



MMTC LIMITED

CORE-1, SCOPE COMPLEX, 7, INSTITUTIONAL AREA, LODHI ROAD,
NEW DELHI – 110 003 TELEPHONE NO: 011-24362200 ext 1478, 011-24361560/1590

No: MMTC/CO/COMP/IPS/2007/03

DATE: 18th January 2010

REQUEST FOR PROPOSAL

SUBJECT: MMTC invites tender for “The renewal of IBM ISS Intrusion Prevention System and Vulnerability scanner software’s technical support, versions update and security content updates at MMTC New Delhi.”

CHAPTER 1

INTRODUCTION

1

MMTC was established in 1963, and is today India's leading international trading company, with a turnover of over US\$ 5.5 billion. It is the first international trading company of India to be given the coveted status "SUPER STAR TRADING HOUSE" and it is the first Public Sector Enterprise to be accorded the status of "GOLDEN SUPER STAR TRADING HOUSE" for long standing contribution to exports. MMTC is the largest non-oil importer in India. MMTC's diverse trade activities encompass Third Country Trade, Joint Ventures, Link Deals - all modern day tools of international trading. Its vast international trade network, which includes a wholly owned international subsidiary in Singapore, spans more than 85 countries in Asia, Europe, Africa, Oceania and Americas, giving MMTC global market coverage.

1.2 **PRESENT IT SETUP**

MMTC has installed and commissioned the LAN and private WAN network at its Corporate Office at Scope Complex, New Delhi and its regional offices and sub-regional offices across India. ERP operations on LAN and WAN is used through CITRIX Presentations Server, RSA Servers and IPS

Current setup is as follows:

1. Provental Network IPAS GX 5008-C (1), External Power Failure By Pass Unit
2. SiteProtector plus
3. Internet Scanner (for 50 IP's)
4. Technical Support Advance Exchange, and updates for Provental GX-2008-C

1.3 **BID PROCESS**

The bidding for the project would be in single submission comprising two-stage system. First stage would be evaluation of technical parameters of the bidders based on their Technical Bids. Second stage would be the evaluation of financial bids of technically qualified bidders.

MMTC reserves the right to reject any or all of the bids without assigning any reason and the decision of MMTC in this regard shall be final.

1.4 **ELIGIBILITY CRITERIA**

Eligibility for technical evaluation - Documents to be submitted along with the technical Bid of Tender Document.

- 1.4.1 A list of clients served (with contact address) shall also be attached.
- 1.4.2 The bidders should have qualified support staff. Necessary proof in support of their claim shall be submitted.
- 1.4.3 Bidder should have two (2) Work(s) Orders, towards AMC of IBM ISS Proventia in last 3 years, for Government departments or Public undertaking or Private sectors.
- 1.4.4 Bidder should be financially sound i.e., it must have made profits in the immediately preceding two financial years.
- 1.4.5 The Bidder has to sign Form A as agreement to the scope and general terms and conditions of this RFP.

The documentary evidence in respect of all the above points would have to be provided while submitting Technical bids. Technical Bids not accompanied by documentary evidence are liable to be rejected.

1.5 **Disclaimer**

The information contained in the Request for Proposal (RFP) document provided to Bidders on behalf of MMTC is being provided to all interested Bidders on the terms and conditions set out in this RFP document. This RFP document is not an agreement and is not an offer or invitation to any other party. The purpose of this RFP document is to provide Bidders with information to assist the formulation of their proposal submission. This RFP document does not purport to contain all the information Bidders may require. This RFP document may not be appropriate for all persons, and it is not possible for MMTC to consider the investment objectives, financial situation and particular needs of each Bidder. Each Bidder should conduct its own investigation and analysis, and should check the accuracy, reliability and completeness of the information in this RFP document and obtain independent advice from appropriate sources. MMTC and their advisors make no representation or warranty and shall incur no liability financial or otherwise under any law, statute, rules or regulations as to the accuracy, reliability or completeness of the RFP document.

MMTC may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information in this RFP document.

CHAPTER 2

SCOPE OF WORK

STANDARD SUPPORT AND MAINTENANCE of

1. Technical Support, Advance Exchange, and updates for Proventia Gx5008-C-1-M (Qty:01)
2. Technical Support, Advance Exchange, and updates for by pass unit (4 TX-Copper Segment, BYP-4T-OS-OL-M) (Qty:01)
3. Site Protector Plus Technical Support and Updates (SP-PLS-M)(Qty:01)
4. Technical Support & Content updates for Internet Scanner (NSB-1-MB) (Qty 50)

With following services:-

I Access and Response

1. Telephone Access to Technical Support
2. Electronic Access via My ISS Customer Portal Online incident creation, tracking and updates, ISS Knowledgebase Product updates and documentation, X-Force Research and Education seminars
3. Incident Response Targets

II X-PRESS UPDATES AND RELEASES

1. X-Press Security Updates
2. Product Updates and Enhancements
3. Advance Hardware Exchange Program

III PROACTIVE SUPPORT SERVICES

1. Alerts and Advisories
2. Updates and Information
3. Unlimited Access to X-Force Database

CHAPTER 3

INSTRUCTIONS TO BIDDERS

3.1 General

3.1.1 The Tender shall be submitted in two stages:

- (i) Technical Bid to be submitted in a sealed envelope
- (ii) Commercial Bid submitted in a sealed envelope

3.1.2 MMTC reserves the right to revise or alter the scope of work before acceptance of any bid. In case the services offered deviates from the scope of services as described in this RFP, the Bidder should describe unambiguously in what respect and to what extent the services offered by him differs from our specification even if the deviation is not very material.

3.2 Documents to be enclosed with the Technical Bid:-

- 3.2.1 The Bidders particulars like registered office, management, financial position (Profit and Loss Account and Balance Sheet for last two financial years).
- 3.2.2 Name, Proof of identity & address i.e., photocopy of Election Identity Card, Driving Licence, PAN Card etc. of the Bidder.
- 3.2.3 In case Bidder is a company, copy of Memorandum and Articles of Association of the Company, copy of PAN card and Income Tax Return of the immediate preceding financial year of the Company, including PAN of all the Directors.
- 3.2.4 In case the Bidder is a partnership firm, PAN and Income Tax Return of the partnership firm, photocopy of partnership deed (certified) and PAN of all the partners.
- 3.2.5 Authority letter by company in favour of authorised signatory as certified by the Company Secretary / Director.
- 3.2.6 **The Bidder has to sign Form A as agreement to the scope and general terms and conditions of this RFP.**

The documentary evidence in respect of all the above points and clause 1.4 would have to be provided while submitting Technical bids. Technical Bids not accompanied by documentary evidence are liable to be rejected.

3.3 TECHNICAL EVALUATION CRITERIA

- 3.3.1 The Bidder should fulfill all the Eligibility Criteria.
- 3.3.2 The Bidder should submit all the documents to be enclosed with the Technical Bid.
- 3.3.3 The Bidder should submit documentary evidence in respect of all the points specified in Eligibility Criteria and also in respect of the documents to be enclosed with the Technical Bid.

3.4 DOCUMENTS TO BE ENCLOSED WITH THE COMMERCIAL BID

- 3.4.1 The Prices quoted in the Commercial Bid should be inclusive of all taxes, duties, and expenses payable to any party or Government. Statements such as "Taxes as applicable" will not be entertained

3.5 SUBMISSION OF BIDS:

3.5.1 Technical and Commercials Bid's should be in tow different envelopes sealed stamped and marked clearly and should be enclosed in another cover while submitting the bid. The envelope's enclosing bid's shall be superscripted with the subject of the tender. Envelop shall also bear the following details on the bottom left of the sealed cover:

- (a) Name of the Bidder (Firm/Company) & Address
- (b) Name of the Contact person
- (c) Postal Address, telegraphic address and telefax/telephone No. of the contact person

3.5.2 Technical sealed Bids should be delivered before **1500 Hrs on 29.01.2010 (Friday)**. Bids may be sent by registered post or hand delivered so as to be received at the following address:

Mr Deepak Bartwal
Sr.Manager(Systems)
5th Floor, Computer Division
MMTC Limited, Core-I, Scope complex, Lodhi. Road,
New Delhi. Phone: 24361560 / 24362200 ext. 1343

Bid submitted by FAX/TELEX will not be accepted. Postal delay in submission will not be condoned.

The Technical bid will be opened in the presence of the authorized representative of the bidder at 1530 Hrs on 29.01.2010 (Friday). The person intend to attend the opening should bring authorization letter for the same from the company.

3.5.3 Bidders are advised to submit their bid strictly based on the terms and conditions and specifications contained in this RFP, and not to stipulate any deviations. MMTC reserves the right to reject the bids containing deviation to the terms and conditions and requirements of this RFP.

3.6. COST OF BID PREPARATION

The Bidder shall bear all costs associated with the preparation and submission of their Bids and MMTC shall in no case be responsible or liable for such costs regardless of the result of the bidding process. The Bidder whose bid is not accepted shall not be entitled to claim any cost, charges and expenses of and incidental to or incurred by him through or in connection with his submission of bid, even though MMTC may elect to modify/withdraw the RFP.

3.7 CLARIFICATION OF BIDDING DOCUMENTS

3.7.1 Any Bidder requiring any clarification of the bid documents or for clarification sought for existing IT infrastructure may notify MMTC in writing or by fax. MMTC shall respond in writing or by fax to any request for clarification, which is received at least 5 working days prior to the deadline for the submission of bids.

3.8. AMENDMENTS TO BID INFORMATION:

- 3.81 MMTC reserves the right to make revisions or amendments to this RFP prior to the closing date of the bid. Such revisions or amendments shall be announced by an addendum or addenda. In such case, the addendum shall include an announcement of the new closing date set for the submission of offers, if any. The bid submitted by the Bidder shall take into account all such amendments/revisions.

3.9. PRICES

- 3.9.1 The Bidder should quote for the full parts of the services as specified in this RFP. Part bid for any services will not be accepted and liable to be rejected.

3.10. VALIDITY:

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

3.11 EARNEST MONEY DEPOSIT

- 3.11.1 The Bidder shall furnish an Earnest Money Deposit of Rs. 10, 000/- (Rupees Ten Thousand only) along with the Technical Bid.
- 3.11.2 The EMD shall be in the form of a Bank Draft favouring "MMTC Limited" drawn on any Nationalized Bank or first class International Bank payable at Delhi/New Delhi,
- 3.11.3 Technical Bid not secured by EMD will be rejected by MMTC.
- 3.11.4 EMD will be refunded to unsuccessful Bidders. Also the said earnest money deposit will be refunded to successful Bidder on signing of the Contract and on submission of Performance Guarantee.
- 3.11.5 No interest will be payable by MMTC on EMD.
- 3.11.6 The EMD may be forfeited by MMTC if a Bidder withdraws his bid during the period of bid validity or extended bid validity specified above.
- 3.11.7 Should the RFP be withdrawn or cancelled by MMTC, which MMTC has right to cancel any time, EMD will be refunded.

3.12 LANGUAGE OF BIDS

- 3.12.1 All bids and supporting documentation shall be submitted in English and should be clear, free from jargons and unambiguous words or phrases requiring interpretation.

3.13 CORRECTIONS:

- 3.13.1 Over writings are not permitted. In case of corrections, the correct word/number should be written separately and attested by authorized signatory & stamped.

3.14. BID VALUATION:

- 3.14.1 Bids received and accepted after fulfilling the terms and conditions of this RFP, will be evaluated to ascertain the best and lowest evaluated bid in the interest of MMTC.

3.15 CLARIFICATION OF BIDS:

3.15.1 When deemed necessary, MMTC may enquire for clarifications from the Bidder during bid evaluation. However, such clarifications furnished by Bidders shall in no way change or cause any change in the substance of the bid submitted, or price quoted thereof.

3.16 CHANGES AFTER OPENING OF BIDS

3.16.1 No increase, decrease, discount, reduction or any other change in the prices or conditions shall be acceptable after opening of the bids.

3.17 ACCEPTANCE OF BIDS

3.17.1 MMTC reserves the right to accept or reject any bid and to annul the bidding process and reject all bids at any time prior to the award of Contract, without thereby incurring any liability to the affected Bidder or Bidders or any obligation to inform the affected Bidder or Bidders of the grounds for this action. MMTC is not bound to accept the lowest or any bid or to assign any reason for non-acceptance.

3.18 BID CURRENCY

3.18.1 All costs and charges related to the bid shall be expressed in Indian Rupees.

3.19 OPENING OF BIDS

3.19.1 The bids will be accepted up to the date and time as specified in the clause 3.5.2

3.19.2 No bids will be accepted after the above deadline

3.19.3 Opening of only the technical bids shall be done at **1530 Hrs on 29.01.2010 (Friday).**

3.19.4 After technical evaluation, commercial bids will be opened in the presence of the committee members and the representatives of the companies.

3.20 AWARD OF CONTRACT

3.20.1 In addition to the Bidder being the successful Bidder meeting all eligibility, technical and commercial criteria, MMTC will also determine to its satisfaction whether the Bidder selected has submitted the successful responsive bid among the Bidders short listed and is qualified to satisfactorily perform the Contract. The determination will take into account the Bidders technical, financial and implementation capabilities. It will be based upon the documentary evidence of the Bidder's qualification submitted by the Bidder, as well as such other information as MMTC may deem necessary and appropriate.

3.21 AWARD CRITERIA

3.21.1 MMTC will award the Contract to the successful Bidder whose bid has been determined to be substantially responsive and has been determined as the lowest evaluated bid, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily. However, MMTC shall not be bound to accept the lowest or any bid and reserves unequivocally the right to accept any bid, wholly or in part.

3.22 **NOTIFICATION OF AWARD**

3.22.1 The acceptance of a bid, subject to the signing of the Contract, will be communicated in writing at the address for correspondence supplied by the successful Bidder. Any change of address of the Bidder, therefore, should be promptly notified in writing to MMTC.

3.23 **SIGNING OF THE CONTRACT**

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

3.24 **Performance Guarantee (PG): (As per ANNEXURE-II)**

- 3.24.1 The successful Bidder, at its own expense, shall submit a Performance Guarantee within thirty days of the date of notice of the award of the Contract. A Performance Bank Guarantee, payable on demand in terms of **Annexure II**, for an amount calculates at the rate of ten percent (10%) of the contract value.
- 3.24.2 Performance Bank Guarantee must be irrevocable and drawn on a Scheduled Bank in favour of MMTC, payable at Delhi/New Delhi.
- 3.24.3 Failure of the successful Bidder to comply with the above requirements shall constitute a sufficient ground for the annulment of the award and forfeiture of the EMD.
- 3.24.4 The Performance Bank Guarantee may be discharged / returned by MMTC after the completion of the Contract upon being satisfied that successful Bidder has successfully performed its obligations under the Contract. The Performance Bank Guarantee shall be valid for the entire duration of the Contract period plus three months thereafter.
- 3.24.5 in the event the successful Bidder being unable to perform its obligations under the Contract, during the Contract period, for whatsoever reason, the Performance Bank Guarantee would be encashed by MMTC

CHAPTER 4

GENERAL TERMS AND CONDITIONS OF THE CONTRACT

4.1 PAYMENT TERMS

- 4.1.1 Payment shall be made on renewal of the products satisfactorily and submission of the Performance Guarantee as per clause no 3.24
- 4.1.2 The above payment terms would be strictly followed. Vendors are requested not to indicate their own payment terms.

4.2. TAXES, DUTIES, LEVIES AND INCIDENTAL EXPENSES

- 4.2.1 The bidder will bear all Taxes, Duties, Levies and any other Incidental expenses including boarding lodging & conveyance for execution of the work order.

4.3. DELAYS IN THE BIDDER'S PERFORMANCE:

- 4.3.1 Delivery of the Services and performance of the activities mentioned in the Contract shall be made by the Bidder in accordance with the time schedule specified in the Contract and Scope of Work.
- 4.3.2 Delay by the Bidder in the performance of its obligations shall render the Bidder liable to any or all of the following sanctions: -
 - (a) Imposition of liquidated damages, and/or
 - (b) Termination of the Contract for default.

4.4 INDEMNITY

- 4.4.1 The successful Bidder shall at all times indemnify MMTC, being unlimited with the time, against all claims which may be made in respect of infringement of any rights protected by patent registration, design or trade mark or for any other reason for performance of the Contract by the successful Bidder. In the event of any claim in respect of any alleged breach of a patent, registered design or trade mark being made against MMTC, it shall notify to the Bidder and the Bidder shall at his own expense, either settle any such dispute or conduct any litigation that may arise, there from.

4.5. LIQUIDATED DAMAGES

- 4.5.1 The timely delivery and installation of the material is essence of the Contract. In the event of successful Bidder's failure to perform the Contract, the liquidated damages are payable by the successful Bidder @ 2 % per week of the contract Price subject to a maximum of 10% of total contract value.

4.6 FORCE MAJEURE

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

- 4.6.2 The Contract period may be extended in case of Force Majeure condition. In order to be able to obtain an extension to the contract period, the Bidder shall promptly notify MMTC advising the existence of such an event, not later than two weeks of such event happening and produce the necessary documents such as a certificate of Chamber of Commerce or any other competent authority indicating the scope; of such an event, and its impact on the performance of the Contract and show that such an event is not attributable to any failures on its part.

4.7. ARBITRATION

- 4.7.1 Any question, issues, dispute or difference arising between the Parties as to the interpretation of the terms, construction, meaning and operation or effect of the Contract or its termination or as to the duties, responsibilities, obligations or liabilities of the Parties or as to any matter or thing arising out of or under the Contract (“dispute”) will be amicably settled through the joint conciliatory efforts of the Chairman & Managing Director (CMD) of MMTC Limited for the time being and the Bidder. In the event the Parties are unable to resolve the said dispute mutually within a maximum period of thirty (30) days of the intimation of the occurrence of a Dispute by one Party to the other, the same shall be referred to and settled by the a sole arbitrator to be appointed by Chairman & Managing Director (CMD) of MMTC Limited. The Arbitration proceedings shall be conducted at New Delhi, India in accordance with the Indian Laws (both Substantive and Procedural) under the Arbitration and Conciliation Act, 1996 as amended and re-enacted from time to time (“Act”) and the Award so made shall be final and binding on all the parties.

The courts at New Delhi shall have exclusive Jurisdiction to determine any question, issue, dispute or claim between the parties including any application to be made under the Indian Arbitration and Conciliation Act, 1996.

5. TERMINATION FOR DEFAULT:

- 5.1 The Purchaser may, without prejudice to any other remedy for breach of contract, by written notice of default, sent to the Supplier, terminate this Contract in whole or in part. If the Supplier fails to deliver any or all of the goods within the time period(s) specified in the Contract, or any extension thereof granted by the Purchaser; If the Supplier fails to perform any other obligation(s) under the Contract; and If the Supplier, in either of the above circumstances, does not remedy his failure within a period of 30 days (or such longer period as the Purchaser may authorize in writing) after receipt of the default notice from the Purchaser.
- 5.2. In the event of Purchaser terminates the contract in whole or in part, pursuant to paragraph 5.1 the Purchaser may proceed, upon such terms and in such manner as it deems appropriate, goods similar to those undelivered and the Supplier shall be liable to the Purchaser for any excess cost for such similar goods. However, the Supplier shall continue performance of the contract to the extent not terminated.

6. SET OFF

- 6.1 Any sum of money due and payable to the supplier (including security deposit refundable to him) under this contract may be appropriated by the purchaser or any other person or persons contracting through the purchaser and set off the same against any claim of the Purchaser or such other person or persons for payment of a sum of money arising out of this contract or

under any other contract made by the supplier with the Purchaser or such other person or persons contracting through purchaser.

SPECIAL TERMS & CONDITIONS for e-Tender

- 1 e-Tender is available on MMTC e-procurement website <https://mmtc.in> , for online bidding process. For this, Bidder is required to obtain minimum Class II Digital Signature (meant for e-tendering) from any of Certifying Authority recognized by Controller of Certifying Authority (www.cca.gov.in) and have to register with e-procurement portal <https://mmtc.in> (a one time activity) independent of each other as given below

Procedure for Obtaining Digital Certificate

You should obtain digital certificate to participate in the tender. The procedure for obtaining Digital certificate is given in the web site <https://mmtc.in> in the home page, on the right hand side click on the link 'Digital Signature'.

Procedure for Registering in E-Procurement portal

Further, you have to register with our E-Procurement portal. For registering, go to the web site <https://mmtc.in> home page, on the right hand side, click on the link 'REGISTER'. Follow the instructions as appearing on the screens. On completion of the same, you are registered in the portal.

- 2 For any assistance on e-bidding process, bidder may visit Help Desk section of e-procurement portal.
- 3 Earnest Money in physical form should reach us on or before closing date and time of tender.

FORM A

TERMS AND CONDITIONS AS AGREED

Our Company/Firm is agreeable to the terms and conditions of the RFP.

Signature:
Name:
Designation:
Company/Firm:

Date:

Place:

FORM B
Commercial Bid.

7.1 FEES (in INR):

Service Offering	Total Charges (in Rs.)
STANDARD SUPPORT AND MAINTENANCE of 1. Technical Support, Advance Exchange, and updates for Proventia Gx5008-C-1-M (Qty:01) 2. Technical Support, Advance Exchange, and updates for by pass unit (4 TX-Copper Segment, BYP-4T-OS-OL-M) (Qty:01) 3. Site Protector Plus Technical Support and Updates (SP-PLS-M)(Qty:01) 4. Technical Support & Content updates for Internet Scanner (NSB-1-MB) (Qty 50) With following services:- I Access and Response 4. Telephone Access to Technical Support 5. Electronic Access via My ISS Customer Portal Online incident creation, tracking and updates, ISS Knowledgebase Product updates and documentation, X-Force Research and Education seminars 6. Incident Response Targets II X-PRESS UPDATES AND RELEASES 4. X-Press Security Updates 5. Product Updates and Enhancements 6. Advance Hardware Exchange Program III PROACTIVE SUPPORT SERVICES 4. Alerts and Advisories 5. Updates and Information 6. Unlimited Access to X-Force Database	
Taxes & Levies, if any (in Rs. Terms)	
TOTAL	

Please Note while quoting-

The rates quoted above should be inclusive of all expenses including out of pocket expenses, travel, boarding lodging etc. at the respective locations. If there are any other charges quoted separately the bid will not be considered and may be disqualified.

Taxes and Levies to be specified clearly in Rs. term.

If no taxes and levies are mentioned then the quote will be treated as all inclusive of taxes.

NON - DISCLOSURE AGREEMENT

This Non-Disclosure Agreement ("The Agreement") is signed on _____ day of _____ 2007, by and between

..... having its offices at _____(hereinafter referred to as "....." which expression shall include its successors, and assigns which expression unless it be repugnant to the context or meaning thereof includes its successors, representatives and permitted assigns)

and
MMTC Limited having its office at Core-1, SCOPE Complex, 7 Institutional Area, Lodhi Road, New Delhi-110 003 ("MMTC" which expression unless repugnant to the context or meaning thereof includes its successors, representatives and assigns).

WHEREAS:

- A. [INSERT NAME] is engaged in the business of, inter-alia, providing IT Security consulting also services.
- B. MMTC is India's leading international trading company, with a turnover of over US\$ 5.5 billion. MMTC is the largest non-oil importer in India. MMTC's diverse trade activities encompass Third Country Trade, Joint Ventures, Link Deals - all modern day tools of international trading. .
- C. MMTC, pursuant to its Tender dated _____, declared [INSERT NAME] as successful Bidder for its appointment as IT Security Consultant. Pursuant to appointment of [INSERT NAME] as IT Security Consultant, certain Confidential Information relating to MMTC's business may be disclosed by MMTC to [INSERT NAME] which shall be subject to the terms and conditions contained in this Agreement.
- D. Both Parties agrees that the security of IT infrastructure of MMTC is critical and the IT architecture/environment/reports needs to be analyzed and reviewed to ensure that MMTC's IT infrastructure remains secured to the best possible extent. Therefore [INSERT THE NAME] has agreed to observe and be bound by the restrictions and obligations relating to its use of such Confidential Information.

THEREFORE IN CONSIDERATION OF THE PREMISES AND OBLIGATIONS SET FORTH HEREIN, IT IS AGREED AS FOLLOWS:

1. DEFINITIONS:

In this Agreement, unless the context otherwise requires,

- (a) The term "Confidential Information" includes data, reports, drawings, records, correspondence, notes, compilations, studies, in the form of samples, models and other information/documentation given or disclosed by MMTC to [please insert the name] or any of their Representative(s) relating to or in any way connected and relating to any of MMTC's business activities actual or proposed, IT Infrastructure, systems, marketing plans, agreements, methods, techniques, processes, theories, formulas, know-how, techniques, applications, systems, components, improvements, technology, market projections, sales records, software programs, test data, customers, customer lists, or any other information relating to MMC that [PLEASE INSERT THE NAME] becomes aware of whether or not disclosed by MMTC and whether such information is in tangible, writing, oral, electronic, printed, human or in machine readable form, regardless or the media or form transmitted or stored in, or any information ascertainable by inspection, or any other information designated as Confidential Information at the time of disclosure.
- (b) "Contract" means the Contract for providing Consultancy for IT Security to be entered into between MMTC and [INSERT NAME] pursuant to the award letter dated _____

declaring [INSERT NAME] as successful Bidder for its appointment as IT Security Consultant.

- (c) "Representatives" means directors/partners, officers, agents, advisors, consultants or employees or respective shareholders or ultimate parent company, as the case may be of [Please Insert The Name].

2. Confidential Information and Protection:

2.1 MMTC may, from time to time, disclose Confidential Information to [PLEASE INSERT THE NAME] and/or their Representatives for performance by [PLEASE INSERT THE NAME] of the Contract entered into between MMTC and [PLEASE INSERT THE NAME].

2.2 The [INSERT NAME] understands and acknowledges that the Confidential Information is proprietary and confidential information of MMTC which has been created, developed or obtained by MMTC by investment of significant time, substantial effort and expense. The Confidential Information is a valuable, special and unique asset of MMTC which gives significant competitive advantage to MMTC and that protection of Confidential Information is of the highest importance to MMTC. Therefore [INSERT NAME] acknowledges and undertake:

- (a) to keep the Confidential Information in strict confidence for the entire duration of the Contract and for a period of ten years thereafter.;
- (b) without the prior written consent of MMTC, [INSERT NAME] will not disclose Confidential Information furnished to it to anyone other than its Representatives expressly approved by MMTC;
- (c) [INSERT NAME] shall procure that its approved Representatives will not communicate with any third party, copy, publish, disclose or otherwise deal with any Confidential Information, otherwise than for the performance of their obligations under the Contract.
- (d) In case the Confidential Information is disclosed to any of [INSERT NAME] approved Representatives, [INSERT NAME] shall further enter into agreements with its Representatives binding them to the same obligations to which [INSERT NAME] is bound under this Agreement, and ensure compliance of this Agreement by its approved Representatives and make them liable for any breach by them of such obligations.
- (e) to inform its approved Representatives to whom any Confidential Information may be disclosed of their obligations of confidentiality pursuant to this Agreement, to ensure compliance with its terms and to be liable for any breach by them of such obligations; and
- (f) to keep separate all Confidential Information from all documents and other records of the Parties and shall mark all such Confidential Information received from MMTC as "Confidential".
- (g) the Confidential Information which may be disclosed to [INSERT NAME] will contain proprietary assets, designs and other intellectual property rights with respect to the MMTC's Products which are the exclusive property of MMTC and are critical for the business of the MMTC and its profitability, [INSERT NAME] agrees not to do anything which may, in any manner, whether directly or indirectly, affect the above proprietary rights, interest, business and profitability of MMTC.
- (h) The [INSERT NAME] will not copy or modify any Confidential Information without the prior written consent of MMTC. Any permitted reproduction of

Confidential Information must contain all confidential or proprietary legends which appear on the original. [INSERT NAME] shall immediately notify the disclosing party in the event of any loss or unauthorised disclosure or use of the Confidential Information.

- (i) [INSERT NAME] shall notify MMTC promptly of any material unauthorised possession, use or knowledge, or attempt thereof, of the MMTC's Confidential Information by any person or entity other than MMTC and its Authorised Representatives
- (j) promptly furnish to MMTC full details of the unauthorised possession, use or knowledge, or attempt thereof;
- (k) use reasonable efforts to assist MMTC in investigating or preventing the recurrence of any unauthorised possession, use or knowledge, or attempt thereof, of Confidential Information;
- (l) use reasonable efforts to cooperate with MMTC in any litigation and investigation against third parties deemed necessary by MMTC to protect its proprietary rights; and
- (m) promptly use all reasonable efforts to prevent a recurrence of any unauthorized possession, use or knowledge of Confidential Information

1.0.0.

3. The Undertakings in Clause 2 shall not apply to any Confidential Information which:

- (a) at the time of its disclosure to [INSERT NAME] is in the public domain;
- (b) In the event that [INSERT NAME] is required or requested by any court, legislative or administrative body to disclose any Confidential Information, then it shall prior to disclosure promptly notify MMTC or its any of its Representative so that an appropriate protective order and/or any other action can be taken if possible.

In the event that such protective order is not, or cannot be, obtained, then [INSERT NAME] may disclose to the appropriate body that portion of the Confidential Information that it is legally required to disclose and shall use reasonable efforts to obtain assurances that confidential treatment will be accorded to the Confidential Information; and

4. NO COMMITMENTS, WARRANTIES OR SOLICITATION

- (a) The Confidential Information disclosed by MMTC to [INSERT NAME] shall be used by [INSERT NAME] strictly for the purposes expressly authorised by MMTC.
- (b) No representations or warranties, express or implied, are made by MMTC concerning the accuracy or completeness of the Confidential Information supplied under this Agreement and neither MMTC nor any of its Representatives shall be liable in any way to [INSERT NAME] for receipt or use of such Confidential Information and MMTC expressly disclaims any such liability whether in negligence or otherwise.
- (c) MMTC shall not be under any obligation or commitment to enter into discussions or any further agreement merely by reason of the execution of this Agreement or the disclosure, evaluation or inspection of Confidential Information, and this Confidentiality Agreement shall not constitute nor should it be construed to constitute an offer or commitment by MMTC with regard to the Tender.
- (d) MMTC shall not be precluded from entering into any agreement or obligation with any other party relating to the Agreement or the Confidential Information merely by reason of the execution of this Agreement or the disclosure, evaluation or inspection of Confidential Information.

- (e) Without prejudice to the generality of the above, nothing herein shall grant to [INSERT NAME] the right to make representations and/or commitments of any kind on behalf of MMTC without the prior written consent of MMTC.

5 Return of Confidential Information

- (a) Upon the written request of MMTC, the [INSERT NAME] shall return to MMTC all Confidential Information that is in tangible form (including, without limitation, Confidential Information contained on computer disks) furnished, together with any copies or extracts thereof;. [INSERT NAME] shall also deliver to MMTC written statements signed by the receiving party certifying that all materials have been returned within fifteen (15) days of receipt of the request.
- (b) Upon specific request by MMTC, [INSERT NAME] shall destroy all analyses, compilations, drawings, or other documents which have been prepared and which reflect any Confidential Information.

6 Indemnity; No Waiver; Specific Performance

- (a) [INSERT NAME] shall indemnify, defend and hold harmless MMTC against any losses, liabilities, claims, damages, costs, and expenses including reasonable legal fees and other expenses and disbursements in connection therewith and interest charges thereon suffered or incurred by MMTC which arise out of, result from, or may be payable by virtue of any breach of any representation, warranty, covenant or agreement made or obligation required to be performed under this Agreement by [INSERT NAME].
- (b) [INSERT NAME] acknowledge that damages alone would not be an adequate remedy for any breach of the terms and conditions of this Agreement and MMTC shall be entitled to the remedies of injunction, specific performance or other equitable relief. Such remedy shall be in addition to and not in lieu or limitation of other remedies available to MMTC at law or in equity.
- (c) Failure by MMTC in exercising any right, power or privilege hereunder shall not act as a waiver, nor shall any single or partial exercise thereof preclude any further exercise of any right, power or privilege.

7. Relationship of Parties

MMTC has no obligation under this Agreement to purchase any service or item from [PLEASE INSERT THE NAME], or commercially offer any products using or incorporating the Confidential Information. This Agreement is intended to facilitate only the exchange of Confidential Information and is not intended to be, and shall not be construed to create a teaming agreement, joint venture association, partnership, or other business organization or agency arrangement and [PLEASE INSERT THE NAME] shall have the authority to bind MMTC without the separate prior written agreement thereof.

8 No Grant of Property Rights

[INSERT THE NAME] recognizes and agrees that, except as expressly and specifically set forth in this Agreement, nothing herein shall be construed as granting any property right, by license, implication, estoppels or otherwise, to any of MMTC's Confidential Information, or to any invention or any patent right that has issued or that may issue based on such Confidential Information. All Information disclosed is provided "as is" without any warranties of any kind.

2. 9 General Provisions

- (a) MMTC has no obligation to supply Confidential Information hereunder and has no obligation to enter into any Contract with [PLEASE INSERT THE NAME] and it has no right to offer for sale products or services using or incorporating the Confidential Information.
- (b) This Agreement shall not be assigned by [PLEASE INSERT THE NAME], and it shall not delegate its duties under this Agreement, without prior written consent of the other.

10. TERM AND TERMINATION

- (a) This Agreement shall enter into force on the date first above mentioned and shall remain in force till the validity of the Contract and for a further period of five years thereafter.
- (b) Notwithstanding clause 10 (a) above, MMTC may terminate this Agreement by giving a 30 days prior written notice to the other Party.

11. CONSEQUENCES OF TERMINATION

- (a) Upon termination of this Agreement, [INSERT NAME] shall return all Confidential Information that is in tangible form (including, without limitation, Confidential Information contained on computer disks) furnished, together with any copies or extracts thereof; and
- (b) Termination will not affect MMTC's right to claim damages, in case of breach of any of the terms and conditions of this Agreement by [INSERT NAME] or its Representatives.
- (c) [INSERT NAME] shall cease use of any Confidential Information after the termination of this Agreement. This clause shall survive termination of this Agreement.

12. GOVERNING LAW

The Courts having territorial jurisdiction over New Delhi shall have exclusive jurisdiction, to the exclusion of any other court, to entertain, try and determine all and any question, issue, dispute, claim, actions, suits and proceedings between the Parties arising out of this Agreement including any matter connected therewith and any application to be made under the Arbitration and Conciliation Act, 1996 as amended and re-enacted from time to time

13. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement of the parties with respect to the subject matter thereof and supersedes any and all prior communications understandings and agreements between the parties, whether written, oral, express or implied relating thereto. No amendment or modification to this Agreement shall be valid unless in writing and signed by a duly authorised Representative of each of the parties.

14. DISPUTE RESOLUTION

If any question, issue, difference or dispute arises between the Parties as to the interpretation of this Agreement or as to the duties or liabilities of either Party hereunder or as to any matter or thing arising out of or under this Agreement, the same shall be referred to and settled by a sole Arbitrator to be appointed by MMTC. The Arbitration proceedings shall be conducted at New Delhi, India in accordance with the Indian Laws (both Substantive and Procedural) under the Arbitration and Conciliation Act, 1996 as amended and re-enacted from time to time ("Act") and the Award so made shall be final and binding on all the parties.

15. SEVERABILITY

If any term or provision of this Agreement is found by a court of competent jurisdiction or by a duly appointed Arbitrator under clause 13 of this Agreement, to be invalid, illegal or otherwise unenforceable, such term or provision shall not affect the other terms or provisions of this Agreement or this Agreement as a whole, (which shall continue to remain valid, binding and enforceable by and against the parties notwithstanding any such finding) but such term or provision shall be deemed modified or deleted to the extent necessary, to render such term or provision enforceable. Upon such modification, the rights and obligations of the parties shall be construed and enforced in accordance with such modification, preserving to the fullest permissible extent the intent and agreements of the parties set forth in this Agreement.

16. NOTICES

Any notices to be given hereunder by either party to the other shall be in English and sent by registered letter, courier or facsimile to the other party at the addresses stated below:

(a) MMTc LIMITED

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

(b) [INSERT NAME]

Any notice shall be effective only upon actual receipt at the above mentioned address unless change in the address is notified by a party by giving 10 days advance notice.

IN WITNESS WHEREOF this Agreement has been executed by the duly authorised Representatives of the parties the day and year first above written.

1. signed and delivered by:
MMTC LIMITED
Core-1, SCOPE Complex,
7 Institutional Area, Lodhi Road, New Delhi-110 003

2. signed and delivered by:

[INSERT NAME]

In the presence of the following witnesses:

- 1.
- 2.

ANNEXURE II

PERFORMANCE BANK GUARANTEE

No. _____.

Date _____.

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

WHEREAS _____ (supplier name & address) (here in after referred to as the Seller) have entered into a contract with M/S. MMTC Limited, Core-I, Scope Complex, New Delhi, (hereinafter called the "MMTC") bearing Contract No. dated _____ for the supply of _____ (Items) for a value of Rs. _____ (total purchase order value) (Rupees (in words) and whereas the Seller has agreed to supply the computer hardware strictly as per the description. Specification and delivery schedule as mentioned in the aforesaid contract no. dated _____.

AND WHEREAS the seller is required to furnish a bank guarantee of the value of Rs. (Rupees _____) being 100% of the total value) for the due performance of the contract in favour of the said MMTC. We _____ (name of the bank & address (hereinafter called the bank) do hereby irrevocably and unconditionally guarantee and undertake to pay to MMTC merely on demand in writing an amount not exceeding Rs. _____ (Rupees _____ (in words) without any demur, contestation, protest or reference to the seller or any other party if the seller fails to perform all or any of his obligations, or commit any breach of his obligation as described in the aforesaid contract. The decision of MMTC communicated in writing that the Seller has defaulted in performance of his obligations under the contract, shall be final and binding on us notwithstanding any contestation or protest by the seller. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs. (in words).

We, _____ (banker's name and address) further agree that the guarantee here in contained shall remain irrevocable and continue in full force and effect upto _____ and that it shall continue to be enforceable till all the dues of MMTC under or by virtue of the said contract have been fully paid and its claims satisfied or discharged till MMTC certifies that the obligations of the said contract have been fully and properly carried out by the seller and accordingly discharge the guarantee. MMTC will have the right to file its claim under this contract for a further period of three months after the expiry of the validity of this guarantee.

We, _____ (bank name & address) further agree that MMTC shall have the fullest liberty without our consent and without affecting in any manner our obligations herein to vary any of the terms and conditions of the said contract or to extend time of performance by the seller from time to time or postpone for any time or from time to time any of the powers exercisable by MMTC against the seller and forbear or enforce any of the terms and conditions relating to the said contract and we shall not be relieved from our liability by reasons of any such variations or extensions being granted to the seller or for any forbearance, act or omission on the part of MMTC or any indulgence by MMTC to the seller, or by any latter or thing whatsoever, which under the law relating to the sureties would, but for this provision have the effect of so relieving us.

We, _____ (bank name & address) also undertake not to revoke the guarantee during its currency except with the previous consent of MMTC in writing. We, (bank name & address) hereby undertake and guarantee to pay any money so demanded notwithstanding any dispute(s) raised by the said seller in any suite or proceeding pending before any court or tribunal relating there to. Our liability under this premises being absolute and unequivocal. The payment so made by us under this guarantee shall be a valid discharge of our liability for payment thereunder and that the said Seller have no claim against us for making such payment.

Our liability under this guarantee is restricted to an amount of Rs. _____ (100% of PO value) (Rupees _____ (in words)). The guarantee shall remain valid up to _____ unless a demand or claim under this guarantee is made on us in writing within three months thereafter. We shall be discharged from all liabilities under this guarantee thereafter. We further agree that this guarantee will not be affected in any manner whatsoever due to any change in the constitution of the Seller or the bank. We lastly undertake not to revoke this guarantee during its currency except with the previous consent in writing from MMTC.

Witness : 1.
2.

(Authorised Signatory)
(Signed with stamp &