then in addition to the provisions the empanelment of the MDO shall be liable to be terminated and Blacklisted by WBMDTCL

Termination due to Force Majeure

- 9.7.6. If a delay or failure by a Party to perform its obligations due to Force Majeure event as per Clause 9.12, exceeds 6 (six) continuous months, the other Party may terminate this Agreement by giving a notice in writing to the Affected Party. In case of termination of Agreement due to Force Majeure, the Performance Security, Premium Fee Guarantee and Additional Performance Security (if applicable) shall be returned to the MDO.

Restoration of contract without Termination

- 9.7.7. Nevertheless, where WBMDTCL reserves the right to terminate this Agreement, the Managing Director, WBMDTCL at its sole discretion can decide not to terminate the Agreement.
- 9.7.8. In such case, when WBMDTCL decides not to terminate the Agreement, for reasons agreed in writing, the MDO shall have to clear all its dues payable to WBMDTCL before restoration of Agreement.
- 9.7.9. Notwithstanding anything stated in Clause 7 and Clause 8 above, WBMDTCL may decide to insert or waive off any suitable terms and condition for restoration of Agreement which shall be binding on MDO.

Termination by Convenience

- 9.7.10. During the period of contract. WBMDTCL At any point of time reserves the right to terminate the contract in public interest.

9.8. Responsibility of MDO

- a) The MDO shall ensure that the documents required for Mine Plan, Environment Clearance, CTE, CTO, any other approval shall be prepared by the people / organization having required qualification, certification & accreditation, as laid down in the relevant rules/ guidelines.
- b) MDO shall provide a copy of appropriate certificates of the appointed party and MDO's agreement with the appointed party for the work mentioned in Clause 9.9 (a)
- c) The MDO shall ensure that all the deployed machinery comply with the guideline of MOEF&CC, NGT, Motor Vehicle Act or any other Circular, regulation, guideline or direction of State or Central Government.

- d) The MDO shall ensure compliance of MOEF&CC, NGT and Order/Judgment of honorable court, Acts, Regulations or any regulatory or statutory requirements applicable to sand mining, transportation, stocking and loading activity.
- e) The MDO shall be required to abide by all Applicable Laws including West Bengal Minor Mineral Rule 2004 and its amendments, West Bengal Sand Mining Policy 2021, the Mines Act 1952, the Metalliferous Mines Regulations, 1961, the Mines and Mineral (Development and Regulation) Act, 1957, West Bengal Mineral (prevention of illegal mining, transportation and storage) Rules, 2017 and any other Applicable Law, Rules and Regulations and amended or promulgated from time to time.
- f) The MDO shall make all arrangements for ensuring safety standards as required by the Applicable Law and the best industry practices. MDO shall make all arrangements for prevention of occupational disease and creation of good work environment. In case of any breach of Applicable Law by the MDO and hence, penal sanctions on WBMDTCL, the same shall be recovered from MDO. MDO shall indemnify WBMDTCL in such occurrences.
- g) The MDO shall employ, skilled manpower on the project and shall pay wages not less than the minimum wages as per minimum Wages Act, Child Labor (Prohibition & Regulation) Act, 1986, Contract Labour (Regulation and Abolition) Act, Employees Compensation ACT or such other legislations or award of the minimum wage fixed by Govt. of West Bengal or Union Govt. of India as may be applicable. Payment of provident fund for the workmen employed by him for the work as per the laws prevailing under provision of EPF and allied scheme valid from time to time shall be the responsibility of MDO. MDO shall also submit copy of statutory returns to WBMDTCL, and in case of default, WBMDTCL may force compliance of aforesaid laws through coercive measures which may include suitable monetary deductions. The MDO shall be required to comply with Labor license rules of the competent Authority as applicable for the specific Mining site.
- h) The MDO is exclusively responsible for the completion and supervision of the entire Scope of Work, either personally or through its qualified supervisory agents or staff acceptable to WBMDTCL. WBMDTCL can insist on employing more supervisory staff, if required, for efficient execution of the Work. The MDO hereby agrees to abide by the decision of WBMDTCL in this regard.
- i) All the personnel engaged by the MDO in connection with the performance of the Work shall be the employees of the MDO and no claim shall lie against WBMDTCL in respect of non-payment of wages or remuneration of any description due by the MDO to his / their employees or for any failure on the part of the MDO in the discharge of his /their obligations to his / their employee.
- j) In the event of WBMDTCL becoming liable for any claims by any person or persons as a result of applications of the provision of the said Acts and the Rules and Regulations and orders there under, WBMDTCL has the right to pass on the said amount to MDO for reimbursement or deduct the said amount from money already deposited by MDO with WBMDTCL.
- k) The MDO shall be responsible for protecting the property from any loss or damage from whatever causes at its own expense, during the entire Agreement. Any damage, if occurs, the MDO shall repair the same at its own expense to the satisfaction of WBMDTCL. The MDO shall be responsible on its own for monitoring of its material, storage areas, store house, equipment

yard etc., as may be required. WBMDTCL shall not accept any responsibility for protection of the MDO's equipment, tools and materials.

- l) The MDO shall maintain all the records of the sand sold in the digital format.
- m) The MDO intends to keep stockyard, MDO shall, in its sole discretion, arrange all statutory permission in this regard and shall arrange and facilitate for identification of land/area for stockyard within 3 km from the sand block, bear the cost of the rent with inclusive of taxes. MDO shall undertake activities including maintenance of approach road from stockyard to nearest access road with proper lighting arrangement in stockyard, public address system, proper management, and security of sand stockyard. MDO shall install CCTV cameras and always keep it operational at the stockyards as per requirements and instructions from WBMDTCL.
- n) The MDO shall ensure that the activities in the sand mine shall not have adverse impact on livelihood, public health or any other social issues on any of the habitants or dwellers in the neighborhood of the sand mine.

9.9. Right over Sand Block

- a) Neither MDO nor any other person claiming through or under MDO shall have or at any time claim to have any property, right, title or interest in the Sand Block or lease. However, title to all MDO's Equipment and other movable assets belonging to MDO at the Mine for the performance of Works shall remain the property of MDO.
- b) Except for the duties and obligations mentioned in the Tender, no interest in the sand block is being transferred to the MDO. It is clarified that the possession or control of the Mine shall remain with WBMDTCL.

9.10. Legal Jurisdiction

Matter relating to any dispute or difference arising out of this tender and subsequent contract awarded based on this tender shall be subject to the jurisdiction of Kolkata Court only.

9.11. Indemnification

The Contractor will indemnify, defend and hold WBMDTCL harmless against any and all proceedings, actions and, third party claims for loss, damage and expense of whatever kind and nature arising out of the construction, operation, safety, environment, maintenance and closure of the Mine. or arising out of a breach or negligence by MDO and/or its officers, servants, agents, subsidiaries, and other related parties of any of its obligations under this Agreement.

9.12. Force Majeure

- a) Force Majeure means an act, event or causes which is beyond the reasonable control of WBMDTCL or MDO, and not involving WBMDTCL or MDO's fault or negligence, including but not limited to:
 - i. Acts of God, lightning strikes, earthquake, cyclones, floods, storms, and any natural disaster.
 - ii. Acts of war, acts of public animosity, terrorism or civil commotion.

- iii. Takeover of Quarry by the Government and/ or any agency designated by government resulting in complete loss of production.
 - iv. Regulatory changes in the mining laws prohibiting raising; and
 - v. Any prohibitory/restrictive order passed by a Court or by any government Authority.
- b) For avoidance of any doubt, it is clarified that any delay or non-performance by MDO on any account shall not be considered as Force Majeure.
 - c) If a Party (the "Affected Party") becomes unable to carry out its obligations under this Agreement due to Force Majeure:
 - d) the Affected Party must give to the other Party prompt written notice within 10 days of its occurrence and reasonable particulars of the Force Majeure and so far, as is known, the probable extent to which the Affected Party shall be able to perform or be delayed in performing its obligation;
 - e) the other Party may give notice to the Affected Party of the extent to which the other Party's ability to comply with its obligations shall be affected by the Affected Party's inability to comply with its obligations.
 - f) the relevant obligations of the Affected Party and the other Party, so far as they are affected by the Force Majeure, shall be suspended during, but no longer than, the continuance of the Force Majeure; and
 - g) the Affected Party must use all possible diligence to overcome or remove the Force Majeure as quickly as possible.
 - h) Force Majeure does not include breakdown of machinery or Equipment and other disruptions which are caused by negligence or otherwise on the part of MDO and/ or WBMDTCL.
 - i) The burden of proof to qualify some event as Force Majeure falls on the Affected Party and the Affected Party should provide sufficient documents to substantiate its claim. The Decision of Managing Director, WBMDTCL shall be final and binding in this regard.
 - j) In the event of either Party giving a Force Majeure notice, the Parties must meet promptly, or each should use reasonable endeavors to reach a mutually acceptable solution to alleviate any hardship or unfairness caused by either Party as a result of the circumstances constituting the Force Majeure.
 - k) In the event of Force Majeure, the rights and privileges under this Agreements remains suspended.
 - l) Nothing in this Clause 9.12 "Force Majeure" prevents WBMDTCL, during the continuation of any Force Majeure claimed by MDO, from taking any reasonable measure, including engaging third parties to perform the obligations of the MDO, for the purpose of mitigating any loss that it may incur as a result of any such Force Majeure.

10. Other terms and conditions

10.1. Acceptance of General Terms and Conditions

The Bidder should unconditionally accept all the terms and conditions of the contract. Conditional Bids shall be rejected summarily.

10.2. Authorized Signatory

The authorized signatory of the bidder will be considered an individual as a director/ principal officer/ partner/ designated partner, uploads any application for and on behalf of the applicant, and submitted power of attorney and authorization letter during the empanelment of MDO.

10.3. Black-Listing of the Bidder

The Bidder or its directors should not have been blacklisted by any Govt. organization, nor there should be any order/declaration of insolvency, or judgement/order of punishment or sentence by any court of law or any judicial/quasi-judicial proceeding in force at the time of submission of bid. If at any time such declaration is found false, the bid will be rejected or if the contract work is already awarded, it will be terminated forthwith without payment of any compensation and the EMD/Performance Security/Additional Performance Security if applicable/Advance Premium Amount/Premium Fee Guarantee will be forfeited

10.4. Conflict of Interest

A bidder or any member of the bidding group shall not have a conflict of interest (the "Conflict of Interest") that affects the Bidding process. A bidder(s) found to have a Conflict of Interest shall be disqualified and EMD, performance security, advance premium amount, Premium Fee Guarantee, additional performance security if applicable are liable to be forfeited without payment of any compensation.

A bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:

- (a) the bidder, its Subsidiary/ Subsidiaries and any other bidder or its Subsidiary/ Subsidiaries have common controlling shareholders or other ownership interest;
- or (b). such bidder, or any Subsidiary/ Subsidiaries has participated as a consultant to WBMDTCL in the preparation of any documents, design or technical specifications of this RFP
- or (c) A bidder shall be liable for disqualification if any legal, financial or technical adviser of WBMDTCL in relation to this Project is engaged by the bidder, any Subsidiary/ Subsidiaries in any manner for matters related to or incidental to the RFP.

10.5. To Avoid Fraud, Coercive and Undesirable practices

Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process. Notwithstanding anything to the contrary contained herein, WBMDTCL may reject a Bid without being liable in any manner whatsoever to the bidder if it determines that the bidder has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice, restrictive practice, collusive bidding or bid rigging in the Bidding Process.

Without prejudice to the rights of WBMDTCL under Clause hereinabove, if a bidder is found by WBMDTCL to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice, restrictive practice or collusive bidding or bid rigging during the Bidding Process, such a bidder shall not be eligible to participate in any tender or RFP issued by WBMDTCL during a period of 2 (two) years from the date.

For the purposes of this Clause the following terms shall have the meaning hereinafter respectively assigned to the

(a) “corrupt practice” means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to, or employing, or engaging in any manner whatsoever, directly or indirectly, any official of WBMDTCL who is or has been associated in any manner, directly or indirectly, with the Bidding Process shall be deemed to constitute influencing the actions of a person connected with the Bidding Process);

(b) “fraudulent practice” means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process;

(c) “coercive practice” means impairing or harming or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Bidding Process;

(d) “undesirable practice” means (i) establishing contact with any person connected with or employed or engaged by WBMDTCL with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest;

(e) “restrictive practice” means forming a cartel or arriving at any understanding or arrangement among bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process; and

(f) “collusive bidding” or “bid rigging” means any agreement, between enterprises or persons engaged in identical or similar production or trading of goods or provision of services, which has the effect of eliminating or reducing competition for bids or adversely affecting or manipulating the process for bidding

11. Formats

11.1. FORM-A: Format for Site Visit Certificate and Declaration

Site Visit Certificate and Declaration

(On the letter head of the Bidder)

[Date]

To

Managing Director

West Bengal State Mineral Development and Trading Corporation Limited 3rd

Floor, DJ - 10 (WBIDC Building)

DJ Block, Sector II, Salt Lake City

Kolkata 700 091

Sub: Site visit certificate and declaration for **Selection of Mine Developer and Operator (MDO) of**
_____ Sand Blocks

Dear Sir

With reference to your RFP Document dated, I, having examined the Site both the sand block and stockyard area, if applicable and understood their contents, hereby submit my Bid with followings:

1. I/We have carefully inspected the site and its surroundings and understand the technical and commercial aspects of site. I/We have made myself/ourselves familiar with the road access to the sand block and stockyard (if applicable) from the main connecting road, examined and confirmed the geo co-ordinates of the site and satisfied with area and mineral resources mentioned in RFP. We would not request for any change of site in the future for any reason whatsoever.
2. I/We have made myself/ ourselves familiar with all the local conditions and I/We have considered all other matters, conditions, probable contingencies, delays hindrances and interferences and generally all matters incidental thereto and ancillary thereof, affecting the execution and completion of the work.
3. I/ We declare that after understanding all the integrities of the site both the sand block and stockyard area (if applicable), I/We are participating in this auction
4. I/We have understood that once myself/ourselves will be declared as Preferred Bidder, will pay advance premium amount and accept the LOI. I/We shall submit the Performance Security, Additional Performance Security, if applicable, and premium fee guarantee as per time period mentioned in the RFP.
5. I/ We declare that after acceptance of LOI, shall arrange all the statutory approval such as Mining Plan/ Obtaining the environment clearance, CTO/CTE etc., to commence the production of sand and enter into the Sand Mining Agreement by submitting Performance Security, Additional Performance Security, if applicable and premium fee guarantee as per time period mentioned in the RFP.
6. I/ We declare that after signing the Sand Mining Agreement shall commence the sand mining production as per time period mentioned in the RFP.
7. I/We declare that Advance Premium Amount shall be paid by me as per the conditions mentioned in the RFP

8. I/We have understood the payment terms and declare that I/We shall deposit all statutory levies and taxes such as royalty, Cess, DMF and including tax, GST as applicable to the government in addition to the Sand Premium.
9. I/ We declare that I/we will be the sole responsible for any delay in completion of the work in scheduled time due to the site related issues.
10. I/We further certify that I/We am/are satisfied with the road conditions/ linked establishments with the Sand block and stockyard (if applicable).
11. I/ We declare that I/we will not be involved in any type of illegal mining/ illegal transportation/illegal sale /illegal storage of sand.
12. I/WE declare that I/We have been empanelled as MDO under WBMDTCL under the respective category of sand block for which this application is being made and have not been terminated by WBMDTCL from the Empaneled list .
13. I/We declare that we shall abide by all terms and conditions mentioned in this RFP including Clause 10.3, 10.4 and 10.5

(Signature, name and designation of Authorised Signatory)

Name and seal of Bidder

Empaneled Bidder ID:

Empaneled Bidder Sl. No.:

Category of Empanelment (A/B):

Registered mobile number:

Registered email ID:

Note: The Interested Bidders are required to Fill-up the above format. The e-mail and mobile number may be used for further communication/registration on WBMDTCL centralized portal.

Date:

Place:

11.2. FORM-B: Format of Performance Security

The Managing Director

The West Bengal Mineral Development and Trading Corporation Limited WBIIDC
Building, 3rd Floor, DJ-10, DJ Block, Sector-II
Bidhannagar, Kolkata-700091

WHEREAS:

1. (the "**MDO**") and [name of the company] represented by *** and having its principal offices at ***** () have entered into an Acceptance of LOI/agreement dated (the "Agreement") with WBMDTCL, whereby has agreed to **work as Mine Developer and Operator (MDO) of __Sand Blocks of WBMDTCL** as per the terms and condition of the RFP.

2. The Agreement requires the **MDO** to furnish a Performance Security to WBMDTCL of a sum of Rs. ____/- (Rupees _____ Only) (the "Guarantee Amount") as security for due and faithful performance of its obligations, under and in accordance with the Acceptance of LOI/Agreement, during the Contract Period and up to 6 months after the Contract Period (the "Guarantee Period")

3. We, through our branch at (the "Bank") have agreed to furnish this bank guarantee ("Guarantee") by way of Performance Security.

NOW, THEREFORE, the Bank hereby, unconditionally, and irrevocably, guarantees and affirms as follows:

- I. The Bank hereby, unconditionally and irrevocably, guarantees and undertakes to pay to WBMDTCL upon occurrence of any failure or default in due and faithful performance of all or any of **MDO's** obligations, under and in accordance with the provisions of the Acceptance of LOI/Agreement, on its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the **MDO**, such sum or sums up to an aggregate sum of the Guarantee Amount as WBMDTCL shall claim, without WBMDTCL being required to prove or to show grounds or reasons for its demand and/ or for the sum specified therein.
- II. A letter from WBMDTCL, under the hand of an officer not below the rank of a General Manager or equivalent, that the **MDO** has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the Acceptance of LOI/Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that WBMDTCL shall be the sole judge as to whether the **MDO** is in default in due and faithful performance of its obligations under the Agreement and its decision that the **MDO** is in default shall be final, and binding on the Bank, notwithstanding any difference between WBMDTCL and the **MDO**, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the **MDO** for any reason whatsoever.
- III. To give effect to this Guarantee, WBMDTCL shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the **MDO** and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.
- IV. It shall not be necessary, and the Bank hereby waives any necessity, for WBMDTCL to proceed against the **MDO** before presenting to the Bank its demand under this Guarantee.
- V. WBMDTCL shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Agreement or to extend the time or period for the compliance with, fulfilment and/or performance of all or any

of the obligations of the **MDO** contained in the Acceptance of LOI/Agreement or to postpone for any time, and from time to time, any of the rights and powers exercisable by WBMDTCL against the **MDO**, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Acceptance of LOI/Agreement and/ or the securities available to WBMDTCL, and the Bank shall not be released from its liability and obligation under this Guarantee by any exercise by WBMDTCL of the liberty with reference to the matters aforesaid or by reason of time being given to the **MDO** or any other forbearance, indulgence, act or omission on the part of WBMDTCL or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would, but for this provision, have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law.

- VI. This Guarantee is in addition to, and not in substitution of, any other guarantee or security now or which may hereafter be held by WBMDTCL in respect of, or relating to, the Agreement or for the fulfilment, compliance and/ or performance of all or any of the obligations of the **MDO** under the Acceptance of LOI/Agreement.
- VII. Notwithstanding anything contained hereinbefore, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force until the expiry of the Guarantee Period, and unless a demand or claim in writing is made by WBMDTCL on the Bank under this Guarantee no later than six months from the date of expiry of the Guarantee Period, all rights of WBMDTCL under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.
- VIII. The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of WBMDTCL in writing and declares and warrants that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.
- IX. Any notice by way of request, demand or otherwise hereunder may be sent by post/email addressed to the Bank at its above referred branch, which shall be deemed to have been duly authorised to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of WBMDTCL that the envelope was so posted shall be conclusive.
- X. This Guarantee shall come into force with immediate effect and shall remain in force and effect until the expiry of the Guarantee Period or until it is released earlier by WBMDTCL pursuant to the provisions of the Agreement.
- XI. Capitalized terms used herein, unless defined herein, shall have the meaning assigned to them in the Agreement

Signed and sealed this day of 20 at

SIGNED, SEALED AND DELIVERED

For and on behalf of

the BANK by:

NOTES:

• *The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.*

• *The address, telephone number and other details of the head office of the Bank as well as of issuing branch should be mentioned on the covering letter of issuing Branch.*

11.3. FORM-C: Format of Additional Performance Security

Managing Director

The West Bengal Mineral Development and Trading Corporation LimitedWBIDC
Building, 3rd Floor, DJ-10, DJ Block, Sector-II
Bidhannagar, Kolkata-700091

WHEREAS:

..... (the "**MDO**") and [name of the company] represented by *** and having its principal offices at ***** () have entered into an acceptance of LOI/agreement dated (the "Agreement") with WBMDTCL, whereby has agreed to **work as Mine Developer and Operator (MDO) of _Sand Blocks of WBMDTCL** as per the terms and condition of the RFP.

1. The Agreement requires the **MDO** to furnish Additional Performance Security to WBMDTCL of a sum of Rs. _____/- (Rupees _____ Only) (the "Guarantee Amount") as security for due and faithful performance of its obligations, under and in accordance with the Acceptance of LOI/Agreement, during the Contract Period and up to 180 (one hundred and eighty) days after the Contract Period (the "Guarantee Period")

2. We, through our branch at (the "Bank") have agreed to furnish this bank guarantee ("Guarantee") by way of Additional Performance Security.

NOW, THEREFORE, the Bank hereby, unconditionally and irrevocably, guarantees and affirms as follows:

- I. The Bank hereby, unconditionally and irrevocably, guarantees and undertakes to pay to WBMDTCL upon occurrence of any failure or default in due and faithful performance of all or any of **MDO's** obligations, under and in accordance with the provisions of the Acceptance of LOI/Agreement, on its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the **MDO**, such sum or sums up to an aggregate sum of the Guarantee Amount as WBMDTCL shall claim, without WBMDTCL being required to prove or to show grounds or reasons for its demand and/ or for the sum specified therein.
- II. A letter from WBMDTCL, under the hand of an officer not below the rank of a General Manager or equivalent, that the **MDO** has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the Acceptance of LOI/Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that WBMDTCL shall be the sole judge as to whether the **MDO** is in default in due and faithful performance of its obligations under the Agreement and its decision that the **MDO** is in default shall be final, and binding on the Bank, notwithstanding any difference between WBMDTCL and the **MDO**, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the **MDO** for any reason whatsoever.
- III. In order to give effect to this Guarantee, WBMDTCL shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the **MDO** and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in anyway or manner affect the liability or obligation of the Bank under this Guarantee.
- IV. It shall not be necessary, and the Bank hereby waives any necessity, for WBMDTCL to proceed against the **MDO** before presenting to the Bank its demand under this Guarantee.
WBMDTCL shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Acceptance of

LOI/Agreement or to extend the time or period for the compliance with, fulfilment and/or performance of all or any of the obligations of the **MDO** contained in the Acceptance of LOI/Agreement or to postpone for any time, and from time to time, any of the rights and powers exercisable by WBMDTCL against the **MDO**, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Agreement and/ or the securities available to WBMDTCL, and the Bank shall not be released from its liability and obligation under this Guarantee by any exercise by WBMDTCL of the liberty with reference to the matters aforesaid or by reason of time being given to the **MDO** or any other forbearance, indulgence, act or omission on the part of WBMDTCL or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would, but for this provision, have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law.

- V. This Guarantee is in addition to, and not in substitution of, any other guarantee or security now or which may hereafter be held by WBMDTCL in respect of, or relating to, the Agreement or for the fulfilment, compliance and/ or performance of all or any of the obligations of the **MDO** under the Acceptance of LOI/Agreement.
- VI. Notwithstanding anything contained hereinbefore, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force until the expiry of the Guarantee Period, and unless a demand or claim in writing is made by WBMDTCL on the Bank under this Guarantee no later than six months from the date of expiry of the Guarantee Period, all rights of WBMDTCL under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.
- VII. The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of WBMDTCL in writing and declares and warrants that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.
- VIII. Any notice by way of request, demand or otherwise hereunder may be sent by post/email addressed to the Bank at its above referred branch, which shall be deemed to have been duly authorised to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of WBMDTCL that the envelope was so posted shall be conclusive.
- IX. This Guarantee shall come into force with immediate effect and shall remain in force and effect until the expiry of the Guarantee Period or until it is released earlier by WBMDTCL pursuant to the provisions of the Agreement.
- X. Capitalised terms used herein, unless defined herein, shall have the meaning assigned to them in the Agreement

Signed and sealed this day of 20 at

SIGNED, SEALED AND DELIVERED

For and on behalf of

the BANK by:

NOTES:

- *The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.*
- *The address, telephone number and other details of the head office of the Bank as well as of issuing branch should be mentioned on the covering letter of issuing Branch.*

11.4. FORM-D: Format of Premium Fee Guarantee

The Managing Director

The West Bengal Mineral Development and Trading Corporation Limited WBIDC
Building, 3rd Floor, DJ-10, DJ Block, Sector-II
Bidhannagar, Kolkata-700091

WHEREAS:

4. (the "**MDO**") and [name of the company] represented by *** and having its principal offices at ***** () have entered into an LOI / agreement dated (the "Agreement") with WBMDTCL, whereby has agreed to **work as Mine Developer and Operator (MDO) of __Sand Blocks of WBMDTCL** as per the terms and condition of the RFP.

5. The Agreement requires the **MDO** to furnish a Premium Fee Guarantee to WBMDTCL of a sum of Rs. ___/- (Rupees _____ Only) (the "Guarantee Amount") as security for due and faithful performance of its obligations, under and in accordance with the Acceptance of LOI/Agreement, during the Contract Period and up to 6 months after the Contract Period (the "Guarantee Period")

6. We, through our branch at (the "Bank") have agreed to furnish this bank guarantee ("Guarantee") by way of Premium Fee Guarantee.

NOW, THEREFORE, the Bank hereby, unconditionally, and irrevocably, guarantees and affirms as follows:

- I. The Bank hereby, unconditionally and irrevocably, guarantees and undertakes to pay to WBMDTCL upon occurrence of any failure or default in due and faithful performance of all or any of **MDO's** obligations, under and in accordance with the provisions of the Acceptance of LOI/Agreement, on its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the **MDO**, such sum or sums up to an aggregate sum of the Guarantee Amount as WBMDTCL shall claim, without WBMDTCL being required to prove or to show grounds or reasons for its demand and/ or for the sum specified therein.
- II. A letter from WBMDTCL, under the hand of an officer not below the rank of a General Manager or equivalent, that the **MDO** has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the Acceptance of LOI/Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that WBMDTCL shall be the sole judge as to whether the **MDO** is in default in due and faithful performance of its obligations under the Agreement and its decision that the **MDO** is in default shall be final, and binding on the Bank, notwithstanding any difference between WBMDTCL and the **MDO**, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the **MDO** for any reason whatsoever.
- III. To give effect to this Guarantee, WBMDTCL shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the **MDO** and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.
- IV. It shall not be necessary, and the Bank hereby waives any necessity, for WBMDTCL to proceed against the **MDO** before presenting to the Bank its demand under this Guarantee.
- V. WBMDTCL shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Agreement or to extend the time or period for the compliance with, fulfilment and/or performance of all or any of the obligations of the **MDO** contained in the Acceptance of LOI/Agreement or to postpone for any time, and from time to

time, any of the rights and powers exercisable by WBMDTCL against the **MDO**, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Acceptance of LOI/Agreement and/ or the securities available to WBMDTCL, and the Bank shall not be released from its liability and obligation under this Guarantee by any exercise by WBMDTCL of the liberty with reference to the matters aforesaid or by reason of time being given to the **MDO** or any other forbearance, indulgence, act or omission on the part of WBMDTCL or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would, but for this provision, have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law.

- VI. This Guarantee is in addition to, and not in substitution of, any other guarantee or security now or which may hereafter be held by WBMDTCL in respect of, or relating to, the Agreement or for the fulfilment, compliance and/ or performance of all or any of the obligations of the **MDO** under the Acceptance of LOI/Agreement.
- VII. Notwithstanding anything contained hereinbefore, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force until the expiry of the Guarantee Period, and unless a demand or claim in writing is made by WBMDTCL on the Bank under this Guarantee no later than six months from the date of expiry of the Guarantee Period, all rights of WBMDTCL under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.
- VIII. The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of WBMDTCL in writing and declares and warrants that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.
- IX. Any notice by way of request, demand or otherwise hereunder may be sent by post, and addressed to the Bank at its above referred branch, which shall be deemed to have been duly authorised to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of WBMDTCL that the envelope was so posted shall be conclusive.
- X. This Guarantee shall come into force with immediate effect and shall remain in force and effect until the expiry of the Guarantee Period or until it is released earlier by WBMDTCL pursuant to the provisions of the Agreement.
- XI. Capitalized terms used herein, unless defined herein, shall have the meaning assigned to them in the Agreement

Signed and sealed this day of 20 at

SIGNED, SEALED AND DELIVERED

For and on behalf of

the BANK by:

NOTES:

- *The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.*
- *The address, telephone number and other details of the head office of the Bank as well as of issuing branch should be mentioned on the covering letter of issuing Branch.*

12.2. Annexure 2: Draft Sand Mining Agreement

Draft Sand Mining Agreement

Draft Sand Mining Agreement shall be shared with the successful bidder and executed between the MDO and WBMDTCL as per the clauses of RFP.