



West Bengal Mineral Development and Trading
Corporation Limited (WBMDTCL)
(A Government of West Bengal Undertaking)

Request for Proposal

For

Mining and Purchase of Black Stone from Palsara I & III Black Stone
Deposit

At

Mouza- Palsara, JL No. – 121, P.S. – Kashipur, District – Purulia,
West Bengal

Plot Nos. – 2547, 3162, 3163(P), 3164, 3549 & 3834(P)

Area- Palsara-I: 28.00 Acre (Present Area for Quarring: 4.29 Acre) &
Palsara- III: 8.66 Acre.

RFP No. MDTC/BLACK STONE/MDTC-P-141/574 dated 21.03.2022

Table of Contents

	Schedule Sheet	3
	Data Sheet	4
1	Disclaimer	5
2	List of Abbreviations	8
3	Definitions and Rules of Construction	9
4	Introduction	13
5	Instruction to Bidders	14
6	General conditions regarding submission of Bid	20
7	Bid Opening & Evaluation	25
8	Utilization of Black Stone Mineral	27
9	Operations and Maintenance	27
10	Performance Security and Security Deposit	30
11	Termination	31
12	General Terms and Conditions	31
13	Force Majeure	35
14	Consideration and Payment	37
15	Draft Mining and Purchasing Agreement	37
	Annexure 1 : Format for Bid Letter	38
	Annexure 2 : Format for Power of Attorney	40
	Annexure 3 : Format for Affidavit	42
	Annexure 4 : Format for Declaration against Blacklisting	44
	Annexure 5 : Format for Performance Security	45
	Annexure 6 : Draft Mining and Purchased Agreement	48
	Annexure 7 : Duly Filled-in Checklist of Documents to be submitted as part of the Techno-Commercial Bid	71
	Annexure 8 : Information of the Site	72
	Annexure 9 : Format for Certificate regarding engagement of Equipment	74
	Annexure 10: Format Regarding Eligibility of the Applicant	75

Schedule Sheet:

Name of Work	Mining and Purchase of Black Stone from Palsara - I & III Black Stone Deposit at Mouza - Palsara, JL No. – 121, P.S. – Kashipur, District – Purulia, West Bengal. Plot Nos. – 2547, 3162, 3163 (P), 3164, 3549 & 3834 (P), Area- Palsara-I: 28.00 Acre (Present Area for Quarring: 4.29 Acre ,) & Palsara- III: 8.66 Acre
RFP NO	MDTC/BLACK STONE/MDTC-P-141/574 dated 21.03.2022
Tender Document Fee	Rs.17700/-(Base Price- Rs15000/-+18%GST)
e-procurement portal of Govt. of West Bengal	https://wbtenders.gov.in
Period for Downloading of RFP	21.03.2022 ,10:00HRS to 11.04.2022 ,13:00 hrs
Last Date of sending Pre-Bid Queries	30.03.2022 till 15:00 Hrs
Email address for submitting pre-bid queries	tenderwbmdtcl@gmail.com
Date & Time of Pre-Bid Conference	01.04.2022, 15:00 Hrs
Last Date & Time for Online Submission of Bid	11.04.2022 at 17:00Hrs
Last Date & Time for Offline Submission of Supporting Documents	11.04.2022 at 18:00 Hrs
Date & Time of Online Opening of Techno-Commercial Bid	12.04.2022 at 13:00 Hrs
Date & Time of Online Opening of Financial Bid	To be communicated.
Place of Opening of Bids	WBIIDC Building, 3rd Floor, DJ-10, DJ Block, Sector-II, Bidhannagar, Kolkata-700091
Nodal Officer	Managing Director, WBMDTCL Email:tenderwbmdtcl@gmail.com Phone:033-23590073

Data Sheet

#	Parameter	Details
1.	Total estimated reserve of Black Stone	Palsara –I : 62000 MT Palsara –III : 258000 MT
2.	Floor Rate for bidder	Rs.35.00 per MT
3.	Amount of Earnest Money Deposit (EMD) (to be furnished through online payment in the e-auction portal <i>as per Clause 6.8</i>)	Rs. 7,00,000/- (Rupees Seven Lakh only)
4.	Amount of Performance Security (to be furnished in the form of a Bank Guarantee from a Scheduled Commercial Bank in India <i>as per Clause 10.1</i>)	Rs. 21,00,000/- (Rupees Twenty One Lakh only)
5.	Yearly Production Target	1 st Year : 100000 MT 2 nd Year : 110000 MT 3 rd Year : 110000 MT
6.	Yearly Minimum Guaranteed Production	1 st Year : 80000 MT 2 nd Year : 88000 MT 3 rd Year : 88000 MT

1. Disclaimer

- 1.1. This document is not an agreement or an offer by WBMDTCL to bidders or any third party. The purpose of this document is to provide interested parties with information to facilitate the formulation of their proposal.
- 1.2. This document does not purport to contain all the information each bidder may require. This document may not be appropriate for all persons, and it is not possible for WBMDTCL to consider the particular needs of each party who reads or uses this document. The concerned parties should conduct their own investigations and analysis and should verify the accuracy, reliability and completeness of the information in this document and obtain independent advice from appropriate sources.
- 1.3. Neither WBMDTCL nor their employees or their consultants make any representation or warranty as to the accuracy, reliability or completeness of the information in this document.
- 1.4. Neither WBMDTCL nor their employees or their consultants shall have any liability to any bidder or any other person under the law of contract, tort, the principles of restitution or unjust enrichment or otherwise for any loss, expense or damage which may arise from or be incurred or suffered in connection with this document, or any matter deemed to form part of this document, the award of the work, or the information and any other information supplied by or on behalf of WBMDTCL or their employees, any consultants to otherwise arising in any way from the selection process for the project.
- 1.5. The issue of this document does not bind WBMDTCL to shortlist Technically Qualified bidders or to select a Preferred/ Successful bidder. WBMDTCL reserves the right to annul the bidding process and/or to reject all bids, at any stage, without incurring any liability to the bidders or any third parties.
- 1.6. The bidder should confirm that the document downloaded by them from the e-procurement portal of Govt. of West Bengal is complete in all respects including all annexures and attachments. In the event that the document or any part thereof is mutilated or missing, the bidder shall notify WBMDTCL immediately at the following address:

Managing Director

West Bengal Mineral Development & Trading Corporation Ltd.

WBIIDC Building, 3rd Floor, DJ-10, DJ Block, Sector-II, Bidhannagar, Kolkata-700091

Email: tenderwbmdtcl@gmail.com

Phone: 033- 23590073
- 1.7. If no intimation is received within the last date for submission of pre-bid queries, it shall be presumed that the bid documents received by the bidder is complete in all respects and that the bidder is fully satisfied with the document.
- 1.8. No extension of time shall be granted to any bidder for submission of its bid on the ground that the bidder did not obtain the complete set of the document.

- 1.9. The RFP comprises of general guidelines and conditions for bidding but not an offer by WBMDTCL to bidders or any third party. The purpose of the RFP is to provide interested parties with information to facilitate the formulation of their bids to undertake this Project and to convey the terms on which the work shall be awarded by WBMDTCL.
- 1.10. This document and the information contained herein are strictly confidential and privileged and are for the exclusive use of the bidder to whom it is issued. This document shall not be copied or distributed by the recipient to third parties (other than, to the extent required by applicable law or in confidence to the recipient's professional advisors, provided that such advisors are bound by confidentiality restrictions at least as strict as those contained in this document). In the event that after the issue of the document the recipient does not continue with its involvement in the bidding process for any reason whatsoever, this document and the information contained herein shall be kept confidential by such party and its professional advisors at all times.
- 1.11. WBMDTCL reserves the right to change, modify, add or alter the document at any time during the bidding process. All such changes shall be uploaded on the e-procurement portal of Govt. of West Bengal. It is the duty and responsibility of bidders to visit the e-procurement portal of Govt. of West Bengal regularly and keep themselves updated on the bidding process and any communication made in relation to the bidding process.
- 1.12. The bidders or any third party shall not object to such changes/ modifications/ additions/ alterations explicitly or implicitly.
- 1.13. WBMDTCL reserves the right in its sole discretion, without any obligation or liability whatsoever, to accept or reject any or all of the bids at any stage of the bidding process without assigning any reasons. Further WBMDTCL reserves the right to annul the bidding process and / or to reject any or all bids at any stage prior to the signing of the Agreement without thereby incurring any liability to the affected bidders or any obligation to inform the affected bidders of the grounds for WBMDTCL's action. Decision of WBMDTCL shall be final and binding in this regard.
- 1.14. The bidder shall not make any public announcements with respect to this bidding process or this document. Any public announcements to be made with respect to this bidding process or this document shall be made exclusively by WBMDTCL.
- 1.15. It is clarified that the provisions of clauses 1.9, 1.10 and 1.12 shall not apply to information relating to this document already available in the public domain prior to the issue of this document.
- 1.16. The bidder shall bear all costs associated with the preparation and submission of all the bids and communications associated with the RFP. WBMDTCL and their consultants shall not, under any circumstances, be responsible or liable for any such costs.
- 1.17. By responding to the RFP, the bidder shall be deemed to have confirmed that it has fully satisfied and understood the terms and conditions of the RFP. The bidder hereby expressly waives any and all claims in respect thereof.
- 1.18. This RFP has been issued pursuant to the identification of an area with the intent to select MDOP for carrying out Mining and Purchase of Minor Mineral , pursuant to the Mines and Minerals (Development and Regulation) Act, 1957, West Bengal Minor Minerals Concession Rules, 2016, , West Bengal Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2002 and any other applicable Statutory

Rules/ Regulations/ Notifications as notified by Central Government/ State Government from time to time.

- 1.19. All information provided in this RFP shall be read together with the Act and Rules made there under. In the event of a conflict between this RFP and the Act/ Rules/ Notifications, the Act/ Rules/ Notifications, as the case may be, shall prevail.

2. List of Abbreviations

CCTV	Closed-Circuit Television
FY	Financial Year
GST	Goods and Services Tax
GSTIN	Goods and Service Tax Identification Number
INR	Indian Rupee
LOI	Letter of Intent
OCR	Optical Character Recognition
PAN	Permanent Account Number
PF	Provident Fund
RFP	Request for Proposal
RTO	Regional Transport Office
SOP	Standard Operating Procedure
TAN	Tax Deduction Account Number
VTD	Vehicle Tracking Device
WBMDTCL	West Bengal Mineral Development Trading & Corporation Limited

3. Definitions and Rules of Construction

3.1 Definitions

Unless defined otherwise, the following terms wherever used in this RFP document shall have the following meanings:

- 3.1.1 "Accounting Year" shall mean the financial year commencing from the first day of April of any calendar year and ending on the thirty-first day of March of the next calendar year, provided that, the first Accounting Year shall commence from the Commencement Date and end on the thirty-first day of March of the next calendar year and the last Accounting Year shall commence on the first day of April of the calendar year during which the Transfer Date occurs and shall end on the Transfer Date; provided that, in case of any change of the financial year by the competent authority, the changed dates shall apply.
- 3.1.2 "Agreement" or "Mining and Purchase Agreement" means the agreement to be entered into between WBMDTCL and the Successful Bidder selected through the bidding process, for the execution of the Project. The draft Agreement is attached in Annexure 6.
- 3.1.3 "Applicable Laws" means any law, act, legislation, statute, rule, directive, circular, ordinance, notification, exemption, regulation, judgments /orders of a competent court, tribunal, regulatory bodies and quasi-judicial body or any interpretation thereof enacted, issued, or promulgated by any Authority and applicable to either WBMDTCL, to bidders or to the Selected Bidder or to the MDOP
- 3.1.4 "Authority" means any government department, local government council, inspection authority, courts, tribunal, regulatory bodies and quasi-judicial body, any other statutory authority of Government of India or the Government of West Bengal, authority exercising any sovereign function, and includes any municipal or local authority.
- 3.1.5 "Authorized Representative" shall mean any person having the right to represent WBMDTCL/ MDOP/ any other organization, as applicable
- 3.1.6 "Bid" or "bid" or "Proposal" shall mean the documents submitted by a bidder pursuant to this RFP, including the Techno-Commercial Proposal, along with any additional information/clarifications required/ sought by WBMDTCL, and the Financial Bid. The Bid shall be strictly in the formats provided by WBMDTCL (where provided).
- 3.1.7 "Bid Due Date" shall mean the last date and time for submission of bids, as mentioned in the Schedule of Bidding Process.
- 3.1.8 "Bid Evaluation Committee" shall mean the committee of officers of WBMDTCL and its advisors and consultants.
- 3.1.9 "Bid Security" shall mean the amount specified in the Data Sheet to be submitted by bidders in accordance with Clause 6.8 of this RFP.
- 3.1.10 "Bid Validity Period" shall mean a period of 180 (one hundred and eighty) days from the Bid Due Date or such extended period as may be requested by WBMDTCL to all bidders.

3.1.11 "Bidder" shall be a company/LLP as per Companies Act 1956/2013 or Partnership Firm under The Partnership Act, 1932

3.1.12 "Bid Document" or "Bidding Document" or "Tender Document" or "RFP document" or "RFP" means this documents issued by WBMDTCL and shall include any modifications, Corrigendum (a)/ Amendment(s) or clarification issued by WBMDTCL subsequent to the issue of the RFP document.

In case of any conflict between the provisions of this RFP and the provisions of the Mining and Purchase Agreement, the provisions of the Mining and Purchase Agreement shall prevail over the provisions of this RFP.

3.1.13 "Bid/ Bidding Process" shall mean the process governing the submission and evaluation of the bids as set out in this RFP document.

3.1.14 "Business Day/ business day" means a day other than a Sunday or a second and fourth Saturday in a month or a public holiday as declared by the Government of West Bengal.

3.1.15 "Company/LLP" or "Corporate Entity" means a company/LLP as defined in the Companies Act 1956/ 2013 or Partnership Firm under The Partnership Act, 1932

3.1.16 "Conflict of Interest" shall have the meaning given to it in Clause 12.3 of this RFP.

3.1.17 "Contract Period" shall have the meaning given to it in Clause 5.2 of this RFP.

3.1.18 "Corrigendum(a) and Amendment(s)" shall have the meaning given to it in Clause 5.13 of this RFP.

3.1.19 "Eligibility" shall have the meaning given to it in Clause 5.4 of this RFP.

3.1.20 e-procurement portal of Govt. of West Bengal shall refer to <https://wbtenders.gov.in>.

3.1.21 "Facilitation fees" shall mean the amount in rupees that the MDOP will pay to WBMDTCL in terms of "X" per tonne of saleable product.

3.1.22 "Financial Proposal" or "Financial Bid" means the Financial Proposal submitted by a bidder, in accordance with the terms and conditions of this RFP document.

3.1.23 "Financial Year" shall mean the financial year commencing from the first day of April of any calendar year and ending on the thirty-first day of March of the next calendar year

3.1.24 "Floor Rate" shall mean the minimum amount (Rs) above which a bidder must quote in the e-tender as specified in the Data Sheet of this RFP

3.1.25 "Force Majeure" shall have the meaning given to it in Clause 13 of this RFP.

3.1.26 "Gestation Period" shall have the meaning given to it in Clause 5.3 of this RFP.

3.1.27 "Guarantee Period" shall have the meaning given to it in Annexure5 of this RFP.

- 3.1.28 "H1 Bidder" shall have the meaning given to it in Clause 7.3 of this RFP.
- 3.1.29 "Holding company/LLP" shall have the meaning given to it under the Companies Act,2013 or Partnership Firm under The Partnership Act, 1932
- 3.1.30 "LOI" means Letter of intent issued by WBMDTCL to the preferred Bidder.
- 3.1.31 Mine Developer, Operator and Purchaser (MDOP): The MDOP would be the Bidder selected through Bidding process, who would sign and execute the Mining and Purchase Agreement and/or Legal Agreements as prescribed by the laws applicable, with WBMDTCL. The MDOP shall include its legal representatives, successors and permitted assigns.
- 3.1.32 "Monthly Schedule" shall have the meaning as given to it in clause 9.1.1 of this RFP
- 3.1.33 "Nodal Officer/s" shall mean Managing Director of WBMDTCL or authorized representatives of the Managing Director of WBMDTCL.
- 3.1.34 "Performance Security" shall have the meaning as given to it in Clause 10.1 of this RFP.
- 3.1.35 "Pre-Bid Meeting" means pre-bid meeting to be held as per the schedule indicated in the Schedule of Bidding Process.
- 3.1.36 "Preferred Bidder" means the bidder selected by WBMDTCL as per Clauses 4.1.7 and 7.3.5 of this RFP
- 3.1.37 "Quarter" shall mean a reference to the period of three months commencing from April 1, July 1, October 1, and January 1, as the case may be
- 3.1.38 "Quarterly Schedule" shall be equal to three times the Monthly Schedule
- 3.1.39 "Rules" shall refer to the Rules governing the minor materials excavation in the State of West Bengal.
- 3.1.40 "Stone" or "Black Stone" or "Minor Mineral" shall mean the Black Stone mined from Palsara - I & III Black Stone Deposit at Mouza - Palsara, JL No. – 121, P.S. – Kashipur, District – Purulia, West Bengal. Plot Nos. – 2547, 3162, 3163 (P), 3164, 3549 & 3834 (P), Area- Palsara-I : 28.00 Acre (Present Area for Quarring:4.29 Acre) & Palsara- III: 8.66 Acre. by the MDOP on behalf of WBMDTCL.
- 3.1.41 "Scope of Work" means all the work required to be undertaken by the MDOP in accordance with Clause 5.1 of this RFP.
- 3.1.42 "Stock measurement" shall have the meaning as given to it in Clause 9.2 of this RFP
- 3.1.43 "Subsidiary" shall have the meaning given to it under the Companies Act, 2013.
- 3.1.44 "Successful Bidder" shall have the meaning as given to it in Clause 4.1.8 of this RFP
- 3.1.45 "Technically Qualified Bidder" means a bidder whose Techno-Commercial Bid is responsive and meets the requirements to the satisfaction of WBMDTCL as per the terms and conditions of the RFP and is shortlisted for opening of their Financial Proposal.

- 3.1.46 "Transfer Date" shall mean the date on which this Agreement expires pursuant to the provisions of this Agreement or is terminated by a Termination Notice;
- 3.1.47 "WBMDTCL" means West Bengal Mineral Development and Trading Corporation Limited, Kolkata, India (a Government of West Bengal Undertaking) and shall include its legal representatives, successors, administrators and permitted assigns.

3.2 Rules of Construction

- 3.2.1 A reference to singular includes the plural and vice-versa where the context so requires;
- 3.2.2 A reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinated legislation issued under, that legislation or legislative provision;
- 3.2.3 Headings do not affect the interpretation of this RFP document;
- 3.2.4 A reference to any person includes that person's executors, administrators, substitutes, successors and permitted assigns;
- 3.2.5 A reference to a day, month or year is relevant to a day, month or year in accordance with the Gregorian calendar; unless otherwise specified in this RFP document;
- 3.2.6 A reference to ₹, Rs., INR or Rupees is to the lawful currency of the Republic of India unless specified otherwise;
- 3.2.7 A reference to an agreement, deed, instrument or other document include the same as amended, notated, supplemented, varied or replaced from time to time;
- 3.2.8 The expressions "including", "includes" and "include" have the meaning as if followed by "without limitation";
- 3.2.9 The expression "writing" or "written" shall include communications by facsimile, electronic mail and letter;
- 3.2.10 Terms and expressions not defined anywhere in the RFP document or in the Mining and Purchase Agreement shall bear their ordinary English meaning and, for these purposes, the General Clauses Act, 1897 shall not apply;
- 3.2.11 If there is any difference between a number expressed both in figures and words, the latter shall prevail. This shall also apply to all documents and communication received by WBMDTCL from the bidders

3.3 Governing Law and Jurisdiction of Courts

The RFP and Bidding Process shall be governed by and construed in accordance with the laws of India and the Courts at Kolkata shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the Bidding Process.

4. Introduction

4.1 Background

- 4.1.1 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 mining of coal, black stone, sand, quartz, feldspar, granite, china clay, fire clay, apatite etc.
- 4.1.2 Over the years it has been observed that various potential Minor Minerals are there in West Bengal which needs to be explored and mined in a scientific manner for economic growth of the State.
- 4.1.3 WBMDTCL has decided to select and engage a Mine Developer, Operator and Purchaser (MDOP) for stated minor mineral possessing adequate technical and financial strength and past experience in mining of minerals through excavation, drilling and blasting as per requirement transportation of the minerals from mine through safe loading in the motorable vehicles at the mine head.
- 4.1.4 WBMDTCL has decided to carry out a single stage two-part competitive bidding process for the selection of Mine Developer, Operator and Purchaser (MDOP). Bidders are required to submit their Proposal in two parts, namely a Techno-Commercial Proposal and a Financial Proposal. The Techno-Commercial Proposal submitted by the bidders shall be evaluated by the Bid Evaluation Committee of WBMDTCL in accordance with the terms & conditions set out in this RFP document. The Bid Evaluation Committee would recommend to WBMDTCL a list of Technically Qualified Bidders and the Financial Bid of such Technically Qualified Bidders shall be opened by WBMDTCL. Bidder quoting the highest Retention to WBMDTCL shall be declared as the H1 Bidder.
- 4.1.5 The Mine Developer, Operator and Purchaser (MDOP) shall be responsible for carrying out mining of the Black Stone from the mine as mentioned in schedule sheet which includes mining of Black Stone after removal of overburden and purchase of the removed quantity of Black Stone complying relevant statutory rules/ regulations at their own cost.
- 4.1.6 The publication of the RFP, publication of any Corrigendum(s)/ Amendment(s), as well as the submission of Techno-Commercial Proposals and Financial Proposals shall be conducted on the e-procurement portal of Govt. of West Bengal.
- 4.1.7 LOI will be issued to the H1 Bidder, subject to approval of WBMDTCL. The bidder who receives the LOI is termed as preferred bidder.
- 4.1.8 The Preferred Bidder shall be considered to be "Successful Bidder" upon:
- a. Continuing to be in compliance with all the terms and conditions of eligibility
 - b. Acceptance of LOI issued by WBMDTCL within a stipulated time

c. Submitting the Performance Security within a stipulated time

4.1.9 The Successful Bidder, which is either a Private/Public company/LLP/partnership firm shall be responsible for undertaking mining and purchase of Black Stone in accordance with the Mining and Purchase Agreement to be entered into between the Successful Bidder and WBMDTCL, in the form provided by WBMDTCL as part of the Bidding Documents pursuant hereto.

4.1.10 The scope of work for the Mine Developer, Operator and Purchaser (MDOP) is provided in Clause 5.1.

4.1.11 Bidders shall submit their Techno-Commercial Proposal and Financial Proposal in accordance to the terms set forth in this RFP document by WBMDTCL. All Techno-Commercial Proposal and Financial Proposal shall be submitted on or before the Bid Due Date as per the Schedule of Bidding Process.

4.2 Description of the site

4.2.1 Location: The identified locations with geo coordinates are attached as Annexure-8.

4.2.2 Estimated quantity of Black Stone (approximate) :(Bidders are encouraged to visit collect their own information and sample for verification)

Mining Deposit	Estimated Quantity
Palsara - I Black Stone Deposit at Mouza - Palsara, JL No. – 121, P.S. – Kashipur, District – Purulia, West Bengal. Plot No. – 2547 Area : 28.00 Acre (Present Area for Quarring:4.29 Acre)	62,000 MT
Palsara - III Black Stone Deposit at Mouza - Palsara, JL No. – 121, P.S. – Kashipur, District – Purulia, West Bengal. Plot Nos. – 3162, 3163 (P), 3164, 3549 & 3834 (P),Area-: 8.66 Acre.	2,58,000 MT

5. Instruction to Bidders

5.1 Scope of work of Mine Developer, Operator and Purchaser (MDOP)

5.1.1 The scope of work shall be performance and execution by the MDOP of all plans, designs, engineering, procurement, construction, completion, operation, environmental, safety and maintenance and closure of the Mine, as per terms of this Agreement entirely at MDOP's own cost.

5.1.2 Carry out Exploration and drilling at its own cost and prepare its Geological reports in terms of extant laws and rules

5.1.3 Assisting WBMDTCL in obtaining (as the case may be) all necessary approvals and consents in accordance with Applicable Law and Applicable Rules made there under.

5.1.4 Assisting and co-operating WBMDTCL as regards to the exploitation of the mineral deposit and establishment of proven/ mineable reserves.

5.1.5 Assisting and co-operating WBMDTCL as regards preparation of the mining plan and environment

management plans as required under Applicable Law and Applicable Rules made there under.

- 5.1.6 Cooperating WBMDTCL and providing all documents and information necessary for WBMDTCL to obtain the Approvals and preparation of the reports required to be obtained or prepared by WBMDTCL under this Agreement.
- 5.1.7 Acquire at its own cost / arrangements land outside lease area (lease area will be provided by WBMDTCL) and pay all land price, fee, tax, arrears etc for Land purchase as may be required for the mine and/or setting up of necessary infrastructure.
- 5.1.8 MDOP shall bear the cost and make timely payments for royalty, cess , DMF , income tax , GST surface rent and all other statutory payments as applicable and mandated by law
- 5.1.9 Bearing the entire expenditure pertaining to mining operation which shall not be the responsibility of WBMDTCL.
- 5.1.10 Providing earth-moving machineries and other mining machineries for mining of mineral and removing Overburden and waste material for satisfactory functioning of the Mines in accordance (as may be required) with Approved Mining Plan, Mines Act, Regulations, Mines Rule, By Laws and Order made there under.
- 5.1.11 Providing all mining machineries for development and mining of mineral.
- 5.1.12 Extraction/mining of mineral as per Approved Mining Plan.
- 5.1.13 Excavation and removal of Overburden and waste material and dumping of the same in accordance with the environment impact assessment/environment management plan approved by Environment Dept., GoWB and as specified in the Approved Mining Plan and as directed by the statutory authorities and the Mine Manager.
- 5.1.14 Mine de-watering and keeping the mine free of ground water.
- 5.1.15 Construction and maintenance of all haul roads, workshops, stores, canteen, plant, pump-house, garland drains, rest shelter, first aid stations, effluent treatment plant for water recycling, mine water discharge treatment plant, Stream diversion with permission from the competent authority, internal power supply arrangements for the Mines, communication network for the Mines etc.
- 5.1.16 Provision for mine illumination in the Mine as per prevalent laws.
- 5.1.17 Arrangement and use of explosives for the extraction of mineral from the Mines, when necessary.
- 5.1.18 Arrangement of petrol/diesel, oil and lubricants and all other materials for the mining operations.
- 5.1.19 Construction and maintenance of all assets.
- 5.1.20 Observances of specific conditions under environment and other clearances with development and operation of the Mine.
- 5.1.21 Purchase of full quantity of mineral mined from the mines.
- 5.1.22 Construction of offices and other related infrastructure for both MDOP and WBMDTCL.
- 5.1.23 Rehabilitation and Resettlement of the persons affected by the project and resettle them at a suitable nearby area by providing housing facilities in case their dwelling units fall in mining project area.

- 5.1.24 All obligations related to mine closure as per the approved Mine plan and the accompanying mine closure plan.
- 5.1.25 Assisting WBMDTCL by all means towards Corporate Social Responsibility (CSR) activities.
- 5.1.26 MDOP shall have to bear any additional cost/levy/tax/cess imposed by statutory/judicial authorities during the period of operation of the mine
- 5.1.27 Apart from the above
- a. The MDOP shall also perform all acts as may be required to be performed by the statutory authorities and shall comply with the provisions of the Applicable Laws and Applicable Permits.
 - b. The MDOP shall render to WBMDTCL all assistance as WBMDTCL may require to perform its obligations under the Applicable Law and the Applicable Permits and also to enable WBMDTCL to carry out its obligations under this Agreement.
 - c. The MDOP shall arrange at its own cost any additional land if required for the mine and/or setting up of necessary infrastructure. MDOP shall pay all necessary payments for the existing land as applicable.
 - d. The MDOP shall create at its own cost necessary infrastructure such as but not limited to administrative offices, medical facilities, service and residential buildings, workshop, store, security room, water supply and other requirements to be provided under the Mines Act, 1952 ,Regulations, Rules, By Laws made there under and as envisaged by this Agreement.
 - e. The MDOP shall perform the job of exploitation of the mineral in the Mine, as delineated in the Approved Mining Plan. Such extracted mineral shall be brought to the Weighbridge/Stockyard as directed by WBMDTCL's Mine Manager for storage and /or measurement, as may be required before dispatch.
 - f. The MDOP shall adhere to the production schedule stipulated in the Approved Mining Plan by utilizing the MDOP's own personnel and machineries. The MDOP undertakes to mine and purchase the Minimum Guaranteed Quantity of Black Stone.
 - g. The MDOP will comply with all the requisite environmental laws in and around the specified area of the Mine Site including the Mine as per the Approved Mining Plan and directives/conditions, if any, imposed by Ministry of Environment and Forest, GoI, West Bengal Pollution Control Board and/or any other statutory authorities and conditions imposed by GoI as regards the Approved Mining Plan.
 - h. Black Stone mining will be in accordance with Applicable Law including, inter alia, the provisions of the Mine and Minerals (Development and Regulation) Act, 1957, the Land Acquisition Act, 1894, Forest (Conservation) Act, 1980 and Forest Conservation Rules, 1981, Water (Prevention and Control of Pollution) Act, 1974 and Water (Prevention and Control of Pollution) Rules, 1974, Air (Prevention and Control of Pollution) Act, 1981 and Air (Prevention and Control of Pollution) Rules, 1981, Environmental (Protection) Act 1986, the Mine Act, 1952, the Mine Rules, 1955, Metalliferous Mine Regulations, 1961, the Contract Labour (Regulation & Abolition) Act, 1970 and Rules, 1971 and/or any other applicable Acts and Rules. The MDOP shall comply with all provisions of all applicable labour laws including but not limited to Workmen's Compensation Act, 1923, Payment of Wages Act, 1936, Payment of Bonus Act, 1965 and Payment of Gratuity Act, 1972 and/or any other applicable Acts and Rules. The MDOP shall be bound to indemnify WBMDTCL and keep the WBMDTCL indemnified at all time against all claims whatsoever in respect of such personnel under Applicable Law including the Workmen's Compensation

Act, 1923 or any statutory modification thereof in respect of any damages or compensation payable in consequence of any accident or injury sustained by any workmen or other person whether in the employment of the MDOP or not. In the event of default subject to the situation beyond the control of the MDOP as specified in the Clause Q (Force Majeure clause), the MDOP shall, if found guilty of violation of any environment law, pay such fine or penalty as may be imposed by relevant statutory authority.

5.2 Contract Period

- 5.2.1 The period of contract is for 3 (three) years from the date of execution of the Mining and Purchase Agreement
- 5.2.2 The tenure of the contract may be extended at the same terms and conditions based on mutual discussion and sole discretion of WBMDTCL
- 5.2.3 In case, the Mine Developer, Operator and Purchaser (MDOP) does not accept the LOI and execute the Mining and Purchase agreement within 14 days from the date of issue of LOI , reasoned decision shall be taken by WBMDTCL towards forfeiting the Bid Security. Additionally, if the Mine Developer, Operator and Purchaser (MDOP) does not commence the work within gestation period, reasoned decision shall be taken by WBMDTCL towards termination of the Agreement. If the Agreement is terminated in this regard, Performance Security shall be forfeited if the Mine Developer, Operator and Purchaser (MDOP) is found responsible for non-commencement of the mining work, and if the Mine Developer, Operator and Purchaser (MDOP) is not responsible then Performance Security shall be returned to the Mine Developer, Operator and Purchaser (MDOP). The decision, whether the MDOP will be responsible or not, will be WBMDTCL's absolute determination.

5.3 Gestation Period

- 5.3.1 Gestation period of 21 days will be provided to the Mine Developer, Operator and Purchaser (MDOP) from the date of execution of agreement .
- 5.3.2 Performance targets will not be insisted/ enforced during the Gestation period. However, the target quantity will have to be achieved as per Clause 9.1.
- 5.3.3 The maximum contract period specified above is inclusive of the gestation period. There shall be no gestation period allowed on any extension periods if awarded.

5.4 Eligibility Criteria

- 5.4.1 The Bidder must be a company/LLP as per u/s 2 of Companies Act, 2013 or Partnership Firm under The Partnership Act, 1932

AND

- 5.4.2 The Bidder should have minimum 4 (four) years of experience in mining work and have mined and transported minerals at least **2,60,000** Metric Tonne (MT) cumulatively over a period of preceding 4 (four) Financial Years, i.e., for FY2017-18, FY2018-19, FY2019-20 and FY2020-21.

AND

5.4.3 The Bidder should have an average annual turnover of **Rs.2.3 Crore** during the preceding 4 (four) Financial Years, i.e., FY2017-18, FY2018-19, FY2019-20 and FY2020-21.

5.5 Documentary evidence

5.5.1 For criteria 5.4.1, the Bidder shall submit the following documentary evidences:

5.5.1.1 All Bidders shall submit Valid Certificate of Incorporation/ Registration from competent statutory authority

5.5.2 For criteria 5.4.2 the following proof shall be required:

5.5.2.1 Work done must be supported by Self certified certificate issued by their statutory auditor certifying the year wise total quantity of material mined and transported in MT in the preceding 4 (four) Financial Years i.e. FY 2017-18, 2018-19, FY 2019-20 & FY 2020-21 and the gross total of such quantity as per format in Annexure 10.

5.5.3 For criteria 5.4.3 the following proof shall be required:

5.5.3.1 Certificate from statutory auditor certifying the yearly and average turnover of the preceding 4 (four) Financial Years i.e. FY 2017-18, 2018-19, FY 2019-20 & FY 2020-21 as per format in Annexure 10.

5.5.4 All the supporting documents submitted by the bidder shall be self-certified by the Authorized Signatory holding the Power of Attorney of the bidder.

5.6 Allowance of only one bid

5.6.1 Each Bidder shall submit only one Bid.

5.6.2 A Bidder shall be disqualified, and all bid securities shall be forfeited, if the bidder is found to have submitted or participated in more than 1 (one) bid

5.7 Consortium

5.7.1 Consortium is not allowed

5.8 Tender Document Fee

5.8.1 Bidders are required to remit non-refundable tender document fee of Rs 17,700/- (Base Price- 15,000 + 18% GST) (Rupees Seventeen Thousand and Seven Hundred only) in the e-procurement portal of Govt. of West Bengal through online payment mode.

5.8.2 The Bidder shall upload the receipt/ transaction acknowledgement along with the Techno-Commercial Bid in the e-procurement portal of Govt. of West Bengal.

5.9 Cost of Bidding

5.9.1 The Bidder shall bear all costs and risks associated with the preparation and submission of the Bid, and WBMDTCL shall in no case be responsible or liable for those costs and risks.

5.10 Site Visit

- 5.10.1 Bidders are encouraged to visit the site, so as to apprise themselves of the site conditions and its surroundings and obtain for themselves, on their own responsibility, all the information that may be necessary for preparing their bids.
- 5.10.2 Bidders who do not visit the site shall be deemed to have appraised themselves of the site conditions necessary for preparing their bids.
- 5.10.4 The bidder shall assess and satisfy itself as to the adequacy of the local conditions such as approach roads to the site and stockyard, adequacy of existing culverts/bridges/roads for bringing its equipment and machinery to the site, water and power supply conditions, accommodation facilities as may be required, river regime, river water levels, other details of river, major drains and their water levels in normal rainy season, climatic conditions, local terrain, availability of manpower, construction materials, details of taxes, royalties, duties and levies as applicable and any other information required.
- 5.10.5 Bidders shall bear their own costs and make own arrangements required for visiting the site.
- 5.10.6 The Bidders will satisfy themselves about the geological conditions and the availability of the minerals in the mine and quote their rate accordingly. No dispute in this regard will be entertained by WBMDTCL at any point of time in future.

5.11 Pre-Bid Meeting

- 5.11.1 A pre-bid meeting would be held as per the schedule given in the Schedule of Bidding Process to clarify and discuss issues with respect to the Bidding Process and the Bidding Documents. The pre-bid meeting shall be held virtually as per the details given below:

On behalf of WBMDTC LTD, Shyama Prasad Hazra DGM is inviting you to a scheduled Zoom meeting.

Topic: Pre Bid Meeting regarding selection of MDOP for Mining and Purchase of Black Stone from Palsara-I & Palsara -III Black Stone Deposit, P.S Kashipur, District Purulia

Time: Apr 1, 2022 15:00 Hr, IST

Join Zoom Meeting

<https://us05web.zoom.us/j/88268613114?pwd=RWZndWorckNYWEN5SmpjN2pnZXgwZz09>

Meeting ID: 882 6861 3114

Pass code: JBLG7U

- 5.11.2 Attendance of the bidders at the pre-bid meeting is not mandatory.

5.12 Clarifications on the Bidding Documents

- 5.12.1 Bidders may send their pre-bid queries on the Bidding Documents or the Bidding Process. Such queries may only be sent to the email address given in the Data Sheet as per the Schedule of Bidding process

- 5.12.2 The responses to the queries as well as the minutes of the pre-bid meeting shall be published on the e-procurement portal of Govt. of West Bengal and shall be freely available for download. The source of the query shall not be revealed.
- 5.12.3 Bidders are advised to regularly check the e-procurement portal of Govt. of West Bengal regarding the posting of clarifications, modifications, if any.
- 5.12.4 The last date for receipt of pre-bid queries is indicated in the Schedule of Bidding Process. Queries received after this date may not be considered.

5.13 Issue of Corrigendum and Amendment to the Bidding Documents

- 5.13.1 At any time prior to the Bid Due Date, WBMDTCL may at its own initiative or in response to a clarification, amend the provisions of RFP document or the draft Mining and Purchase Agreement by issuing a Corrigendum (a)/ Amendment(s) to the RFP document or the draft Mining and Purchase Agreement, which shall be freely available for download on e-procurement portal of Govt. of West Bengal. The Corrigendum (a) / Amendment(s) will be binding on the bidders and it will be assumed that the information contained therein will have been taken into account by the bidder in its bid. Bidders are also advised to regularly check the e-procurement portal of Govt. of West Bengal regarding posting of Corrigendum (a)/ Amendment(s), if any, which shall only be notified on the e-procurement portal of Govt. of West Bengal. Any further communications, corrigendum, addendum, etc. shall only be available on the e-procurement portal of Govt. of West Bengal and there will be no newspaper notification/advertisement in this regard.
- 5.13.2 Any Corrigendum (a)/ Amendment(s) issued by WBMDTCL subsequent to the issue of RFP document will also be considered as an integral part of the Bidding Document and to the RFP document. The Mining and Purchase Agreement shall include such Corrigendum (a)/ Amendment(s) also.
- 5.13.3 No verbal clarifications and information provided by WBMDTCL or its employee(s) or its representative(s) or its consultant(s) shall in any way be binding on WBMDTCL unless subsequently confirmed through the issuance of Corrigendum (a)/ Amendment(s).
- 5.13.4 In order to afford prospective bidders reasonable time in which to take the Corrigendum (a)/ Amendment(s) into account, WBMDTCL may, at its discretion, extend the Bid Due Date.

6. General conditions regarding submission of Bid

6.1 Online submission of Techno-Commercial Bid

- 6.1.1 Bid Letter in the format specified in Annexure 1: Format for Bid Letter
- 6.1.2 Proof of payment of EMD for an amount as mentioned in the data sheet which shall be subject to Clause 6.8
- 6.1.3 Proof of payment of tender document fee for an amount of Rs 17,700 (Rupees Seventeen Thousand and Seven Hundred only) which shall be subject to Clause 5.8
- 6.1.4 Scanned copy of Power of attorney in the format specified in Annexure 2: Format for Power of Attorney authorizing the signatory of the bid to participate in the tender process and do all acts

pursuant thereto on behalf of the Bidder, including usage of the digital signature on behalf of the Bidder.

- 6.1.5 Scanned copy of corporate authorization, such as board resolution to authorize the person to participate and sign the bid in the tender process.
- 6.1.6 Scanned copy of the duly executed Affidavit in the format as specified in Annexure 3:Format for Affidavit
- 6.1.7 Scanned copy of the non-blacklisting declaration in the format specified in Annexure 4:Format for Declaration against Blacklisting.
- 6.1.8 Scanned copy of the duly filled-in checklist in the format specified in Annexure 7: Duly Filled-in Checklist of Documents to be submitted as part of the Techno-Commercial Bid.
- 6.1.9 Copy of all the relevant documentary evidence in support of meeting the Eligibility Criteria as sought in Clause 5.5.
- 6.1.10 The Techno-Commercial Bid shall be submitted on the e-procurement portal of Government of West Bengal.
- 6.1.11 The Techno-Commercial Bid shall not contain any information regarding the Financial Bid of the Bidder.

6.2 Offline submission of Supporting Documents to Techno-Commercial Bid (In addition to Online Submission)

- 6.2.1 In addition to online submission of Techno-Commercial Bid as per Clause 6.1, Bidder shall submit duly executed and signed original physical copies of the below mentioned documents to the following address so that they are received on or prior to the Bid Due Date as per Schedule of Bidding Process, failing which the Techno-Commercial Bid shall be deemed to have not been received

Managing Director
West Bengal Mineral Development & Trading Company Limited
WBIIIDC Building, 3rd Floor, DJ-10, DJ Block, Sector-II,
Bidhannagar, Kolkata-700091

- (a) Annexure 1 : Format for Bid Letter
- (b) Annexure 2 : Format for Power of Attorney along with duly certified copy of corporate authorization
- (c) Annexure 3 : Format for Affidavit
- (d) Annexure 4 : Format for Declaration against Blacklisting
- (e) Annexure 9 : Format for Certificate regarding engagement of Equipments
- (f) Annexure 10 : Format Regarding Eligibility of the Applicant

(g) Relevant Documentary Evidence as per Clause 5.5

6.2.2 The Techno-Commercial Bid shall not contain any information regarding the Financial Bid of the Bidder

6.2.3 The Bidder shall ensure that no financial bid shall be submitted through offline mode

6.3 Verification of Information by the Bidder

6.3.1 It shall be deemed that by submitting a bid, the Bidder has:

(a) made a complete and careful examination of the tender document and unconditionally and irrevocably accepted the terms thereof.

(b) reviewed all relevant information provided by the WBMDTCL, as may be relevant to the bid.

(c) accepted the risk of inadequacy, error or mistake in the information provided in the tender document furnished by or on behalf of WBMDTCL

(d) satisfied itself about all matters for submitting an informed bid, in accordance with this Tender Document and performance of all of its obligations.

(e) agreed to be bound by the undertakings provided by it under and in terms hereof.

6.3.2 WBMDTCL shall not be liable for any omission, mistake or error in respect of any of the information provided or on account of any matter or thing arising out of or concerning or relating to the tender document or the tender process including any error or mistake therein or in any information or data given by WBMDTCL

6.4 Verification by WBMDTCL and Disqualification

6.4.1 WBMDTCL reserves the right to verify all statements, information and documents submitted by the Bidder in response to the tender document and the Bidder shall, when so required by WBMDTCL, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification by WBMDTCL shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of WBMDTCL thereunder.

6.4.2 The Managing Director/ Nodal Officer(s) reserve the right to reject any bid, and appropriate the entire Bid Security if:

6.4.2.1 At any time, a misrepresentation is made or uncovered,

6.4.2.2 The Bidder does not provide, within the time specified by WBMDTCL, the supplemental information sought by WBMDTCL for evaluation of the bid, or

6.4.2.3 Any act or omission of the Bidder results in violation of or non-compliance with the Act, the rules there under, this tender document, or any other document referred therein or issued pursuant thereto or any Applicable Law relevant for the tender process.

6.4.3 Any rejection of a bid under Clause 6.11 may lead to the disqualification of the Bidder for bidding for any tender or allotment conducted by WBMDTCL for a period of 3 (three) years starting from the date of appropriation of the Bid Security or any other earlier date specified by WBMDTCL.

6.4.4 In the aforementioned events, WBMDTCL shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, without prejudice to any other right or remedy that may be available to WBMDTCL under the tender document, or otherwise, without any liability whatsoever.

6.5 Amendment of tender document

6.5.1 At any time prior to the Bid Due Date, WBMDTCL may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, amend the tender document

6.5.2 Any amendment issued hereunder will be in writing and shall be made available to all the Bidders and shall be deemed to be part of the tender document

6.5.3 In order to afford the Bidders a reasonable time for taking an amendment into account, or for any other reason, WBMDTCL may, in its sole discretion, extend the Bid Due Date in accordance with Clause 6.6.

6.6 Bid Due Date and Extension

6.6.1 Techno-Commercial Bids should be uploaded, and the documents required to be submitted physically in original pursuant to Clauses 6.1 and 6.2 respectively must be received before the last day and time of submission of bid as stated in data sheet. Techno-Commercial Bids received by WBMDTCL after the specified time on the Bid Due Date shall not be eligible for consideration and shall be summarily rejected.

6.6.2 The Managing Director / Nodal Officer(s), in its sole discretion, extend the Bid Due Date by issuing an amendment that is made available to all Bidders.

6.7 Modifications/ substitution/ withdrawal of bids

6.7.1 The Bidder may modify, substitute or withdraw its Techno-Commercial Bid after submission, prior to the Bid Due Date. No Techno-Commercial Bid shall be modified, substituted or withdrawn by the Bidder on or after the Bid Due Date, unless the same has been expressly sought by the WBMDTCL

6.8 Earnest Money Deposit(EMD)

6.8.1 a) A non-interest-bearing EMD shall be submitted.

b) The bidder shall pay EMD amount as mentioned in the Data Sheet through online payment in the e-auction portal

c) On successful submission of non-interest-bearing EMD amount, the bidder shall continue the further process in the e-procurement portal.

6.8.2 EMD shall be returned as below:

a) The EMD of the unsuccessful bidders except H2 will be returned immediately upon

finalization of the Tender through Online "Bid Security Refund option" in the E-Procurement portal.

- b) The EMD of the Successful Bidder may be returned within 30 days from receipt of the Performance Security and the first installment of the Security Deposit as per clause 10.

6.8.3 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 and the first installment of the Security Deposit as per clause 10.
- e) The Bidder submits a conditional Bid.

6.9 Validity of Bids

- 6.9.1 The Techno-Commercial and Financial bid shall be valid for a period of 180 (one hundred and twenty) days from the Bid Due Date as per the Schedule of the Bidding Process. In case the Financial Bid is not opened within the period of 180 (one hundred and eighty) days from the Bid Due Date, then the bidding process will be annulled and WBMDTCL will refund the amount of Bid Security to the Bidders.

6.10 Affidavit

- 6.10.1 The Bidder shall submit a duly executed Affidavit as per the format given in Annexure3: Format for Affidavit

6.11 Rejection of Bids

- 6.11.1 Notwithstanding anything contained in this Tender Document, WBMDTCL reserves the right to reject any bid and/or to annul the tender process and reject all bids at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof.
- 6.11.2 WBMDTCL reserves the right not to proceed with the tender process at any time, without notice or liability, and to reject any bid without assigning any reasons.
- 6.11.3 Without prejudice to the generality of the foregoing, WBMDTCL reserves the right to reject any bid on any criteria specified in this tender document, including without limitation, the following:

- (a) bids have not been submitted with all the information and details listed in this tender document

(b) bidder does not provide, within the time specified by WBMDTCL, the supplemental information sought by WBMDTCL for evaluation of the bid

(c) submitted bid is conditional or qualified

(d) bids have been submitted without Bid Security and all supporting documents listed in Para 5.5

(e) bids have been submitted without Affidavit

(f) bids have been submitted where techno-commercial bid contain any information regarding the financial bid

(g) bids have otherwise not been submitted in accordance with the tender document

6.12 Submission of Financial Bid

6.12.1 Financial Bids of the qualified bidders as per Techno-Commercial Bid will be opened online.

6.12.2 Financial Bid will be the Facilitation Fee per Metric Tonne (MT) of Black Stone payable to WBMDTCL during 1st year of signing of Mining & Purchase Agreement.

6.12.3 The Financial Bid has to be quoted in the Excel file (BOQ) ONLY via online mode i.e., through the e-Procurement Portal of Govt. of West Bengal

6.12.4 Bidders shall ensure that no financial bid shall be submitted through offline mode

6.12.5 The Floor Rate for Financial Bid is **Rs 35.00.(Rupees Thirty Five Only) per MT**. The bidder has to quote above the Floor Rate. Bids below the floor rate will be rejected.

6.12.6 Consideration and payment terms of the facilitation fee as defined in Clause "O" of Draft Mining and Purchase Agreement in Annexure-6

6.12.7 Escalation of Facilitation fee is to be added as defined in Clause "O" of Draft Mining and Purchase Agreement in Annexure-6

6.12.8 Review of Facilitation fee as defined in Clause "P" of Draft Mining and Purchase Agreement in Annexure-6

7. Bid Opening & Evaluation

7.1 Opening of Techno-Commercial Bid

7.1.1 WBMDTCL shall open all the Techno-Commercial Bids and cross check the same with the documents uploaded in the e-procurement portal of Govt. of West Bengal as per the schedule given in the Schedule of Bidding Process. In case the date is either declared a holiday for WBMDTCL or the date is considered for statewide complete lockdown as declared by Government of West Bengal, the bids shall be opened at the appointed time on the next working day.

7.1.2 In case the original documents related to the Techno-Commercial Bid (as mentioned in Clauses 6.1 and 6.2) are not received by WBMDTCL within the date and time as indicated in the Schedule of Bidding Process, the same shall be rejected as being non-responsive and shall be returned unopened. The Financial Proposal of such non-responsive Techno-Commercial Bids shall not be opened as mentioned in Clause 7.2.

7.2 Evaluation of Techno-Commercial Bid

7.2.1 WBMDTCL shall constitute a Bid Evaluation Committee to evaluate the Techno-Commercial Bids received by it. WBMDTCL may also involve its advisors and consultants to assist it in the evaluation process.

7.2.2 The Techno-Commercial Bids shall be first evaluated to determine whether they are complete, whether the required documents have been submitted in the correct formats and whether the documents have been properly signed and whether the Techno-Commercial Bid is generally in order. It will be determined whether the Techno-Commercial Bid is of acceptable quality, is generally complete and is substantially responsive. For purposes of this determination, a substantially responsive Techno-Commercial Proposal is one that conforms to all the terms, conditions and specifications of the bidding documents without materials deviations, objections, conditionality or reservations.

7.2.3 A Techno-Commercial Bid which is not substantially responsive, may be rejected by WBMDTCL as per Clause 6.11, and may not subsequently be made responsive by the bidder by correction of the non-responsiveness or materials deviation at any point of time.

7.2.4 The responsive Techno-Commercial Bid shall then be evaluated in detail to determine whether they are fulfilling the Eligibility Criteria specified in Clause 5.4.

7.2.5 During the evaluation of the Techno-Commercial Bid, the Bid Evaluation Committee/ WBMDTCL may, at its discretion, ask the bidder for clarification on their Techno-Commercial Bid, including on the documentary evidence submitted by them for the purpose of meeting the Eligibility Criteria in Clause 5.4. The request for clarification shall be sent to the Bidder in writing (by email) and the request shall also specify the timeline within which the bidder has to submit its clarification(s), failing which such clarification(s) may not be considered by WBMDTCL and the Techno-Commercial Bid of the Bidder may be evaluated by WBMDTCL without any further reference to the bidder.

7.2.6 However, no change in the substance of the Techno-Commercial Bid or any modifications in the Bid which may have any future financial impact whatsoever during the Contract Period inclusion or exclusion of any experience or credentials of any Subsidiary/ Subsidiaries and/or Holding company/LLP/partnership firm and/or the Subsidiary/ Subsidiaries of its Holding company/LLP/partnership firm for meeting the Eligibility Criteria shall be allowed. In case such changes are sought to be made by the bidder, the bid shall be rejected forthwith by the WBMDTCL without any further reference to the bidder. It should be noted that any unsolicited letter from the bidder will not be considered in any case at any point of time.

7.2.7 The Techno-Commercial Proposals which meet the Eligibility Criteria shall be recommended by the Bid Evaluation Committee as being technically qualified and such Technically Qualified Bidders shall be considered for opening of their Financial Bid.

7.3 Financial Bid & declaration of preferred bidder

7.3.1 The Financial Bid of only the Technically Qualified Bidders shall be opened online

The date, venue and other details related to the opening of Financial Proposals shall be communicated by WBMDTCL to the Technically Qualified Bidders.

7.3.2 The Bidder quoting the highest facilitation Fee (in Rs. per MT) shall be declared as H1.

7.3.3 In case, two or more Bidders quoted the same facilitation Fee (in Rs. per MT) thereby emerges as multiple H1 Bidders then the following shall be performed as tie-breaker in descending order of priority:

(a) Such Bidders shall be called upon to quote through sealed cover, a rate higher than the H1 rate. If any of the Bidders refuse to participate, bid will be finalized among the participating Bidders having agreed to quote revised higher rate. The bidder with the highest rate shall be declared as the H1 bidder.

(b) If the quoted rate of two or more bidders as per Clause (a) above is same, then the Bidder with the highest total work as submitted as per 5.5.2.1 in the preceding 4 (four) Financial Years i.e., for FY2017-18, FY2018-19, FY2019-20 and FY2020-21 shall be declared as H1 bidder. In case of a tie, the Bidder having highest value of average turnover during the preceding 4 (four) Financial Years, i.e., for FY2017-18, FY2018-19, FY2019-20 and FY2020-21, as submitted as per 5.5.3.1 shall be declared as H1 bidder.

7.3.4 If the H1 Bidder does not accept to take up the work for any reason, H2 bidder i.e., the 2nd highest quoted bidder may be called for accepting the agreement at H1 rate and EMD of H1 bidder shall be forfeited.

7.3.5 LOI will be issued to the H1 Bidder, subject to approval of WBMDTCL. The bidder who receives the LOI is termed as preferred bidder.

7.3.6 In case the Preferred Bidder fails to sign within the specified time as per Clause 9.1.3 the Mining and Purchase Agreement within the specified time, WBMDTCL shall, at its sole discretion, cancel the LOI and forfeit the EMD.

8. Utilization of Black Stone Mineral

8.1 MDOP shall purchase the entire quantity of mineral mined as per the Mining and Purchase Agreement for their own consumption or sale as per Government Rules and Regulation.

8.2 At any point of time, WBMDTCL has right to be the first buyer and the price would be the average selling price by MDOP in the last 30 days.

9. Operations and maintenance

9.1 **Production Schedule**

- 9.1.1 Upon issuance of LOI, the MDOP shall prepare and submit a monthly production schedule both for Target Production and Minimum Guaranteed Production. This monthly production schedule is subject to approval by WBMDTCL
- 9.1.2 The MDOP prior to deployment of equipment at the site shall submit a list of equipment proposed to be deployed as per guideline of DGMS and Approved Mining Plan to WBMDTCL.
- 9.1.3 The MDOP shall have to submit Performance Security of requisite amount and execute the "Mining and Purchase Agreement" within 14 days from the Date of Issuance of LOI. The MDOP shall also have to commence mining operation as per Mining and Purchase Agreement.
- 9.1.4 The MDOP shall ensure to achieve the "Minimum Guaranteed Production" of Black Stone during the Contract period as per Mining and Purchase Agreement.

9.2 Stock measurement and maintenance

- 9.2.1 The quantity of Black Stone delivered shall be measured in metric tonne (MT) with all details as may be required as per rules and other details as may be prescribed by WBMDTCL will be issued under signature of designated officials of WBMDTCL.
- 9.2.2 Authorized representatives of WBMDTCL and the MDOP shall be present to witness the measuring of the Black Stone in the metric unit. The measurement so recorded in the office shall be final and conclusive for the purpose of determining the quantity of Black Stone delivered. Delivery Challan duly signed and stamped by the authorized representatives of WBMDTCL shall be delivered to the MDOP.
- 9.2.3 Suitable weigh bridges will be procured, installed and maintained by the MDOP at its own cost for measurement of the minerals. The weigh bridges shall be calibrated by the concerned authorities of legal Metrology Department of Government of West Bengal, from time to time as per extant laws, Acts and Rules in force.
- 9.2.4 The MDOP will ensure that all Black Stone extracted from the Mines is moved only to the stack yard and no Black Stone is otherwise taken out of the Mines and moved to any point other than the stack yard.
- 9.2.5 There shall be reconciliation of measurement of Black Stone (RoM), so mined by the MDOP with the aggregate figures obtained by suitable volumetric survey carried out jointly by WBMDTCL and the MDOP at the end of every Financial Year.

9.3 Other Obligations of the MDOP

- 9.3.1 The Mine Developer, Operator and Purchaser (MDOP) shall follow Standard Operating Procedure (SOP) of DGMS.
- 9.3.2 Machineries shall be operated by experienced operators with valid driving/ operating license wherever necessary and the copies of the same shall be submitted to WBMDTCL
- 9.3.3 The Mine Developer, Operator and Purchaser (MDOP) shall have to obtain all necessary & statutory clearances/ certifications from authorities such as RTO etc.
- 9.3.4 The Mine Developer, Operator and Purchaser (MDOP) shall install, operate and maintain an Optical Character Recognition (OCR) scanning system at the entry and exit gates of the stockyard 24*7, along

with all necessary ancillary systems to ensure easy scanning and recording of vehicle no. mentioned on the license plates for each motor able vehicle moving in and out of the mine.

- 9.3.5 The Mine Developer, Operator and Purchaser (MDOP) shall ensure seamless integration of data generated through OCR with necessary database/ portal as per requirement of WBMDTCL
- 9.3.6 The Mine Developer, Operator and Purchaser (MDOP) shall maintain a daily logbook of the opening and closing quantity of mineral mined at the site. The Mine Developer, Operator and Purchaser (MDOP) shall also maintain a daily logbook of the equipment/ vehicle deployed.
- 9.3.7 Water sprinkling shall be done by the MDOP in the mine and for dust suppression on the roads, dumps etc. and shall be to the satisfaction of WBMDTCL. The MDOP shall deploy and continuously operate sufficient number of water sprinklers of capacity for suppression of dust. The MDOP shall also undertake dust suppression at the mine and on the connecting roads.
- 9.3.8 Mobilization of men and machinery/ vehicles to the site will be the sole responsibility of the MDOP.
- 9.3.9 The Mine Developer, Operator and Purchaser (MDOP) is sole responsible for dust suppression and other environmental protection requirement and amenities.
- 9.3.10 The Mine Developer, Operator and Purchaser (MDOP) shall be solely responsible for any accident to/ by the equipment/ vehicles deployed or any accident to any personnel or the staff or workers deployed or of WBMDTCL or any others during the operation of the contract. All claims or compensation towards such accident shall be settled by the Mine Developer, Operator and Purchaser (MDOP) and WBMDTCL shall not be responsible for any such compensation/ claims
- 9.3.11 The Mine Developer, Operator and Purchaser (MDOP) shall indemnify, defend, save and hold harmless WBMDTCL and its officers, servants, agents, Government Instrumentalities and WBMDTCL owned and/or controlled entities/enterprises, (the "WBMDTCL Indemnified Persons") against any and all suits, proceedings, actions, demands and claims from third parties for any loss, damage, cost and expense of whatever kind and nature, whether arising out of any breach or default by the MDOP of any of its obligations under the Agreement or any related agreement or on account of any defect or deficiency in the provision of services to WBMDTCL or from any negligence of the MDOP under any contract or tort or on any other ground whatsoever, except to the extent that any such suits, proceedings, actions, demands and claims have arisen due to any negligent act or omission, or breach or default of the Agreement on the part of WBMDTCL Indemnified Persons.
- 9.3.12 The Mine Developer, Operator and Purchaser (MDOP) shall obtain all relevant statutory clearances/ approvals as applicable to them.
- 9.3.13 The Mine Developer, Operator and Purchaser (MDOP) shall ensure adherence to any statutory rules and regulations during despatch of mineral, as applicable
- 9.3.14 The Mine Developer, Operator and Purchaser (MDOP) shall nominate an Authorized Representative and in all matters of day to day commercial interaction and WBMDTCL would only deal with the authorized representative and would not deal with any other person/s
- 9.3.15 The Mine Developer, Operator and Purchaser (MDOP) shall adequately handle any local issues if arises, impacting the operations and maintenance of the project

- 9.3.16 The Mine Developer, Operator and Purchaser (MDOP) is directly responsible and liable for payment of minimum wages and other obligations such as medical claims, PF and compensations under Workman Compensation Act and Rules made there under, P.F Act / Rules, Minimum Wages Act & Payment of Bonus Act, Industrial Dispute Act 1947, Contract Labour (Regulation & Abolition) Act 1970, and any other labour, legislation, for the persons engaged by them.
- 9.3.17 The Mine Developer, Operator and Purchaser (MDOP) shall obtain required license under contract labour [Regulation and Abolition] Act 1970 and Rules made there under.
- 9.3.18 All the required Medical facilities shall be provided to the personnel deployed by MDOP for operation and maintenance of equipment /vehicle.
- 9.3.19 The Mine Developer, Operator and Purchaser (MDOP) shall maintain all the records as required by PF Statutory authorities and submit necessary returns as per the provisions of the Act.
- 9.3.20 No personnel below 18 years shall be deployed at the site.
- 9.3.21 The Mine Developer, Operator and Purchaser (MDOP) shall be responsible for complying with all labour and mining legislations.
- 9.3.22 The Mine Developer, Operator and Purchaser (MDOP) shall ensure adherence to all norms of Environment Pollution as per extant laws
- 9.3.23 The Mine Developer, Operator and Purchaser (MDOP) shall ensure no adverse effect on lives and livelihoods of the habitats near the location of the riverbed is made by their operations

10. Performance Security and Security Deposit

10.1 Submission of Performance Security

- 10.1.1 The Preferred Bidder prior to the signing of the agreement shall submit a Performance Security in the form of Bank Guarantee in accordance to Annexure 5: Format for Performance Security.
- 10.1.2 This Bank Guarantee shall be from a Scheduled Bank as listed in the Second Schedule of the Reserve Bank of India Act, 1934, excluding those listed under the headings of Gramin Banks, Urban Co-operative Banks and State Co-operative Banks in favour of WBMDTCL.
- 10.1.3 The amount of Performance Security should be as mentioned in the data sheet.
- 10.1.4 The Performance Security should be valid for the entire contract period plus an additional 180 days from the date of execution of Agreement
- 10.1.5 The Performance Security shall be returned to the Successful Bidder after successful completion of the contract.

10.2 Appropriation of Performance Security

- 10.2.1 In case of any default in terms of the agreement, WBMDTCL will encash amount of shortfall or compensation from the performance security Bank Guarantee. In such case of partial encashment, the original value of the performance Bank Guarantee will be restored within 15 days.
- 10.2.2 In case of termination of the Agreement as per Section 11, WBMDTCL may forfeit and invoke the entire amount of the Performance Security.

10.3 Submission of Security Deposit

- 10.3.1 The MDOP shall deposit interest free amount equivalent to the Facilitation Fee of quarterly Schedule on Minimum Guaranteed Production with WBMDTCL every year as Security Deposit as per clause E of the draft mining and purchase agreement(Annexure 6).
- 10.3.2 The Security Deposit shall be returned to the Successful Bidder after successful completion of the contract.

11. Termination

WBMDTCL shall have the right to terminate this Agreement in the event:

- a. The MDOP fails to mine Black Stone in accordance with the Approved Mining Plan for a continuous period of six (6) months or more;
- b. The MDOP is adjudged bankrupt or insolvent.
- c. The MDOP is ordered to be wound up by a court of competent jurisdiction.
- d. The MDOP fails to make payment as per this Agreement and such failure continues for a period of 90 (ninety) days and in the event of non-renewal/extension of lease period or other statutory approvals by GoWB or any other competent authority.
- e. In case the MDOP commits breach of the terms and conditions and stipulated clauses then WBMDTCL shall inform the MDOP in writing to set right or rectify the breach of any of the terms within 30 days of the receipt of such notice and if even after this, the MDOP fails to rectify the said breach within the said period then this contract may be terminated by WBMDTCL and upon such termination of this contract, but for the rights which have accrued prior to the date of termination, all the rights of the parties to this contract shall immediately cease and determined and WBMDTCL will set right or rectify the breach at the cost and expense of the MDOP.
- f. For the avoidance of doubt it is expressly agreed and declared that in the event of any of the terms and conditions of this contract liable to be vitiated as being not enforceable, such defect shall not vitiate the other provisions of this agreement, which may be legally valid, effectual and binding on the parties hereto.
- g. In "Public Interest" at any point of time.
- h. In the event project becomes financially or technically non viable for any other parties the contract can be terminated by mutual consent.

12. General Terms and Conditions

12.1 Fraud & Corrupt Practices

- 12.2.1 The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the tender process and subsequent to the award of the contract. Notwithstanding anything to the contrary contained herein, WBMDTCL may reject a bid or terminate the Mining and Purchase Agreement as the case may be, without being liable in any manner whatsoever to the Bidder, Technically Qualified Bidder, Preferred Bidder or the Successful Bidder, as the case may be, if WBMDTCL determines that the Bidder, Technically Qualified Bidder, Preferred Bidder or Successful Bidder, as the case may be, has, directly or indirectly or through an agent, engaged in Corrupt Practice, Fraudulent Practice, Coercive Practice, Undesirable Practice or Restrictive Practice in the tender process. In such an event WBMDTCL shall be entitled to forfeit and appropriate the EMD or Performance Security, as the case may be, as damages, without prejudice to any other right or remedy that may be available to the WBMDTCL under the Tender Document and/ or otherwise.
- 12.2.2 Without prejudice to the rights of WBMDTCL under Clause 12.2.1 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 such 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 or restrictive practice, as the case may be. WBMDTCL shall also take remedial measures against such bidder available to it under the provisions of the Competition Act, 2002 in case of collusive bidding or bid rigging
- 12.2.3 For the purposes of this Clause 12.2, the following terms shall have the meaning hereinafter respectively assigned to them:
- (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 tender 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 tender process or arising there from, before or after the execution thereof, at any time prior to the expiry of 1 year from the date such official resigns or retires from or otherwise ceases to be in the service of WBMDTCL, shall be deemed to constitute influencing the actions of a person connected with the tender process); or (ii) save and except as permitted under this tender document, engaging in any manner whatsoever, whether during the tender process or after execution of the Mining and Purchase Agreement, as the case may be;
 - (b) "Fraudulent Practice" means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the tender 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 tender process;
 - (d) "Undesirable Practices" 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 tender process; (ii) having a conflict of interest; or (iii) violating of any Applicable Law; and

- (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 tender process.
- (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

12.3 Conflict of Interest

12.3.1 A bidder 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. The bidder shall submit an Affidavit to this effect as per the format given in Annexure 3. A bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:

The bidder, its Subsidiary/ Subsidiaries and/or Holding company/LLP and/or the Subsidiary/ Subsidiaries of its Holding company/LLP/PARTNERSHIP FIRM and any other bidder, Subsidiary/ Subsidiaries and/or Holding company/LLP/PARTNERSHIP FIRM and/or the Subsidiary/ Subsidiaries of its Holding company/LLP/PARTNERSHIP FIRM have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of a bidder, Subsidiary/ Subsidiaries and/or Holding company/LLP/PARTNERSHIP FIRM and/or the Subsidiary/ Subsidiaries of its Holding company/LLP/PARTNERSHIP FIRM (or any shareholder thereof having a shareholding of more than 5% (five percent) of the paid up and subscribed share capital of such bidder, Subsidiary/ Subsidiaries and/or Holding company/LLP/PARTNERSHIP FIRM and/or the Subsidiary/ Subsidiaries of its Holding company/LLP/PARTNERSHIP FIRM, as the case may be) in the other bidder, its Subsidiary/ Subsidiaries and/or Holding company/LLP/PARTNERSHIP FIRM and/or the Subsidiary/ Subsidiaries of its Holding company/LLP/PARTNERSHIP FIRM is less than 5% (five percent) of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company/LLP/PARTNERSHIP FIRM, pension fund or a public financial institution referred to in section 4A of the Companies Act, 1956. For the purposes of this Clause 12.3.1, indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the "Subject Person") shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub clause (bb) if the shareholding of such person in the intermediary is less than 26% of the subscribed and paid up equity shareholding of such intermediary; or

- (a) such bidder, or its Subsidiary/ Subsidiaries and/or Holding company/LLP/PARTNERSHIP FIRM and/or the Subsidiary/ Subsidiaries of its Holding company/LLP/PARTNERSHIP FIRM receives or has received any direct

or indirect subsidy, grant, concessional loan or subordinated debt from any other

bidder, or any Subsidiary/ Subsidiaries and/or Holding company/LLP/PARTNERSHIP FIRM and/or the Subsidiary/ Subsidiaries of its Holding company/LLP/PARTNERSHIP FIRM or has provided any such subsidy, grant, concessional loan or subordinated debt to any other bidder, its Subsidiary/ Subsidiaries and/or Holding company/LLP/PARTNERSHIP FIRM and/or the Subsidiary/ Subsidiaries of its Holding company/LLP/PARTNERSHIP FIRM; or

(b) such bidder has the same legal representative for purposes of this Bidding Process as any other bidder; or

(c) such bidder, or any Subsidiary/ Subsidiaries and/or Holding company/LLP/PARTNERSHIP FIRM and/or the Subsidiary/ Subsidiaries of its Holding company/LLP/PARTNERSHIP FIRM has a relationship with another

bidder, or any Subsidiary/ Subsidiaries and/or Holding company/LLP/PARTNERSHIP FIRM and/or the Subsidiary/ Subsidiaries of its Holding company/LLP/PARTNERSHIP FIRM, directly or through common third party/ parties, that puts either or both of them in a position to have access to each other's information about, or to influence the bid of either or each other; or

(d) such bidder, or any Subsidiary/ Subsidiaries and/or Holding company/LLP/PARTNERSHIP FIRM and/or the Subsidiary/ Subsidiaries of its Holding company/LLP/PARTNERSHIP FIRM has participated as a consultant to WBMDTCL in the preparation of any documents, design or technical specifications of the Project

12.3.2 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 and/or Holding company/LLP/PARTNERSHIP FIRM and/or the Subsidiary/ Subsidiaries of its Holding company/LLP/PARTNERSHIP FIRM, as the case may be, in any manner for matters related to or incidental to the Project. This disqualification shall not apply where such adviser is engaged after a period of 12 (twelve) months from the date of issuance of LOI.

12.4 Clarification:

12.4.1 WBMDTCL also reserves the right to ask for clarifications/additional documents from the bidders

12.5 Deviations

12.5.1 WBMDTCL reserves the right to waive non-substantial deviations without being bound to do so. The list of non-substantial deviations are as follows:

- (a) Minor or insubstantial deficiency in supporting documents submitted, acceptance of which does not provide unfair advantage to the bidder;
- (b) Ambiguities and inconsistency in language of the bid;
- (c) Simple omissions and mistakes;

- (d) Deviations which do not affect in any way the scope and quality of performance of the agreement;

12.6 Miscellaneous

12.6.1 WBMDTCL, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to:

- (a) suspend and/ or cancel the Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
- (b) consult with any bidder in order to receive clarification or further information;
- (c) qualify or not to qualify any bidder and/ or to consult with any bidder in order to receive clarification or further information;
- (d) retain any information and/ or evidence submitted to WBMDTCL by, on behalf of, and/ or in relation to any bidder; and/ or
- (e) independently or otherwise verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any bidder

12.6.2 It shall be deemed that by submitting its bid, the bidder agrees and releases WBMDTCL, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder and the Bidding Documents, pursuant hereto, and/ or in connection with the Bidding Process, to the fullest extent permitted by applicable law, and waives any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.

13. Force Majeure

13.1.1 Meaning

Force Majeure Event shall mean any event or circumstance or a combination of events and circumstances set out hereunder and the consequence(s) thereof which affect or prevent the Party claiming force majeure ("Affected Party") from performing its obligations in whole or in part under this Agreement and which event or circumstance (i) is beyond the reasonable control. Such events shall be:

- Acts of God or natural disasters beyond the reasonable control of the Affected Party which could not reasonably have been expected to occur, including but not limited to storm, cyclone, typhoon, hurricane, flood, landslide, drought, lightning, earthquakes, volcanic eruption, fire or exceptionally adverse weather conditions affecting the implementation of this Agreement;
- Radioactive contamination, ionizing radiation;
- Epidemic;
- An act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist or military action, nuclear blast/explosion or sabotage;

- Any event or circumstances of a nature analogous to any of the foregoing;
- A Change in Law of the land, which prevents execution of the contract in any way;
- Strike, riot, civil-commotion.

13.1.2 Notice of Force Majeure Event

The Affected Party shall give notice to the other Party in writing of the occurrence of any Force Majeure Event (the "Force Majeure Notice") as soon as the same arises or as soon as reasonably practicable and in any event within 7 (seven) days after the Affected Party knew, or ought reasonably to have known, of its occurrence and the adverse effect it has or is likely to have on the performance of its obligations under this Agreement.

The Notice shall inter alia include full particulars of:

- Nature, time of occurrence and extent of the Force Majeure Event with evidence in respect thereof;
- Duration or estimated duration and the effect or probable effect which such Force Majeure Event has or will have on the Affected Party's ability to perform its obligations or any of them under this Agreement;
- Measures which the Affected Party has taken or proposes to take, to a
- Alleviate the impact of the Force Majeure Event or to mitigate the damage; and
- Any other relevant information so long as the Affected Party continues to claim to be affected by a Force Majeure Event.
- Documentary evidence of such occurrence.

13.1.3 Period of Force Majeure

Period of Force Majeure shall mean the period from the time of occurrence of the Force Majeure Event specified in the notice given by the Affected Party in respect of the same until the expiry of the period during which the Affected Party is excused from performance of its obligations.

13.1.4 Performance Excused

The Affected Party, to the extent rendered unable to perform its obligations or part thereof in spite of exercise of due diligence, under this Agreement as a consequence of the Force Majeure Event shall be excused from performance of the obligations provided that the excuse from performance shall be of no greater scope and of no longer duration than is reasonably warranted by the Force Majeure Event. Notwithstanding any provision of this, Force Majeure Event shall not absolve the Parties from any obligation to make payment in respect of its obligations under this Agreement in the event such payment obligations have arisen or accrued prior to the occurrence of the Force Majeure Event. The Force Majeure Event shall not relieve any Party from its obligation to comply with Applicable Laws.

13.1.5 Resumption of Performance

During the Period of Force Majeure, the Affected Party shall in consultation with the other Party, make all reasonable efforts to limit or mitigate the effects of the Force Majeure Event on the performance of its obligations under this Agreement. The Affected Party shall also make efforts to resume performance of its

obligations under this Agreement as soon as possible and upon resumption shall notify the other Party of the same in writing. The other Party shall afford all reasonable assistance to the Affected Party in this regard.

13.1.6 Costs, Revised Timetable

Each Party shall bear its costs, if any, incurred as a consequence of the Force Majeure Event.

To the extent the performance of the obligations of the Affected Party is affected by the Force Majeure Event, the time period for the performance of the obligations of the Affected Party shall be extended by a similar time period on a day to day basis.

13.1.7 Consultation and duty to mitigate

The Parties shall consult with each other to determine the reasonable measures to be implemented to minimize the losses of each Party resulting from the Force Majeure Event. Except as specifically stated to the contrary, no Party shall be relieved of its obligations under this Agreement by reason of impossibility of performance or any other circumstance whatsoever beyond its control.

In the event the Force Majeure Event continues for a period of 180 (one hundred and eighty) days or more within a continuous period of 365 (three hundred and sixty five) days, the Parties may terminate this Agreement by mutual consent.

14. Consideration and Payment

Consideration and Payment will be as per Clause "O" of the Draft Mining and Purchase Agreement in Annexure 6

15. Draft Mining and Purchasing Agreement

- 15.1 A copy of the draft Mining and Purchasing Agreement is placed as annexure 6
- 15.2 All terms and conditions of Draft Mining and Purchasing Agreement will be fully binding on the MDOP.
- 15.3 If there is any conflict between the RFP and the Draft Mining and Purchasing Agreement, the Mining and Purchasing Agreement will be override.
- 15.4 The Draft Mining and Purchasing Agreement is not negotiable. The preferred Bidder has to sign the agreement without any modification.

Note: The Bidder must thoroughly go through the Draft Mining and Purchase Agreement in Annexure 6 before submitting their Bid.

Annexure 1: Format for Bid Letter

Commercial Proposal are true and correct; nothing has been omitted which renders such information misleading or incomplete; and all documents accompanying the Techno- Commercial Proposal are true copies of their respective originals.

(To be submitted on the letterhead of the Bidder)

Letter No. [•]

Dated: [•]

From

Bidder's name and address

Details of Authorized Signatory

Name :

Designation :

Telephone No. :

Mobile No. :

Fax No. :

Email :

To

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

Dear Sir,

Subject: Submission of Techno-Commercial Proposal for Selection of Mine Developer, Operator and Purchaser (MDOP) for Mining and Purchase of Black Stone from Palsara - I & III Black Stone Deposit at Mouza - Palsara, JL No. – 121, P.S. – Kashipur, District – Purulia, West Bengal. Plot Nos. – 2547, 3162, 3163 (P), 3164, 3549 & 3834 (P), Area- Palsara-I: 28.00 Acre (Present Area for Quarring: 4.29 Acre) & Palsara- III: 8.66 Acre.

1. With reference to your RFP No MDTC/BLACK STONE/MDTC-P-141/574 dated 21.03.2022, we have examined the tender document and understood its contents, hereby submit our Bid for Selection of MDOP for Mining and Purchase of Black Stone from Palsara - I & III Black Stone Deposit at Mouza - Palsara, JL No. – 121, P.S. – Kashipur, District – Purulia, West Bengal. Plot Nos. – 2547, 3162, 3163 (P), 3164, 3549 & 3834 (P), Area- Palsara-I: 28.00 Acre (Present Area for Quarring: 4.29 Acre) & Palsara- III: 8.66 Acre.. Our Bid is unconditional and unqualified.
2. I/ We acknowledge that WBMDTCL will be relying on the information provided in the Techno-Commercial Proposal and the documents accompanying the Techno-Commercial Proposal for qualification of the Bidders, and we certify that all information provided in the Techno-Commercial Proposal are true and correct; nothing has been omitted which renders such information misleading or incomplete; and all documents accompanying the Techno-Commercial Proposal are true copies of their respective originals.
3. This Techno-Commercial Proposal is being submitted for the express purpose of qualifying as a Bidder for the Selection of MDOP for Mining and Purchase of Black Stone from Palsara - I & III Black Stone Deposit at Mouza - Palsara, JL No. – 121, P.S. – Kashipur, District – Purulia, West Bengal. Plot Nos. – 2547, 3162, 3163 (P), 3164, 3549 & 3834 (P), Area- Palsara-I: 28.00 Acre (Present Area for Quarring: 4.29 Acre) & Palsara- III: 8.66 Acre.

4. We acknowledge the right of WBMDTCL to reject our Techno-Commercial Proposal/ Bid without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
5. We understand that WBMDTCL may cancel the Bidding Process at any time and that you are neither bound to accept any Techno-Commercial Proposal/ Bid that you may receive nor to invite the Bidders to Bid for the Project, without incurring any liability to the Bidders.
6. We believe that I/ we satisfy all the Qualification Requirements as specified in the tender document and are/ is qualified to submit a Bid.
7. We declare that I/ we or our Subsidiary/ Subsidiaries and/or Holding company/LLP/PARTNERSHIP FIRM and/or the Subsidiary/ Subsidiaries of such Holding company/LLP/PARTNERSHIP FIRM are not another Bidder/ or any other bidder submitting a Techno-Commercial Proposal/ Bid for Selection of MDOP for Mining and Purchase of Black Stone from Palsara - I & III Black Stone Deposit at Mouza - Palsara, JL No. – 121, P.S. – Kashipur, District – Purulia, West Bengal. Plot Nos. – 2547, 3162, 3163 (P), 3164, 3549 & 3834 (P), Area- Palsara-I: 28.00 Acre (Present Area for Quarring:4.29 Acre) & Palsara- III: 8.66 Acre..
8. We certify that in regard to matters other than security and integrity of the country, we/ our Subsidiary/ Subsidiaries and/or Holding company/LLP/PARTNERSHIP FIRM and/or the Subsidiary/ Subsidiaries of such Holding company/LLP/PARTNERSHIP FIRM have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
9. We further certify that in regard to matters relating to security and integrity of the country, I/ we or our Subsidiary/ Subsidiaries and/or Holding company/LLP/PARTNERSHIP FIRM and/or the Subsidiary/ Subsidiaries of such Holding company/LLP/PARTNERSHIP FIRM have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.
10. We further certify that no investigation by a regulatory authority is pending either against me/ us or our Subsidiary/ Subsidiaries and/or Holding company/LLP/PARTNERSHIP FIRM and/or the Subsidiary/Subsidiaries of such Holding company/LLP/PARTNERSHIP FIRM or against our CEO or any of our directors/ managers/ employees.
11. We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the provisions of this tender document, we shall intimate WBMDTCL of the same immediately.
12. The Techno-Commercial Proposal and Bid submitted by us shall be valid for a minimum period of 180 (one hundred and eighty) days from Bid Due Date or any extension thereof as requested by WBMDTCL.
13. We further declare that by submitting this Bid, we agree to be bound by the terms and conditions of the tender document.

Thanking you,

Yours faithfully,

(Signature of Authorized Signatory)

Name:

Designation:

Common Seal:

Date:

Place:

Annexure 2: Format for Power of Attorney

(To be executed on stamp paper of appropriate value)

Know all men by these presents, we..... (Name of the bidder

and address of the registered office) do hereby irrevocably constitute, nominate, appoint and

authorize Mr/ Ms (name),..... son/daughter/wife of and presently residing at , who is presently employed with us and holding the position of , as our true and lawful attorney (hereinafter referred to as the "Attorney") to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our application for qualification and submission of our bid for the Selection of MDOP for Mining and Purchase of Black Stone from Palsara - I & III Black Stone Deposit at Mouza - Palsara, JL No. – 121, P.S. – Kashipur, District – Purulia, West Bengal. Plot Nos. – 2547, 3162, 3163 (P), 3164, 3549 & 3834 (P), Area- Palsara- I : 28.00 Acre (Present Area for Quarring:4.29 Acre) & Palsara- III: 8.66 Acre being developed by MDOP including but not limited to signing and submission of all applications, bids and other documents and writings, participate in pre-bid meeting and other meetings and providing information/ responses to WBMDTCL, representing us in all matters before WBMDTCL, participation in the bidding process, representing us in all matters before WBMDTCL, signing and execution of all contracts and undertakings consequent to acceptance of our bid, and generally dealing with WBMDTCL in all matters in connection with or relating to or arising out of our bid for the said Project and/ or upon award thereof to us and/or till the entering into agreement with WBMDTCL.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

AND that a resolution to this effect was passed during the meeting of the Board of Directors of the company/LLP/PARTNERSHIP FIRM held on [•] at [•].

IN WITNESS WHEREOF WE,....., THE ABOVE NAMED PRINCIPAL HAVE

EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF.....

2022.

For

.....

(Signature, name, designation and address)

Witnesses:

1.

2.

Accepted

[Notarized]

(Signature)

(Name, Title and Address of the Attorney)

Notes:

The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.

The Bidder should submit for verification a certified true copy of the Board Resolution in favor of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.

For a Power of Attorney executed and issued overseas, the document will also have to be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention 1961 are not required to be legalized by the Indian Embassy if it carries a conforming Apostille certificate.

Annexure 3: Format for Affidavit

(To be executed on stamp paper of appropriate value and duly sworn before a first class magistrate)

Letter No. [●]

Dated: [●]

To

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

Subject: Submission of Techno-Commercial Proposal for Selection of Mine Developer, Operator and Purchaser (MDOP) for Mining and Purchase of Black Stone from Palsara - I & III Black Stone Deposit at Mouza - Palsara, JL No. – 121, P.S. – Kashipur, District – Purulia, West Bengal. Plot Nos. – 2547, 3162, 3163 (P), 3164, 3549 & 3834 (P), Area- Palsara-I: 28.00 Acre (Present Area for Quarring: 4.29 Acre) & Palsara- III: 8.66 Acre.

Sir,

We hereby solemnly declare that in respect of any tender/ contract issued by a government or any government instrumentality:

- (a) none of our contracts have been terminated or foreclosed due to their default during the last ten (10) years from the RFP publication date;
- (b) as on the RFP publication date the bidder is not blacklisted, banned, de-listed or suspended or under purchase holiday in connection with any tender/ contract for Mining of minerals and related businesses;
- (c) we have not breached any terms of tenders or contracts, which could result in the rejection of our bids or cancellation of our contracts, as applicable;
- (d) we have examined and have no reservations to the RFP document, including any Corrigendum (a)/ Amendment(s) issued by WBMDTCL;
- (e) we do not have any conflict of interest in accordance with Clause 12.3 of the RFP document;
- (f) we have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, collusive bidding or bid rigging as defined in Clause 12.2 of the RFP document; we also undertake to ensure that no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice or collusive bidding or bid rigging;
- (g) we have not been found guilty of offences involving bribery, corruption, fraud, offences against the state including loyalty to the state and non-payment of statutory dues to any government or government instrumentality;

- (h) there is no instance of winding up/insolvency or other proceedings of a similar nature is pending against us or a receiver has been appointed for our assets;
- (i) none of the directors of our company/LLP/PARTNERSHIP FIRM have been convicted in any cognizable offence by any court of law; irrespective of whether the conviction is pending under appeal in a higher court, unless the conviction is stayed by the higher court.

We further declare that:

- (a) All information furnished by us either in any self-certified supporting document or any other document in respect of fulfilment of eligibility criteria of this tender is complete, correct and true
- (b) All documents/ credentials submitted with this tender are genuine, authentic, true and valid
- (c) If it is found at any point of time that our documents are not genuine or false or forged then in that case our tender will be rejected, Bid Security by us will be forfeited and we will be debarred from participating in further/ future WBMDTCL tenders and/ or any action as deemed fit by WBMDTCL may be taken against us, including termination of the contract, forfeiture of all dues including forfeiture of Bid Security and banning/ delisting of our entity and all related persons etc. for 3 (three) years
- (d) Decision whether the documents submitted are genuine and authentic, will be taken by WBMDTCL based on verification and will be final and binding on the bidder
- (e) The bidder will allow WBMDTCL to verify all such internal documents of the bidder on demand by WBMDTCL

(Signature of the Authorized Signatory)

(Official Seal)

Name:

Designation:

Annexure 4: Format for Declaration against Blacklisting

(To be notarized and submitted by the Bidder)

Date:

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

Dear Sir,

I/we hereby solemnly declare that none of our directors jointly or severally and/or individually or our company/LLP/PARTNERSHIP FIRM is not presently black listed by the Central Government or any State Government Department / Public Sector Undertakings / agency / organization in India in relation to Mining of minerals and related businesses. We do not have any order/declaration of insolvency, judgment or order of punishment/sentence by any court of law or any judicial/quasi-judicial body restraining us from participating in this Tendering Process during last 5 (Five) Years period from the bid due date.

I/we hereby further declare that, if the declaration is found untrue at any time, WBMDTCL shall be entitled to take any action against us severally and/or individually or company/LLP/PARTNERSHIP FIRM in this regard in any manner that may be deemed fit by WBMDTCL.

Thanking you,

Yours faithfully,

(Signature of Authorized Signatory)

Name:

Designation:

Common Seal:

Date:

Place:

Annexure 5: Format for Performance Security

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:

1. (the "Mine Developer, Operator and Purchaser") and [name of the company/LLP/PARTNERSHIP FIRM] represented by *** and having its principal offices at ***** ("WBMDTCL") have issued a LOI vide No. _____ dated..... (the "LOI") whereby WBMDTCL has agreed to execute an "Agreement" for the job of Mining and Purchase of Black Stone from Palsara - I & III Black Stone Deposit at Mouza - Palsara, JL No. – 121, P.S. – Kashipur, District – Purulia, West Bengal. Plot Nos. – 2547, 3162, 3163 (P), 3164, 3549 & 3834 (P), Area- Palsara-I : 28.00 Acre (Present Area for Quarring:4.29 Acre) & Palsara- III: 8.66 Acre.
2. The Agreement requires the Mine Developer, Operator and Purchaser (MDOP) 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 Agreement, during the Contract Period and up to 180 (one hundred and eighty) days 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 the MDOP's obligations, under and in accordance with the provisions of the Agreement, on its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the MDOP, such sum or sums up to 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 Mine Developer, Operator and Purchaser (MDOP) has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the 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 Mine Developer, Operator and Purchaser (MDOP) is in default in due and faithful performance of its obligations under the Agreement and its decision that the Mine Developer, Operator and Purchaser (MDOP) is in default shall be final, and binding on the Bank, notwithstanding any difference between WBMDTCL and the MDOP, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the Mine Developer, Operator and Purchaser (MDOP) 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 Mine Developer, Operator and Purchaser (MDOP) 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 Mine Developer, Operator and Purchaser (MDOP) 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 Mine Developer, Operator and Purchaser (MDOP) contained in the Agreement or to postpone for any time, and from time to time, any of the rights and powers exercisable by WBMDTCL against the Desilting/Dredging/removal of river bed materials MDOP, 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 Mine Developer, Operator and Purchaser (MDOP) 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 Mine Developer, Operator and Purchaser (MDOP) under the 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 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) 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:

(Signature)

(Name)

(Designation)

(Code Number)

(Address)

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.

Annexure 6: DRAFT MINING & PURCHASE AGREEMENT

This Agreement is made at Kolkata on this _____ the _____ day of _____, 2022.

BETWEEN

WEST BENGAL MINERAL DEVELOPMENT & TRADING CORPORATION LIMITED (CIN U14219WB1973SGC028707), a Government of West Bengal Undertaking, incorporated under the Companies Act, 1956 having its Registered Office at DJ – 10, 3rdFloor, Sector – II, Salt Lake, Kolkata-700 091, [hereinafter referred to as “**WBMDTCL**” which expression shall unless excluded by or repugnant to the subject or context be deemed to include its successors and permitted assigns] of the **First Part**;

AND

_____, (CIN _____), a Company within the meaning of the Companies Act, 2013 and having its registered office at _____, [hereinafter referred to as (“**Mine Developer, Operator and Purchaser**” / “**MDOP**”), which expression shall unless excluded by or repugnant to the subject or context be deemed to include its permitted successors and assigns] of the **Second Part**.

WBMDTCL and MDOP are hereinafter individually referred to as “**Party**” and collectively as “**Parties**”.

WHEREAS:

- 1) The Government of West Bengal (“**GoWB**”), acting through WBMDTCL is desirous of utilizing its natural resources and rapidly industrializing the State of West Bengal, so as to bring prosperity and well being to its people. Towards this end, GoWB has been making determined efforts to establish new industries in different locations in the state of West Bengal.
- 2) WBMDTCL is wholly owned by GoWB and is entrusted, inter alia, with the task of development and exploitation of the mineral resources available in the State of West Bengal and its trading with a view to utilize the mineral resources of the State of West Bengal for improving the economic growth of the people of the State and the Nation as a whole.
- 3) A lease deed has been executed between Government of West Bengal through its Industry, Commerce & Enterprises Department (erstwhile Commerce & Industries Department)(“**GOWB**”)and WBMDTCL for an area of 28.00 acres at Plot No. 2547, Mouza Palsara P.S. Kashipur, District – Purulia to WBMDTCL for the purpose of Black Stone mining by WBMDTCL. The Lease Deed is valid till 31.01.2025. Here in the area is named as Palsara-I.
- 4) Further, the Government of West Bengal through its Industry, Commerce & Enterprises Department (“**GOWB**”), vide its Letter No.532-CI/O/MIN/MM/71/10(Pt) dt.22.12.2021 has allotted another area of 8.66 acres at Plot Nos. 3162, 3163(P), 3164, 3549 & 3834(P), Mouza- Palsara, P.S.- Kashipur, District– Purulia to WBMDTCL for the purpose of Black Stone mining. Pursuant to this, WBMDTCL will be granted a mining lease for the said area (the “**Mining Lease**”) by the GoWB after obtaining statutory clearances. Here in the area is named as Palsara-III.
- 5) WBMDTCL intends to mine and sell Black Stone from Palsara-I & Palsara-III and thereby floated e-Tender inviting offers from resourceful Companies to undertake the aforesaid job. The terms & conditions set-forth in the

Bid Document/RFP Document are part and parcel of this Agreement, subject to subsequent modifications as accepted by both parts.

6) The MDOP having been selected in the bid offers has been approached by WBMDTCL for undertaking mining operation as well as purchasing of Black Stone from the aforesaid mining areas.

7) WBMDTCL is entering into this Mining and Purchase Agreement with the MDOP to carry out Black Stone mining operation in the areas for the contract period from the date of execution of this Agreement. This Agreement may be renewed for further period on the same terms & conditions and/or such further terms & conditions as may be imposed by WBMDTCL and GoWB.

8) The Parties in order to enable successful implementation of the Project, and for reasons mentioned in the above Recital, are executing this Agreement to define the rights, responsibilities, obligations and liabilities of each of the Parties inter-se, towards the Project and its implementation thereof.

NOW THEREFORE, in consideration of the foregoing mutual covenants and undertakings contained in this Agreement and intending to be legally bound thereby the parties hereby agree as follows:

A. DEFINITIONS AND INTERPRETATION

I. Definitions:

In this Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter assigned to them:

"Accounting Year" means the financial year commencing from 1st April of any calendar year and ending on 31st March of the next calendar year.

"Affiliate" in relation to any Party, shall mean any Person directly or indirectly controlling, controlled by, or under direct or indirect common control with, such Person. For the purpose of this definition, the term **"Control"** (including the terms "controlled by" and "under common control") shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of that person, through ownership or voting.

"Agreement" means this Mining and Purchase Agreement and any amendments thereto made in accordance with the provisions contained in this Agreement.

"Applicable Laws" shall mean all laws, promulgated or brought into force and effect by GoI or GoWB including Regulations and Rules made there under and judgments, decrees, injunctions, writs and orders as may be in force and effect during the subsistence of this Agreement, which affect the activities to be carried on or as envisaged in this Agreement.

"Applicable Permits" means all clearances, permits, authorizations, consents and approvals required to be obtained and/ or maintained under Applicable Laws in connection with design, engineering, financing, procurement, construction, operation, environmental, safety and maintenance of the Project during the subsistence of this Agreement.

"Approved Mining Plan" means the mining plan approved by the Chief Mining Officer, GoWB under the West Bengal Minor Mineral Concession Rules, 2016 or any other authority or law being in force during the tenure of this Agreement.

"Black Stone" or "Mineral" shall mean the Black Stone mined from the Palsara-I and Palsara-III Black Stone mines in the state of West Bengal, by the MDOP on behalf of WBMDTCL.

"Business Day" shall mean the day, comprising of normal working hours, on which scheduled banks conduct business operations in Kolkata, India.

"Cess" means various kinds of cess charged under different statutes, viz., Bengal Cess Act, 1880, West Bengal Rural Employment & Production Act, 1976, West Bengal Primary Education Act, 1973 and any other applicable statute.

"Change in Law" means occurrence of any of the following events after the execution of this Agreement resulting in a Party being prevented in the performance of its obligations under this Agreement:

- a) Enactment, adoption or promulgation of any new Applicable Law.
- b) The repeal in whole or in part (unless re-enacted with the same effect) or modification or amendment of any existing Applicable Law.
- c) The change in interpretation or application of any Applicable Law.
- d) The imposition of a requirement for an Applicable Permit(s) (other than for cause) not required on the date of this Agreement.
- e) After the date of grant of any Applicable Permit(s), a change in the terms and conditions attaching to such Applicable Permit(s) (other than for cause) or the attachment of any new terms and conditions to an Applicable Permit(s) (other than for cause).
- f) Any Applicable Permit(s) previously granted ceasing to remain in full force and effect, though there is no fault of or breach by a party (including a failure to renew), or if granted for a limited period, not being renewed on a timely basis on an application therefore having been duly made in good time.

"Clause" shall mean a clause in this Agreement.

"Commercial Production" means the date from which the Black Stone would be mined and is delivered at Delivery Point.

"Contract Period" means 3(three) years from Effective Date.

"Corporate Social Responsibility" or "CSR" shall mean continuing commitment by business to behave in a socially responsible manner and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large"

"Dead Rent" shall mean dead rent payable in accordance with the West Bengal Minor Mineral Concession Rules, 2016.

"Delivery Challan" is a document signed by a person duly authorized in this behalf by competent authority of WBMDTCL recording delivery of Black Stone and prepared after measurement in Metric Tonne (MT) of each consignment and also recording the quantity of Black Stone delivered, the identification of the transport vehicle being used by MDOP and also containing the acknowledgement of receipt of Black Stone by MDOP.

"Effective Date" shall mean the date of execution of this Agreement.

"Facilitation fees" shall mean the amount in rupees that the MDOP will pay to WBMDTCL in terms of "X" per tonne of salable product.

"Force Majeure" shall mean an act, event, condition or occurrence specified in Clause Q.

"Force Majeure Notice" shall have the same meaning as ascribed to it in Clause Q.

"Gol" means the Government of India.

"GoWB" means the Government of the State of West Bengal.

"Inspector" means an inspector appointed by the relevant statutory inspection authority from time to time to inspect, test and certify the Weighbridge in accordance with Applicable Law.

"Lenders" shall mean financial institutions, banks, multilateral funding agencies and similar bodies undertaking lending business or their trustees including their successor or assignee (which is a Lender) who may provide financial assistance to the MDOP for meeting cost of all or any part of the Project.

"Mines Act 1952" shall mean Act No. 35 of 1952 as modified from time to time and is an act to amend and consolidate the law relating to the regulation of labour and safety in mines.

"Mines And Minerals (Development And Regulation) Act, 1957" shall mean Act No. 67 of 1957 as amended time to time and is an act to provide for the regulation of mines and the development of minerals.

"Mineral Concession Rules - 1960" shall mean the rules developed by the Central Government in exercise of power conferred by Section 13 of the Mines and Minerals (Regulation and Development) Act, 1957.

"MDOP" shall mean Mine Developer, Operator and Purchaser i.e. _____ or its permitted successors and/or assigns.

"Mine" shall mean the Palsara-I and Palsara III Mines under executed lease deeds between GoWB and WBMDTCL.

"Mine Closure" shall mean phase-wise restoration as provided in the Mine Closure Plan under approved Mining Plan.

"Mine Manager" shall have the meaning as ascribed to it in Clause I.

"Mine Site" shall mean Palsara-I and Palsara-III with surface features, roads, infrastructure, building, power line etc.

"Minimum Guaranteed Production" means 45000 MT in first year, 60000MT in second, third and fourth year from the date of commencement of commercial production.

"Mining Operations" shall mean all activities pertaining to extraction of Black Stone from the Mines as set out in this Agreement.

"Mining Lease" means the lease deed executed in favour of WBMDTCL by GoWB with respect to Mining Operations pursuant to the West Bengal Minor Mineral Concession Rules, 2016.

"Monthly Production Return (MPR)" shall mean detailed Black Stone production report of a particular month generated from a computerized management information system (MIS). MIS must be such that status of Black Stone production, dispatch, stock, etc. can be readily available at any point of time as may be required by WBMDTCL.

"Overburden" means any excavated material (like dead rock, stone, gravel, clay, morum, debris etc) other than Black Stone.

"Parties" means the parties to this Agreement collectively and **"Party"** shall mean any of the Parties to this Agreement individually.

“Person” means any individual, corporation, partnership, MDOP, body corporate, joint venture, trust, association, unincorporated organization or government, or any agency.

“Project” means all activities related to exploration, planning, engineering, financing, construction, operation and maintenance of Palsara-I and Palsara-III mines and shall include all such works as detailed in this Agreement including purchase of Black Stone mined from the mines.

“Project Assets” mean capital assets for the purpose of development of the Mines or for production of Black Stone owned or operated by the MDOP at the Mine Site.

“Recital” shall mean a recital in this Agreement.

“Royalty” has the same meaning as in the West Bengal Minor Mineral Concession Rules, 2016 as amended up to date.

“Rs.” or “Rupees” means the lawful currency of the Republic of India.

“Statutory obligations” shall include the entire obligations, which are to be complied with as per the provision of various existing legislation applicable to mine/plant/ working areas or to those, which may come into force during entire period of contract.

“Vesting Certificate” shall have the same meaning as ascribed to it in Clause T.

“WBMDTCL” means West Bengal Mineral Development & Trading Corporation Limited and shall include its successor and permitted assigns.

I. In this Agreement, unless the context otherwise requires:

(a) a document expressed to be "in the agreed form" means a document in a form which has been agreed by the parties contemporaneously with or before the execution of this Agreement and which has, for the purposes of identification, been signed or initiated by them or on their behalf;

(b) references to a clause or schedule are to a clause of, or a schedule to, this Agreement, references to this Agreement include its schedules and references in a schedule or part or section of a schedule to a paragraph are to a paragraph of that schedule or that part or section of that schedule;

(c) references to this Agreement or any other document or to any specified provision of this Agreement or any other document are to this Agreement, that document or that provision as in force for the time being and as altered from time to time in accordance with the terms of this Agreement or that document or, as the case may be, with the agreement of the relevant parties;

(d) words importing the singular include the plural and vice versa, words importing a gender include every gender and references to persons include corporations;

(e) the contents table and the descriptive headings to clauses, schedules and paragraphs are inserted for convenience only, have no legal effect and shall be ignored in the interpretation of this Agreement; and

(f) the words and phrases "other", "including" and "in particular" shall not limit the generality of any preceding words or be construed as being limited to the same class as the preceding words where a wider construction is possible.

I Measurements and Arithmetic Conventions

All measurements and calculations shall be in metric system and calculations done to 2 decimal places, with the third digit of 5 or above being rounded up and below 5 being rounded down.

B. EFFECTIVE DATE:

This Agreement shall take effect from the Effective Date.

As agreed between the parties herein, the commencement of Commercial Production will start within ____ business days from the Effective date.

C. SCOPE OF WORK OF THE MDOP:

Scope of work of Mine Developer, Operator and Purchaser (MDOP)

- 5.10.6 The scope of work shall be performance and execution by the MDOP of all plans, designs, engineering, procurement, construction, completion, operation, environmental, safety and maintenance and closure of the Mine, as per terms of this Agreement entirely at MDOP's own cost .
- 5.10.7 Assisting WBMDTCL in obtaining (as the case may be) all necessary approvals and consents in accordance with Applicable Law and Applicable Rules made there under.
- 5.10.8 Assisting and co-operating WBMDTCL as regards to the exploitation of the mineral deposit and establishment of proven/ mineable reserves.
- 5.10.9 Assisting and co-operating WBMDTCL as regards preparation of the mining plan and environment management plans as required under Applicable Law and Applicable Rules made there under.
- 5.10.10 Cooperating WBMDTCL and providing all documents and information necessary for WBMDTCL to obtain the Approvals and preparation of the reports required to be obtained or prepared by WBMDTCL under this Agreement.
- 5.10.11 Acquire at its own cost / arrangements land outside lease area (lease area will be provided by WBMDTCL) and pay all land price, fee, tax, arrears etc for Land purchase as may be required for the mine and/or setting up of necessary infrastructure.
- 5.10.12 Bearing the entire expenditure pertaining to mining operation which shall not be the responsibility of WBMDTCL.
- 5.10.13 Providing earth-moving machineries and other mining machineries for mining of mineral and removing Overburden and waste material for satisfactory functioning of the Mines in accordance (as may be required) with Approved Mining Plan, Mines Act, Regulations, Mines Rule, By Laws and Order made there under.
- 5.10.14 Providing all mining machineries for development and mining of mineral.
- 5.10.15 MDOP shall bear the cost and make timely payments for royalty, cess , DMF , income tax , GST surface rent and all other statutory payments as applicable and mandated by law
- 5.10.16 Extraction/mining of mineral as per Approved Mining Plan.
- 5.10.17 Excavation and removal of Overburden and waste material and dumping of the same in accordance with the environment impact assessment/environment management plan approved by Environment Dept., GoWB and as specified in the Approved Mining Plan and as directed by the statutory authorities and the Mine Manager.
- 5.10.18 Mine de-watering.
- 5.10.19 Construction and maintenance of all haul roads, workshops, stores, canteen, plant, pump, garland drains, rest shelter, first aid stations, effluent treatment plant for water recycling, mine water discharge treatment

plant, Stream diversion with permission from the competent authority, internal power supply arrangements for the Mines, communication network for the Mines etc.

- 5.10.20 Provision for mine illumination in the Mine as per prevalent laws.
- 5.10.21 Arrangement and use of explosives for the extraction of mineral from the Mines, when necessary.
- 5.10.22 Arrangement of petrol/diesel, oil and lubricants and all other materials for the mining operations.
- 5.10.23 Construction and maintenance of all assets.
- 5.10.24 Observances of specific conditions under environment and other clearances with development and operation of the Mine.
- 5.10.25 Purchase of full quantity of mineral mined from the mines.
- 5.10.26 Construction of offices and other related infrastructure for both MDOP and WBMDTCL.
- 5.10.27 MDOP shall have to bear any additional cost/levy/tax/cess imposed by statutory/judicial authorities during the period of operation of the mine
- 5.10.28 Rehabilitation and Resettlement of the persons affected by the project and resettle them at a suitable nearby area by providing housing facilities in case their dwelling units fall in mining project area.
- 5.10.29 All obligations related to mine closure as per the approved Mine plan and the accompanying mine closure plan.
- 5.10.30 Assisting WBMDTCL by all means towards Corporate Social Responsibility (CSR) activities.
- 5.10.31 Apart from the above
 - f. The MDOP shall also perform all acts as may be required to be performed by the statutory authorities and shall comply with the provisions of the Applicable Laws and Applicable Permits.
 - g. The MDOP shall render to WBMDTCL all assistance as WBMDTCL may require to perform its obligations under the Applicable Law and the Applicable Permits and also to enable WBMDTCL to carry out its obligations under this Agreement.
 - h. The MDOP shall arrange at its own cost any additional land if required for the mine and/or setting up of necessary infrastructure. MDOP shall pay necessary payments for the existing land as applicable.
 - i. The MDOP shall create at its own cost necessary infrastructure such as but not limited to administrative offices, medical facilities, service and residential buildings, workshop, store, security room, water supply and other requirements to be provided under the Mines Act, 1952, Regulations, Rules, By Laws made there under and as envisaged by this Agreement.
 - j. The MDOP shall perform the job of exploitation of the mineral in the Mine, as delineated in the Approved Mining Plan. Such extracted mineral shall be brought to the Weighbridge/Stockyard as directed by Mine Manager for storage and /or measurement, as may be required before dispatch.
 - i. The MDOP shall adhere to the production schedule stipulated in the Approved Mining Plan by utilizing the MDOP's own personnel and machineries. The MDOP undertakes to mine and purchase the Minimum Guaranteed Quantity of Black Stone.

j. The MDOP will comply with all the requisite environmental laws in and around the specified area of the Mine Site including the Mine as per the Approved Mining Plan and directives/conditions, if any, imposed by Ministry of Environment and Forest, GoI, West Bengal Pollution Control Board and/or any other statutory authorities and conditions imposed by GoI as regards the Approved Mining Plan.

k. Black Stone mining will be in accordance with Applicable Law including, inter alia, the provisions of the Mine and Minerals (Development and Regulation) Act, 1957, the Land Acquisition Act, 1894, Forest (Conservation) Act, 1980 and Forest Conservation Rules, 1981, Water (Prevention and Control of Pollution) Act, 1974 and Water (Prevention and Control of Pollution) Rules, 1974, Air (Prevention and Control of Pollution) Act, 1981 and Air (Prevention and Control of Pollution) Rules, 1981, Environmental (Protection) Act 1986, the Mine Act, 1952, the Mine Rules, 1955, Metalliferous Mine Regulations, 1961, the Contract Labour (Regulation & Abolition) Act, 1970 and Rules, 1971 and/or any other applicable Acts and Rules. The MDOP shall comply with all provisions of all applicable labour laws including but not limited to Workmen's Compensation Act, 1923, Payment of Wages Act, 1936, Payment of Bonus Act, 1965 and Payment of Gratuity Act, 1972 and/or any other applicable Acts and Rules. The MDOP shall be bound to indemnify WBMDTCL and keep the WBMDTCL indemnified at all time against all claims whatsoever in respect of such personnel under Applicable Law including the Workmen's Compensation Act, 1923 or any statutory modification thereof in respect of any damages or compensation payable in consequence of any accident or injury sustained by any workmen or other person whether in the employment of the MDOP or not. In the event of default subject to the situation beyond the control of the MDOP as specified in the Clause Q (Force Majeure clause), the Lead Member shall on behalf of the MDOP shall, if found guilty of violation of any environment law, pay such fine or penalty as may be imposed by relevant statutory authority.

D. OBLIGATIONS OF WBMDTCL

1 WBMDTCL covenants and agrees to inter alia observe, comply and perform the following:

a. Obtain all the Applicable Permits in accordance with the Applicable Law and necessary for implementation of the Project as required in the name of WBMDTCL including environmental clearances, approval of mining plan/scheme, approval of DGMS etc , as and when required,

b. Obtaining and maintaining all clearances, permits, consents, approvals, no objections, and all other statutory requirements in relation to performing the services hereunder and to assist the MDOP as per clause E in all respect as and when required.

c. Provide all reasonable assistance to the MDOP as may be required for acquisition of any additional land if required at the Mine Site.

d. Facilitate in obtaining the permissions for all necessary infrastructure facilities and utilities, including water, electricity and telecommunication facilities.

e. Provide the MDOP full access to and possession of the Mine on and from the date WBMDTCL is entitled to access and possession of the Mine;

f. Maintain at all times, good and valid title, free from any lien and encumbrances, the Mine and the Black Stone mined there from;

g. Appoint statutory personnel in accordance with the Applicable Law and/or the directives of Director General Mine Safety.

h. Keep the MDOP informed promptly and in any case not later than 7 (seven) Business Days from

the date of receipt of any statutory notice, summons or communication from any authority, court or quasi-judicial entity in relation to the Mining Lease or which in any manner, may affect the performance by the MDOP.

i. Make timely payment or adjustment of all the dues to the MDOP in accordance with the terms of this Agreement.

j. Being owner of the Mine under the Mine Act, 1952, shall fulfill all the obligations of the owner and shall comply with the Applicable Laws

k. Furnish any reports required under Applicable Law to government authorities;

l. Comply with the provisions of the Mining Lease and Applicable Laws.

2. It is clarified that:

a. WBMDTCL would not be required as per this Agreement to incur any cash or non cash financial obligation or give any indemnity or guarantee unless such obligation is in turn indemnified or guaranteed by the MDOP, including that for statutory and non-statutory personnel engaged in each Mine, in relation to the discharge of its obligations under this Agreement and

b. WBMDTCL would not be required as per this Agreement to make any filing for any Approval or prepare any report or plan unless it has received information and documents as requested from the MDOP in relation to the same.

E. OBLIGATIONS OF THE MDOP

a. To assist WBMDTCL to fulfill its obligations as per Clause D in all respect, as and when required, including providing Office Space & Office Vehicle.

b. Appoint statutory personnel in accordance with the Applicable Law and/or the directives of Director General Mine Safety.

c. Upon expiry or earlier termination of this Agreement by either Party, any liability arising out of manpower engaged by the MDOP will be the responsibility of the MDOP only and WBMDTCL shall in no way be responsible for this liability. It is clarified that all the statutory liabilities will be borne by the MDOP.

d. The MDOP shall be responsible for the purchase of entire quantity of Black Stone mined and for acknowledging of such delivery of Black Stone vide Delivery Challans.

e. It shall be the responsibility of the MDOP to obtain necessary insurance coverage against all business risks and losses including but not limited to third party risks, workmen's compensation, loss of production, etc. The MDOP shall also assist and furnish necessary information to WBMDTCL for obtaining insurance on assets owned by and risks borne by WBMDTCL.

f. The MDOP shall not dump any Overburden and waste materials at the pithead at any point of time and shall keep the mining debris on the dumping ground at its own cost. The dumping ground shall be a designated area as per Approved Mining Plan within the Mine Site and shall be under security which will be provided by the MDOP at his own cost. The MDOP shall carry out the work by adopting the safety methods prescribed by Applicable Laws. Scientific mining has to be carried out by the MDOP throughout the Mining Operation as per statutory safety provisions and norms prescribed by Director General Mine Safety, GOI and as per the Approved Mining Plan.

g. The MDOP shall furnish Monthly Production Return (MPR) of the Black Stone mined from the Mine, as may be required by WBMDTCL, duly countersigned and stamped by WBMDTCL's authorized representative .

h. All considerations and payments will be made by MDOP as per Clause O mentioned here under in this Agreement.

i. The MDOP shall mine and purchase the "Minimum Guaranteed Production" of Black Stone as follows:

- 80000 MT in first year of production.
- 88000 MT in second year of production.
- 88000 MT in third year of production.

For the purpose of this Agreement, the first year of production shall be from the commencement of operation

j. To pay/reimburse for incidental expenses pertaining to any approvals and/ or clearances that may be required to be obtained by WBMDTCL pertaining to Black Stone mining operation, as and when required by WBMDTCL and in any case not later than 15 (fifteen) business days from demand by WBMDTCL. WBMDTCL shall provide MDOP with details of the expenses incurred along with documentary evidence of expenses incurred within a reasonable period.

k. The MDOP shall stack and deliver the entire Black Stone extracted from the mine to WBMDTCL at the delivery point. MDOP shall ensure security of the Black Stone at the delivery point. MDOP shall be responsible for the purchase of entire quantity of saleable Black Stone mined and for acknowledging of such delivery of black stone vide delivery challans.

l. It shall be responsibility of the MDOP to obtain necessary insurance coverage against all business risks and losses including but not limited to third party risks, workmen's compensation, loss of production, etc.

m. The MDOP has furnished a Bank Guarantee (BG) for an amount of Rs. _____ (Rupees _____ only) as Performance Security for due and punctual performance and discharge of the obligations of MDOP including the minimum guaranteed production under this Agreement. The MDOP shall ensure that the Bank Guarantee shall at all material times be kept validated during the term of this Agreement. In case of any failure to do so, the permission to carry out the operation by MDOP will be withheld forthwith.

n. The MDOP shall deposit interest free amount equivalent to the Facilitation Fee of Quarterly Schedule on Minimum Guaranteed Production with WBMDTCL every year as Security Deposit. The MDOP shall deposit Rs. _____ (Rupees _____ only) for the 1st year before signing of this Agreement as Security Deposit. The Interest Free Security Deposit would be as follows :

Year	Minimum Guaranteed Production	Quantum of Security Deposit
1 st Year	80000 MT	Rs. _____
2 nd Year	88000 MT	The quantum of security deposit will be determined based on facilitation fees applicable for that year.
3 rd Year	88000 MT	The quantum of security deposit will be determined based on facilitation fees applicable for that year.

o. The security money for the preceding year will be refunded to the MDOP, as soon as the fresh revised amount, as per the table above of security deposit is paid to WBMDTCL for the next year for 2nd and 3rd year. The amount will be free from any interest payment by WBMDTCL. The security deposit shall be refunded to the

MDOP at the end of the Contract Period.

- p. In case of non payment of the above within a period 30 (Thirty) days of signing of agreement for the first year and the specified sum within 7 days of beginning of next year, the commencement of production and delivery of Black Stone will not be allowed to start in that year.
- q. In case any amount is appropriated by WBMDTCL from the security deposit, at any time during the Contract Period, such amount must be replenished by the MDOP, upon receipt of prior notice from WBMDTCL, within 10 days from the date of receipt of such notice. In case of any failure to do so, the permission to carry out the operation by MDOP will be withheld forthwith.
- r. In the event, MDOP fails to produce the minimum monthly guaranteed production, MDOP will pay within 7 days of beginning of next month facilitation fee at the rate, specified under Clause O(3)(b) of this Agreement for the shortfall quantity. Failing to pay total facilitation fee as specified above, equivalent amount may be encashed, by way of invoking the Bank Guarantee or from the Security Deposit. Permission for Mining and delivery of Black Stone shall be stopped when all dues of MDOP reaches 100% of the total BG Value and Security Deposit. In such cases WBMDTCL will send a notice of termination of contract to the MDOP immediately and initiate appropriate action to realise any outstanding amount from the MDOP.
- s. The MDOP shall ensure that the Bank Guarantee and Security money remains valid at all times and shall not be revoked at any time. The MDOP also agrees that in case WBMDTCL seeks to encash the BG furnished by the MDOP in terms of this agreement, the MDOP shall have no right to dispute or prevent the same.
- t. The MDOP shall ensure that they will reimburse 100% of the amount payable by WBMDTCL (Lessee) towards District Mineral Fund (DMF) as per applicable laws.
- u. It shall be the responsibility of the MDOP to settle any kind of agitation and civil commotion of the local people, Tribal's, if occurred, during the continuation of the mining activities, within the mining lease hold area with the assistance of WBMDTCL, as and when required. The MDOP will ensure that there is no health issue of the local inhabitants due to dust pollution. The MDOP will arrange for continuous dust suppression to prevent dust pollution.
- v. The MDOP will indemnify WBMDTCL and hold WBMDTCL harmless against any claim by any third party in respect of any agitation , civil commotion or disturbance as detailed in para 21 i.e "u" above.

F. RIGHTS OF WBMDTCL

1. WBMDTCL shall at all times remain the lessee of the Mine and in capacity of lessee shall be in occupation of the Mine. All Black Stone produced at the Mine shall remain the absolute property of WBMDTCL irrespective of its location till the same is transferred to the MDOP. The MDOP shall have no right, title, claim or lien on either the Mine or the Mining Lease or the Black Stone produced at the Mine. Provided however, title to all Project Assets installed at their cost shall remain with the MDOP.
2. WBMDTCL will also be the absolute owner of all waste products of any nature generated at the Mine and the MDOP is forbidden from dealing with and/or disposing of the same without the written permission and/or instructions of WBMDTCL.
3. The MDOP and WBMDTCL agree and acknowledge that nothing in this Agreement shall be construed to be a transfer of the Mining Lease or any rights or benefits there under to the MDOP.
4. WBMDTCL shall have the right to call for all reasonable information in relation to any matter pertaining

to this Agreement after giving reasonable notice.

5. Upon expiry or earlier termination of this Agreement or in case of closure of the Mine as per the Approved Mining Plan, the MDOP will be allowed to remove the Project Assets, if any, belonging to the MDOP.

G MEASUREMENT AND MOVEMENT OF BLACK STONE

1. The quantity of Black Stone delivered shall be measured in metric tonne (MT) with all details as may be required as per rules and other details as may be prescribed by WBMDTCL will be issued under signature of designated officials of WBMDTCL.

2. Authorized representatives of WBMDTCL and the MDOP shall be present to witness the measuring of the Black Stone in the metric unit. The measurement so recorded in the office shall be final and conclusive for the purpose of determining the quantity of Black Stone delivered. Delivery Challan duly signed and stamped by the authorized representatives of WBMDTCL shall be delivered to the MDOP.

3. The MDOP will ensure that all Black Stone extracted from the Mines is moved only to the stack yard and no Black Stone is otherwise taken out of the Mines and moved to any point other than the stack yard.

4. There shall be reconciliation of measurement of Black Stone (RoM), so mined by the MDOP with the aggregate figures obtained by suitable volumetric survey carried out jointly by WBMDTCL and the MDOP at the end of every Financial Year.

H QUALITY OF BLACK STONE

Quality of Black Stone as available in all the mines must be accepted by both the parties.

I. MINE MANAGER & OTHER STATUTORY PERSONNEL

WBMDTCL will appoint a competent Mine Manager as per Applicable Laws and/or directives of the Director General Mine Safety to undertake the responsibilities and perform the duties, work, services and activities set forth in the subsequent sub-clauses. The appointment of Mine Manager shall be upon the sole discretion of WBMDTCL and shall be done prior to the commencement of production.

Responsibilities of Mine Manager

Besides statutory responsibilities, other responsibilities of the Mine Manager shall mainly be as follows:

- a) To protect the overall interest of the Project and WBMDTCL at any point of time during the Contract Period.
- b) To verify and certify the production of the MDOP on daily basis and maintain adequate books and records in respect of the daily production of Black Stone.

Regarding other statutory personnel both WBMDTCL & MDOP will appoint DGMS certified officials in equal proportion.

J APPOINTMENT OF SOLE MDOP

On and from the Effective Date, WBMDTCL hereby appoints the MDOP as the sole and exclusive MDOP for carrying out Mining Operations in the Mines and to excavate/extract and/or remove Black Stone from the Mine for and on behalf of WBMDTCL and to purchase the same from WBMDTCL or in any manner as may be advised by

WBMDTCL from time to time. WBMDTCL represents and warrants that on the date of execution of this Agreement, there does not exist any similar agreement with any other person in respect of the Mines and WBMDTCL further undertakes that it will not during the Contract Period, appoint any other party for developing of and extracting Black Stone from the Mines and sale thereof.

K AUTHORISATION OF WBMDTCL

WBMDTCL hereby authorizes the MDOP to enter and work in the Mines for the purpose of all pre-mining operations, excavating and transporting mined Black Stone, dumping of rejects and delivery of Black Stone in accordance with the provisions of the Approved Mining Plan and this Agreement. The MDOP shall carry out any other acts, deeds and operations that may be required to be done within the scope of or for the fulfillment of this Agreement.

L REPRESENTATIONS AND WARRANTIES OF THE MDOP

The MDOP hereby represents and warrants to WBMDTCL that:

1. The MDOP is duly organized and validly existing under the laws of India;
2. It has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
3. It has taken all necessary corporate and other action under Applicable Laws and its constitutional documents to authorize the execution, delivery and performance of this Agreement;
4. The MDOP has the financial standing and capacity to undertake the Project;
5. This Agreement constitutes its legal, valid and binding obligations enforceable against it in accordance with the terms hereof;
6. It is subject to civil and commercial laws of India with respect to this Agreement and it hereby expressly and irrevocably waives any immunity in any jurisdiction in respect thereof;
7. The execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under or accelerate performance required by any of the terms of the Memorandum and Articles of Association of the MDOP or any Applicable Laws or any covenant, agreement, understanding, decree or order to which, it is a party or by which it or any of its properties or assets is bound or affected;
8. There are no actions, suits, proceedings, or investigations pending or, to the MDOP knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi judicial or other authority, the outcome of which may result in the breach of or constitute a default of the MDOP under this Agreement or which individually or in the aggregate may result in any material adverse effect on its business, properties or assets or its condition, financial or otherwise, or in any impairment of its ability to perform its obligations and duties under this Agreement;
9. It has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any governmental agency which may result in any material adverse effect on its financial condition or its ability to perform its obligations and duties under this Agreement;
10. It has complied with all Applicable Laws and has not been subject to any fines, penalties, injunctive relief

or any other civil or criminal liabilities which in the aggregate have or may have material adverse effect on its financial condition or its ability to perform its obligations and duties under this Agreement;

11. No representation or warranty by the MDOP contained herein or in any other document furnished by it to WBMDTCL or to any governmental agency in relation to Applicable Permits contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading; and

12. It warrants that no sums, in cash or kind, have been paid or will be paid by or on behalf of the MDOP, to any person by way of fees, commission or otherwise for entering into this Agreement or for influencing or attempting to influence any officer or employee of WBMDTCL, Gol or GoWB in connection therewith.

13. In the event, if after execution of this agreement there is any subsequent change in law or any judicial or administrative pronouncement as a reason where of the mining carried out in terms of this agreement is either termed/declared as illegal/impermissible, on account of default of the contractor, shall be borne by the MDOP.

M REPRESENTATIONS AND WARRANTIES OF WBMDTCL

WBMDTCL represents and warrants to the MDOP that:

1. WBMDTCL is duly organized and validly existing under the laws of India;
2. WBMDTCL has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
3. WBMDTCL has taken all necessary action to authorize the execution, delivery and performance of this Agreement;
4. This Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
5. WBMDTCL is subject to civil and commercial laws of India with respect to this Agreement and it hereby expressly and irrevocably waives any sovereign immunity in any jurisdiction in regard to matter set forth in this Agreement;
6. That the Mines and the Black Stone extracted there from are free and clear (and shall be kept free and clear) from any mortgage, charge, lien or other encumbrances;
7. It is subject to civil and commercial laws of India with respect to this Agreement and it hereby expressly and irrevocably waives any immunity in any jurisdiction in respect thereof.
8. Subject to the MDOP complying with the conditions set out in this Agreement, the MDOP shall be entitled to continuously work at the Mine without interference, interruption, claim or demand whatsoever from or by WBMDTCL or its successors in interest Provided however, WBMDTCL will have unfettered right to visit and inspect the Mine at any time to ensure that work is being done as per this agreement.

N. DECLARATION OF MDOP

1. The MDOP acknowledges that prior to the execution of this Agreement, MDOP has after a complete and careful examination made an independent evaluation of the site conditions and all the information provided by WBMDTCL and has determined to MDOP satisfaction the nature and extent of such difficulties, risks and hazards as are likely to arise or may be faced by MDOP in the course of performance of its obligations hereunder.

2. The MDOP does not claim ownership of the Mine. MDOP is undertaking the Mining Operations for and on behalf of WBMDTCL. WBMDTCL is the owner of the Mine in accordance with the Mine Act, 1952.

O. CONSIDERATION AND PAYMENT TERMS

1. Payment would be required to be made under this Agreement on commencement of Commercial Production of Black Stone from the Mines. Upon commencement of commercial production of Black Stone from the Mines, The MDOP shall raise a monthly Invoice for Contract Mining Charges (to be declared by MDOP at the beginning of each financial year not less than Rs. _____ per tonne of RoM) plus applicable taxes for the Black Stone ROM mined and dispatched during the preceding calendar month supported by the copies of all slips/ documents, and submit the same to WBMDTCL by the 10th of each calendar month. It shall be mandatory for all viz. WBMDTCL, MDOP WBMDTCL will also raise monthly Sale Invoice including applicable taxes for the dispatched quantity of Black Stone purchased by MDOP. The MDOP, shall pay to WBMDTCL the Facilitation Fee for the Black Stone so purchased by them, after making adjustment of the Contract Mining Charges for the concerned month, within 10 (ten) days of issuance of Sale Invoice by WBMDTCL. Failure on the part of the MDOP to pay the Facilitation Fee or other applicable Statutory Charges within due date, would attract compound interest @ PLR on such unpaid dues. In case MDOP, has any objection to any invoice, it shall pay the entire amount as mentioned hereinabove first and then the disputed amount will be settled.

2. The Sale Price shall be calculated on per tonne basis by aggregating:

- (a) Contract Mining Charge per tonne of Black Stone (RoM) invoiced each month by the MDOP for the extraction of the Black Stone supplied by WBMDTCL as per Mining and Purchase Agreement ;
- (b) Facilitation fee of Rs. "X" per tonne of Black Stone (RoM) payable to WBMDTCL.

[Here "X" = the quoted rate in the Financial Bid by the successful MDOP during 1st year of signing of Mining and Purchase Agreement and "X" = the quoted rate in the Financial Bid by the MDOP multiplied by the fractional change in Wholesale Price Index (WPI) as available in the website of the Office of Economic Affairs, Ministry of Commerce & Industry, GoI for Black Stone (in absence, for Other Mineral) per annum, rounded off to next rupee, during subsequent years of signing of Mining and Purchase Agreement]

3. The MDOP shall pay the Royalty, Dead Rent, Cess, Surface Rent, Water Rate, Land Revenue, DMF and other statutory charges, penalty in any form, in respect of the Mine and production of Black Stone.

4. The MDOP shall pay all taxes, levies, duties etc. leviable by any Governmental Agency on WBMDTCL at any time.

5. The MDOP shall reimburse all kind of incidental charges borne by WBMDTCL for the mines.

P. REVIEW OF FACILITATION FEE

In case the Facilitation Fee payable by the MDOP, as calculated after application of the escalation formula given in Clause O(2)(b) of the Agreement, as aforesaid, becomes economically unviable either to WBMDTCL or to the MDOP for any substantial reason, the amount of facilitation fee may be revised subject to a joint review in the following manner :

- i) Such review will not apply before expiry of 5(five) years from the date of signing of the Mining & Purchase Agreement.

- ii) The trigger point for such redetermination would be a request made by either of the parties namely WBMDTCL or the MDOP in the form of writing.
- iii) The requesting party, as aforesaid, would submit audited financial statement and certified supporting documents establishing reasons for claiming the review and would be obliged to provide all financial and other data to the other party, as per demand.
- iv) If a review mutually agreed to, the facilitation fee will be subjected to be reviewed, without sacrificing the spirit of the existing escalation clause and will be based on a fixed part and on indices available in public domain for other significant cost compensation and their respective weightages.
- v) Once a review of the facilitation fee is successfully completed, the redefined facilitation fee would continue to be in vogue for another 5(five) years thereafter.

Q FORCE MAJEURE

1 Meaning

Force Majeure Event shall mean any event or circumstance or a combination of events and circumstances set out hereunder and the consequence(s) thereof which affect or prevent the Party claiming force majeure ("**Affected Party**") from performing its obligations in whole or in part under this Agreement and which event or circumstance (i) is beyond the reasonable control. Such events shall be:

- Acts of God or natural disasters beyond the reasonable control of the Affected Party which could not reasonably have been expected to occur, including but not limited to storm, cyclone, typhoon, hurricane, flood, landslide, drought, lightning, earthquakes, volcanic eruption, fire or exceptionally adverse weather conditions affecting the implementation of this Agreement;
- Radioactive contamination, ionizing radiation;
- Epidemic;
- An act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist or military action, nuclear blast/explosion or sabotage;
- Any event or circumstances of a nature analogous to any of the foregoing;
- A Change in Law of the land, which prevents execution of the contract in any way;
- Strike, riot and civil commotion

2 Notice of Force Majeure Event

The Affected Party shall give notice to the other Party in writing of the occurrence of any Force Majeure Event (the "**Force Majeure Notice**") as soon as the same arises or as soon as reasonably practicable and in any event within 7 (seven) days after the Affected Party knew, or ought reasonably to have known, of its occurrence and the adverse effect it has or is likely to have on the performance of its obligations under this Agreement.

The Notice shall inter alia include full particulars of:

- Nature, time of occurrence and extent of the Force Majeure Event with evidence in respect thereof;

- Duration or estimated duration and the effect or probable effect which such Force Majeure Event has or will have on the Affected Party's ability to perform its obligations or any of them under this Agreement;
- Measures which the Affected Party has taken or proposes to take, to a
- Alleviate the impact of the Force Majeure Event or to mitigate the damage; and
- Any other relevant information so long as the Affected Party continues to claim to be affected by a Force Majeure Event.
- Documentary evidence of such occurrence.

Period of Force Majeure

Period of Force Majeure shall mean the period from the time of occurrence of the Force Majeure Event specified in the notice given by the Affected Party in respect of the same until the expiry of the period during which the Affected Party is excused from performance of its obligations.

Performance Excused

The Affected Party, to the extent rendered unable to perform its obligations or part thereof in spite of exercise of due diligence, under this Agreement as a consequence of the Force Majeure Event shall be excused from performance of the obligations provided that the excuse from performance shall be of no greater scope and of no longer duration than is reasonably warranted by the Force Majeure Event. Notwithstanding any provision of this, Force Majeure Event shall not absolve the Parties from any obligation to make payment in respect of its obligations under this Agreement in the event such payment obligations have arisen or accrued prior to the occurrence of the Force Majeure Event. The Force Majeure Event shall not relieve any Party from its obligation to comply with Applicable Laws.

Resumption of Performance

During the Period of Force Majeure, the Affected Party shall in consultation with the other Party, make all reasonable efforts to limit or mitigate the effects of the Force Majeure Event on the performance of its obligations under this Agreement. The Affected Party shall also make efforts to resume performance of its obligations under this Agreement as soon as possible and upon resumption shall notify the other Party of the same in writing. The other Party shall afford all reasonable assistance to the Affected Party in this regard.

Costs, Revised Timetable

Each Party shall bear its costs, if any, incurred as a consequence of the Force Majeure Event.

To the extent the performance of the obligations of the Affected Party is affected by the Force Majeure Event, the time period for the performance of the obligations of the Affected Party shall be extended by a similar time period on a day to day basis.

Consultation and duty to mitigate

The Parties shall consult with each other to determine the reasonable measures to be implemented to minimize the losses of each Party resulting from the Force Majeure Event. Except as specifically stated to the

contrary, no Party shall be relieved of its obligations under this Agreement by reason of impossibility of performance or any other circumstance whatsoever beyond its control.

In the event the Force Majeure Event continues for a period of 180 (one hundred and eighty) days or more within a continuous period of 365 (three hundred and sixty five) days, the Parties may terminate this Agreement by mutual consent.

R. BREACH OF TERMS AND CONDITIONS

In the event of breach of any of the terms and conditions of this Agreement by either of the Parties, the other Party in addition to compensation in terms of money or damages shall have the option of the benefits provided under the Specific Relief Act, 1963 for specific performance of this Agreement.

S. TERMINATION

WBMDTCL shall have the right to terminate this Agreement in the event:

The MDOP fails to mine Black Stone in accordance with the Approved Mining Plan for a continuous period of six (6) months or more;

Voluntary Winding-up of the consortium in accordance with the company's act;

The MDOP is adjudged bankrupt or insolvent.

The MDOP is ordered to be wound up by a court of competent jurisdiction.

The MDOP fails to make payment as per this Agreement and such failure continues for a period of 30 (thirty) days and in the event of non-renewal/extension of lease period or other statutory approvals by GoWB or any other competent authority.

In case the MDOP commits breach of the terms and conditions and stipulated clauses then WBMDTCL shall inform the MDOP in writing to set right or rectify the breach of any of the terms within 30 days of the receipt of such notice and if even after this, the MDOP fails to rectify the said breach within the said period then this contract may be terminated by WBMDTCL and upon such termination of this contract, but for the rights which have accrued prior to the date of termination, all the rights of the parties to this contract shall immediately cease and determined and WBMDTCL will set right or rectify the breach at the cost and expense of the MDOP.

For the avoidance of doubt it is expressly agreed and declared that in the event of any of the terms and conditions of this contract liable to be vitiated as being not enforceable, such defect shall not vitiate the other provisions of this agreement, which may be legally valid, effectual and binding on the parties hereto.

In "Public Interest" at any point of time.

In the event project becomes financially or technically non viable, the contract can be terminated by mutual consent.

T. RELEASE OF RIGHTS AND INTERESTS

(a) Upon Termination of this Agreement whether at the end of the Contract Period or on termination because of default by the MDOP or because of closure or abandonment of the Mine for technical or other reasons without default on the part of the MDOP, the MDOP shall comply with the following:

1. notify WBMDTCL forthwith the location and particulars of all Project assets;
2. deliver forthwith actual or constructive possession of the Mine free and clear of all encumbrances and execute such deeds, writings and documents as may be required by WBMDTCL for fully and effectively releasing all rights, title and interest of the MDOP in the Mine and conveying the Mine free of any charge or cost to WBMDTCL; and
3. comply with all obligations as on date including obligations in respect of labour employed in the Mine or obligations arising from compliance with labour and other laws.

(b) Upon Termination of this Agreement, the MDOP shall comply and conform to the following requirements in respect of the Mines:

1. The MDOP shall at the earliest possible time remove its machinery, installations, workmen and all other belongings at their own cost; and

2. The MDOP shall deliver relevant records and reports pertaining to the Mine and its design, engineering, construction, operation and maintenance including all operation and maintenance records and programmes and manuals pertaining thereto on the divestment date.

- Not less than 1 (one) month and not more than 3 (three) months prior to the expiry of the Contract Period, the MDOP and WBMDTCL shall conduct a joint inspection of all elements of the mining deposit and facilities there. WBMDTCL shall within 15 (fifteen) days of such inspection prepare and furnish to the MDOP a list of works/jobs/additions/alterations, if any, to be carried out to bring the mining deposit to the prescribed level of requirements for release at least two months prior to the date of expiry of the Contract Period. In case the MDOP fails to carry out the above works within the stipulated time period WBMDTCL shall be at liberty to have these works executed by any other person at the risk and cost of the MDOP and any cost incurred by WBMDTCL in this regard shall be reimbursed by to WBMDTCL within 30 (thirty) days of receipt of demand.

- Upon MDOP conforming to all the requirements specified above and handing over actual or constructive possession of the mining deposit to WBMDTCL or a person nominated by WBMDTCL in this regard. WBMDTCL shall issue a certificate (the "**Vesting Certificate**") which will have the effect of constituting evidence of release of all rights, title and lien in the mining deposit by the MDOP and their vesting in WBMDTCL pursuant hereto. Issue of the Vesting Certificate shall not be unreasonably withheld by WBMDTCL. The release of all rights, title and lien in the mining deposit shall be deemed to be complete on the date when all the requirements for release have been fulfilled or the Vesting Certificate has been issued, whichever is earlier, it being expressly agreed that any defect or deficiency in any requirement for release shall not in any manner be construed or interpreted as restricting the exercise of any rights by WBMDTCL or its nominee on or in respect of the mining deposit on the footing as if all such requirements have been complied with by the MDOP.

U DISPUTE RESOLUTION

1. Disputes and/or differences between the MDOP and WBMDTCL, arising out of or in connection with this job or its performance shall, so far as it is possible, be settled amicably through consultation between a senior representative of WBMDTCL and a senior representative on behalf of the MDOP within 45(forty five) days from the date of such dispute. If the matter is not settled amicably, the dispute may be referred to the Court of Competent Jurisdiction.

2. This agreement shall be governed by the Laws of India, the Calcutta High Court shall have jurisdiction in the matter.

V. CLEAR TITLE OF CONCESSION / LEASE

WBMDTCL further agree that if at any time pursuant to the Effective Date, any defect is found in the title concerning the Mines; WBMDTCL shall take appropriate steps through the Government of West Bengal for correction of the same. WBMDTCL shall well in advance, with notice to the MDOP, take all appropriate steps including submission of renewal application and payment of renewal application fees to the State Government as required under the Mining Laws.

W. GENERAL TERMS

1. Notices

All notices and other communications in respect of this Agreement shall be in writing, and in the English language and shall be delivered personally or by registered or certified mail, postage prepaid, or facsimile transmission to the party entitled thereto, at the party's address mentioned below or such other address as the party shall hereafter designate for this purpose:

To WBMDTCL:

Address: West Bengal Mineral Development & Trading Corporation Limited
DJ 10, 3rd Floor, Sector – II, Salt Lake, Kolkata – 700 091.

Attn: Managing Director

Email:WBMDTCLtd@gmail.com

To MDOP:

Address: _____

Attn: _____

Email:_____

Notices and other communications shall be deemed to have been received, and shall be effective, 7 (seven) days from the date of mailing, if sent by certified or registered mail, or upon electronic transmittal, if sent by facsimile transmission, or upon delivery, if delivered personally.

2. Exclusion of Assignment/ Creation of Security

This Agreement is personal to the parties hereto and the rights and obligations arising hereunder shall not be assignable by them without the prior written consent of the other party hereto.

The MDOP for the purposes of financing of the Project may create any security interest over any Project Asset in favour of the Lenders or the Lenders' representative, on their behalf, as security for amounts payable under the financing agreements.

It is clarified for the avoidance of doubt that the MDOP shall not have the right to create any encumbrance over the Mining Lease and the surface rights.

3. Entire Agreement

This Agreement and the Schedules together constitute a complete and exclusive statement of the terms of the agreement between the parties hereto with respect to the matters dealt with herein and supersedes any previous agreement between the parties hereto, whether oral or otherwise which shall cease to have effect. Each of the

parties hereto hereby acknowledges that in entering into this Agreement, it has not relied on any representation or warranty save as expressly set out herein or in any document referred to herein. No variation of this Agreement shall be valid or effective unless made by one or more instruments in writing and signed by such of the parties hereto which would be affected by such variation.

4. Waiver

(a) Waiver by either Party of any default by other Party in the observance and performance of any provision of or obligations of or under this Agreement:

- i. shall not operate or be construed as a waiver of any of other or subsequent default hereof or of other provisions of or obligations under this Agreement;
- ii. shall not be effective unless it is in writing and executed by a duly authorized representative of the Party; and
- iii. shall not affect the validity or enforceability of this Agreement in any manner.

(b) Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation there under, nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver of such breach of acceptance of any variation or the relinquishment of any such right hereunder.

5. Severability

In any provision of this Agreement executed between WBMDTCL and the MDOPis held to be invalid or unenforceable to any extent, the remaining provisions of this Agreement shall not be affected thereby and each provisions of this Agreement shall be valid and enforceable to the fullest extent permitted by law. Any invalid or unenforceable provision of this Agreement shall be replaced with a provision which is valid and enforceable and reflects, to the extent possible, the original intent of the enforceable provision.

6. Mutual co-operation

Both the parties shall co-operate with each other to ensure smoother and proper implementation of the terms and conditions of this Agreement.

The parties hereto agree to execute any additional or supplemental agreement(s) or exchange any letter(s) to enable them to overcome any difficulties in compliance of any direct or indirect tax legislations and other laws of land as applicable, while implementing this Agreement.

7. Exclusion of Implied Warranties etc

This Agreement expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties or any representation by either Party not contained in a binding legal agreement executed by both Parties.

8. Amendments

All amendments to this Agreement shall be effective only if made in writing and mutually agreed by both parties.

9. Indemnity

The MDOP 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 the MDOP and/or its officers, servants, agents, subsidiaries, and other related parties of any of its obligations under this Agreement except to the extent that any such claim has arisen due to the negligence of WBMDTCL.

10. Confidentiality

a) Each Party shall treat all information obtained from the other Party pursuant to this Agreement as "Confidential Information", except to the extent that such information:

- (i) Was publicly known prior to the date of this agreement or has become publicly known after the date of this Agreement; or
- (ii) is required by law to be disclosed; or
- (iii) is acquired from a third party having the right to disclose it to the relevant person; or
- (iv) Independently acquired or developed by a Party without the benefit or use of any of the Confidential Information.

b) The Parties shall treat the "Confidential Information", as confidential and shall not, without the prior written consent of the other Party, disclose, publish or communicate or allow the disclosure, publication or communication of the "Confidential Information" or any part of it to any person other than its consultants, advisors and employees needing access to the Confidential Information in the course of their duties as consultants, advisors and employees. The Confidentiality shall be in accordance with Right to Information Act, 2005.

11. Safety

The MDOP shall conduct its operations in such a manner, so as not to close or obstruct any portion of road, water electrical installation or any other properties until written permission have been obtained from the appropriate authorities. If any of the above are, required to be kept open or shall be rendered unsafe due to operations, the MDOP shall, at its own expenses, execute such works and provide such temporary guards, lights and other signals as will be acceptable to the concerned authorities. The MDOP shall fully comply with the safety rules, regulations or statutory directions with the object of securing the safety and health of its employees, mine and the local community. The MDOP shall be solely responsible for any default in this regard. The MDOP shall take all reasonable precautions to prevent fire at mines, processing plants, dumps and in the vicinity of its operations. The MDOP shall be liable for all damages, losses or injuries from fires/accidents/incidents directly or indirectly for its own operations or the activities of its employees. In the event, WBMDTCL receives any instruction from Director General of Mine Safety or any statutory/ administrative authority resulting into suspension or restriction of work, the same shall be communicated/ passed on to for compliance of the MDOP and the same shall be completely at the risks and costs of the MDOP.

12. No Liability for injury

If any injury is caused to any worker by accident arising out of the in the course of his/her deployment, the MDOP shall be responsible to pay compensation in accordance with the provision of laws (as applicable). WBMDTCL shall not be subjected to own any responsibility under the provision of any such Act, Laws or Rules.

13. No claim

The MDOP shall have no claim whatsoever against WBMDTCL for any loss/ damage caused to the MDOP by reason of war, riot, commotion, disturbance, pestilence/epidemic sickness, strike, lock-out, earthquake, firm, storm, flood, explosion, breakdown at plant or machinery for whatever reason, failure/ restriction of electrical of other power.

Act of God, Government Order or Statutory action or any cause of whatever nature or description beyond the control of WBMDTCL.

IN WITNESS WHEREOF the parties hereto have set their hands hereto and to the duplicate hereof, this day and year first hereinabove written.

For and on behalf of M/s **WEST BENGAL MINERAL DEVELOPMENT & TRADING CORPORATION LIMITED** by

_____ (Signature)

Name: Shri _____

Designation: _____

Witness:

_____ (Signature)

Name: Shri _____

Designation: _____

For and on behalf of _____

_____ (Signature)

Name: Shri _____

Designation:

Witness:

_____ (Signature)

Name: Shri _____

Designation:

Annexure 7: Duly Filled-in Checklist of Documents to be submitted as part of the Techno-Commercial Bid

Document to be Submitted	Submitted by Bidder (please tick)	Physical Submission (please tick)	Verified during Evaluation	Remarks
Checklist of Documents to be submitted as part of the Techno-Commercial Proposal		NA		
Bid Letter (as per the format given in Annexure 1: Format for Bid Letter)				
Power of Attorney (as per format given in Annexure 2: Format for Power of Attorney)				
Affidavit (as per format given in Annexure 3: Format for Affidavit)				
Declaration against Blacklisting (as per format given in Annexure 4: Format for Declaration against Blacklisting)				
Declaration regarding engagement of Equipment (as per format given in Annexure 9: Format for Certificate regarding engagement of Equipment)				
Documentary evidence in support of meeting the Eligibility Criteria as per Clause 5.5 (including Declaration as per format Annexure 10: Format Regarding Eligibility of the Applicant)				
Earnest Money Deposit (EMD)				
Techno- Commercial Proposal does not contain any information regarding the Financial Proposal of the Bidder	NA	NA		

Annexure 8: Information of the site

Palsara-I

Mining Plan : Approved, EC: Received, CTO: Received, Lease Deed: Executed

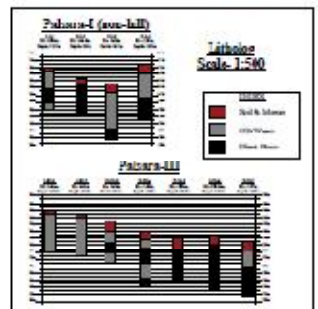
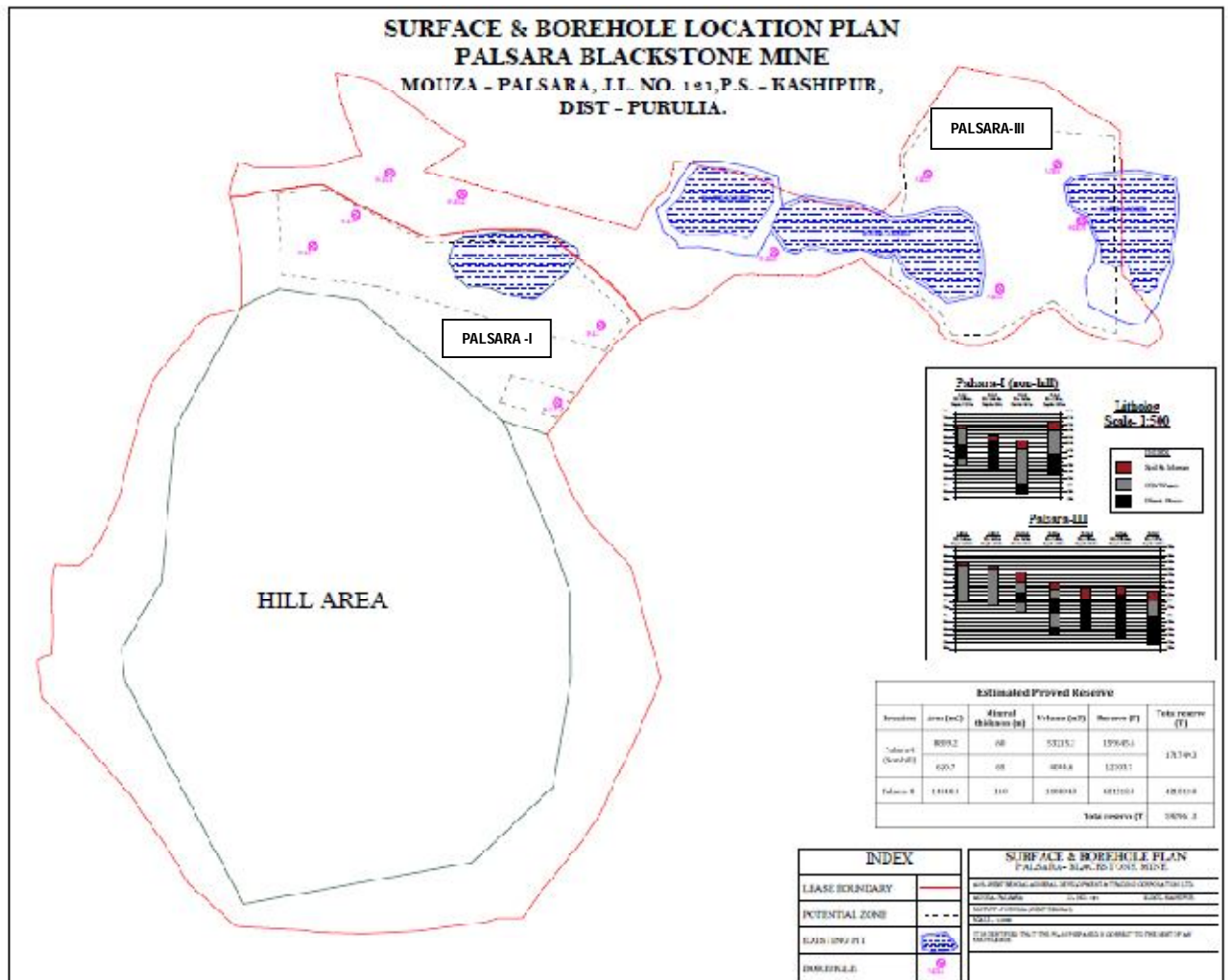
Sl. No.	Particulars	Description
1	District & State	District - Purulia, State - West Bengal
2	Block / P.S.	Kashipur
3	Mouza & JL No.	Palsara (J.L. No. 121)
4	Plot No.	3547 of Palsara-I
5	Total area	4.29 Acre of Palsara-I
6	Land ownership	Government land
7	Toposheet No. with coordinates	SOI Toposheet no.: 73 I/15 Coordinates of non-hill part: 23°24'16.49"N - 23°24'21.40"N & 86°47'10.97"E - 86°47'19.57"E (approx.)
8	Public Roads	The site is easily approachable through 4km of metalled road from Talajuri more of Kashipur-Chhatna road.
9	Railway communication	Indrabil railway station on Adra-Bankura rail route is the nearest railway station and is 5 km towards N.
10	Distance from major towns	Kashipur: 15 km towards WNW Purulia: 52 km towards WSW Raghunathpur: 20 km towards NW Bankura: 44 km towards SE
11	Major drainage	Dwarakeshwar River, 2.5 km towards S

Palsara-III

Mining Plan : Pending, EC: Pending, CTO: Pending, Lease Deed: Pending

Sl. No.	Particulars	Description
1	District & State	District - Purulia, State - West Bengal
2	Block / P.S.	Kashipur
3	Mouza & JL No.	Palsara (J.L. No. 121)
4	Plot No.	3162, 3163 (P), 3164, 3549 & 3834 (P)
5	Total area	8.66 acre
6	Land ownership	Government land
7	Toposheet No. with coordinates	SOI Toposheet no.: 73 I/15 Coordinates: 23°24'18.68"N - 23°24'23.64"N & 86°47'10.97"E - 86°47'30.36"E (approx.)
8	Public Roads	The site is easily approachable through 4km of metalled road from Talajuri more of Kashipur-Chhatna road.
9	Railway communication	Indrabil railway station on Adra-Bankura rail route is the nearest railway station and is 5 km towards N.
10	Distance from major towns	Kashipur: 15 km towards WNW Purulia: 52 km towards WSW Raghunathpur: 20 km towards NW Bankura: 44 km towards SE
11	Major drainage	Dwarakeshwar River, 2.5 km towards S

**SURFACE & BOREHOLE LOCATION PLAN
PALSARA BLACKSTONE MINE
MOUZA - PALSARA, I.L. NO. 181, P.S. - KASHIPUR,
DIST - PURULIA.**



Estimated Proved Reserve				
Reserve	Area (ac)	Average thickness (ft)	Volume (cu ft)	Reserve (T)
Palsara-I (non-hill)	809.2	68	532152	12940.6
Palsara-II	620.7	68	404818	12003.1
Palsara-III	14148.1	110	1556293	48110.8
Total reserve (T)				38054.5

INDEX		SURFACE & BOREHOLE PLAN PALSARA BLACKSTONE MINE	
LEASE BOUNDARY	—	SCALE	1:500
POTENTIAL ZONE	- - -	DATE	10/10/2018
BLAST ZONE (P.I.)	Blue hatched	BY	Geological Department
BOREHOLE	●	APPROVED	Geological Department

Annexure 9: Format for Certificate regarding engagement of Equipment

To

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

Dear Sir,

I/we hereby solemnly declare that in the event my/our organisation M/s _____ is awarded the job of Mining and Purchase of Black Stone from Palsara - I & III Black Stone Deposit at Mouza - Palsara, JL No. – 121, P.S. – Kashipur, District – Purulia, West Bengal. Plot Nos. – 2547, 3162, 3163 (P), 3164, 3549 & 3834 (P), Area- Palsara-I : 28.00 Acre (Present Area for Quarring:4.29 Acre) & Palsara- III: 8.66 Acre in reference to _____ dated _____, I/We shall deploy adequate numbers of Excavators, Dumpers, Drill Machine, Water Sprinkler, Dozer and other mining machineries through ownership/ lease/ hire along with experienced operators to undertake the mining activity.

The above equipments so deployed will be in good working condition to the satisfaction of WBMDTCL. I/we hereby further declare that, if the declaration is found untrue at any time, WBMDTCL shall be entitled to take any action against my/our organization in any manner that may be deemed fit by WBMDTCL.

Thanking you

Yours faithfully,

(Signature of Authorized Signatory)

Name:

Seal:

Date:

Annexure 10:Format Regarding Eligibility of the Applicant

[To be submitted on the letter head of the Statutory Auditor]

Date:

A. General Information

Name of the Applicant	
Address of Registered Office / Place of Business	
Status of the Applicant (Whether Company or LLP or Partnership Firm)	
CIN of the Applicant	
Trade License No.	
PAN of the Applicant	
TAN of the Applicant	
PF Registration No.	
GST Registration No.	

B. Eligibility Information

Financial Year	2017-18	2018-19	2019-20	2020-21	Total	Average
Turnover of the Applicant in INR						
Quantity of Mineral mined and Transported in MT						X

The applicant has cleared up to date Income Tax, GST and Employees Provident Fund payments.

Above statements are true to best of my knowledge.

Signature & Name of the Statutory Auditor with Official Seal

Self Attested

Signature & Name of the Authorised Signatory with Official Seal