



LANKA MINERAL SANDS LIMITED

**MINISTRY OF INDUSTRY & COMMERCE
GOVERNMENT OF SRI LANKA**



BIDDING DOCUMENT

Sale of Heavy Mineral Sands

TENDER REF. NO: LMS / MKT / TDR / 19 / 02

INTERNATIONAL COMPETITIVE BIDDING

SALES COMMITTEE

Ministry Tender Committee (Sales)
Ministry of Industry & Commerce
P.O.BOX 570, No. 73/1, Galle Road
Colombo – 03
Sri Lanka

SALES ENTITY

Lanka Mineral Sands Limited
No.341/21, Sarana Mawatha,
Rajagiriya,
Sri Lanka

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SECTION -1: INVITATION FOR BIDS (IFB)

The Chairman of Ministry Tender Committee, on behalf of Lanka Mineral Sands Limited, invites sealed bids from the Foreign Parties who are interested in buying following heavy mineral product available in the Factory at Pulmoddai of Sri Lanka. The Local Parties, who wish to purchase the product and export or add further value to the product could also submit their bids.

The details of PRODUCT and other RELEVANT details are briefed in the below.

	PRODUCTS	QUANTITY (Metric Tonne)	BID SECURITY	PACKAGE	DELIVERY TERMS	DATE & TIME OF CLOSING AND OPENING TENDER
1	Ilmenite (HS-2614 00 10)	8,000	LKR 19,736,640 .00 or USD112,000.00	In Bulk	Ex- Works IRZ Plant Pulmoddai	30/ 04/ 2019 At 1400hrs

Prescribed Bidding Forms authenticated and issued by the Seller should only be used for submission of bid. The Prescribed Bidding forms accompanied the Bidding Document may be purchased upon payment of non- refundable Biding Document Fee of **LKR10,000.00** or **USD 60.00** from Marketing Manager, Lanka Mineral Sands Ltd, No. 341/21, Sarana Mawatha, Rajagiriya, Sri Lanka from **0900hrs to 1500hrs** on week days from **04/04/2019** to **29 /04/2019**

The bid, prepared with Prescribed Bid Form & Bid Submission Form duly filled and enclosed in a suitable envelope together with the required documents detailed in the Section -4 Instructions to Bidder & Bidding Data of Bidding Document and marked “**Sale of Heavy Mineral Sands, Tender No. LMS/MKT/TDR/19/02**” on the top left hand of the envelope should either be sent under registered post to the Chairman, Ministry Tender Committee, Ministry of Industry & Commerce, PO Box 570, No.73/1, Galle Road, Colombo -03, Sri Lanka to receive not later than **1400hrs** on **30 / 04 /2019** or be deposited in the Tender Box kept at the Addl. Secretary’s (Admn.) Office of the same address. The Tender box will be closed at 1400hrs on **30 /04/ 2019**.

The Bids, so received will be opened immediately after closing of the Tender on **30/04/2019** at the Auditorium of Ministry of Industry and Commerce. The Bidder or only one Representative will be allowed to be present at the time of opening of Tender. Late bids will be rejected.

For further information, please contact Marketing Manager of Lanka Mineral Sands Ltd and Marketing Division on Telephone +94112883951-2, +94112883965, +94112883954, Fax +94 11 2882668 and Email ilmenite@slt.lk / minmarketing@sltnet.lk.

Chairman,
Ministry Tender Committee (Sales),
Ministry of Industry & Commerce,
PO Box 570, No.73/1, Galle Road,
Colombo -03,
Sri Lanka

SECTION – 2 GENERAL INFORMATION (GINFO)

2.1. INTRODUCTION

2.1.1 Lanka Mineral Sands Limited (LMSL) is successor to Ceylon Mineral Sands Corporation (CMSC) established in 1957 under Industrial Corporation Act for exploration of beach mineral sands in Sri Lanka and converted to a fully Government-owned Company in 1992 under the commercialization policy of the Government. This is the only Government -owned Company of mining and processing of heavy mineral sands and exporting heavy mineral products. Lanka Mineral Sands Limited has now incorporated under the Company Act No. 7 of 2007 of Democratic Socialist Republic of Sri Lanka having its principle place of No. 341/21, Sarana Mawatha, Rajagiriya Sri Lanka. Lanka Mineral Sands Ltd has, for the time being, gazetted under Ministry of Industry and Commerce.

2.1.2. The Ilmenite Rutile Zircon Plant (IRZ Plant) is the Factory of Lanka Mineral Sands Ltd and located at Pulmoddai, Eastern Province of Sri Lanka. IRZ Plant consists with support engineering forces and well-equipped Laboratory, Medical, Housing, Entertainment facilities as well. Ilmenite, Rutile Zircon and High- Titanium Ilmenite are the main products while Monazite, Garnet and Magnetite being the By-Products in the form of crude. In addition to these, Zircon – Crude, Spiral Fine Concentrate, Non-Magnetic Heavy Mineral Concentrate, Spiral Plant Tailings in the form of semi processed are offered for sale. The Factory possesses indoor warehouse facility for 80,000MT of production.

2.1.3. IRZ Plant is approximately 56 Km far from the Port of Trincomalee and 315 KM from the Port of Colombo. The products could be sailed via both Ports.

2.1.4. The seller will ensure the buyer to provide every assistance for shipment of the goods via Port of Trincomalee.

2.2. SCOPE OF SALE

2.2.1 In connection with the tender reference number as indicated in the Invitation for Bids (IFB) Lanka Mineral Sands Limited (hereinafter called the Seller) issues these Bidding Documents for Sale of Heavy Mineral Product specified in Section -3 in the below.

2.2.2. Sale of product is conducted through International Competitive Bidding Procedure. The Bidding Process and sales actions are managed by the Cabinet Appointed Tender Committee. The decision of the Cabinet of Ministers will be the final in award of tender.

2.2.3. This refers the Tender Notice published in the National Newspapers of Daily News on 02/04/2019 and Dinamina & Navamani respectively in Sinhala and Tamil. Further it has published in the websites of DG Market Traders Worldwide and Ferroalloy INTL Business Ltd as well.

SECTION 3 - PRODUCTS FOR SALE AND RELATED SERVICES (PS &RS)

3.1. PRODUCTS FOR SALE

3.1.1 Product is Ilmenite and the quantity is 8000MT as detailed in the Invitation for Bids

3.1.2 The product Ilmenite is guaranteed to the specifications provided by the Seller.

3.2 RELATED SERVICES

3.2.1 The product is sold on export basis and delivered on Exw- IRZ Plant, Pulmoddai (INCOTERMS 2010). However, the buyers, who possess the Government's permission to add further value locally to the product, could purchase on indirect export basis. The obligations of the Seller and Buyer are thereby, the documentation on exports/ imports, inland transport, exports customs clearance and others in terms of Exw (INCOTERMS 2010).

3.2.2 The Seller is responsible for loading of product to the transport means of the Buyer be available at the IRZ Plant, Pulmoddai, issues of weighing certificate, commercial documents, regulatory permits/certificates for the product delivered and providing license, for export of products.

3.2.3 The buyer should be responsible for removal of product purchased within stipulated time frame and thereby, inland transport, exports & imports customs clearance, independence inspection & additional analysis of product (if required), Cargo insurance, possession of regulatory permits that are necessary for imports the products to the buyer's destination and trading as well. Buyer is responsible for obtaining quarantine certificate if necessary and to provide the containers in a suitable condition for loading of product.

3.3. PRODUCT SPECIFICATIONS

3.3.1 Product is sold under warranty in pursuant to Clause 3.1 and certified to the following specification.

- a). Chemical Analysis Report (TiO₂% of the product Ilmenite)
- b). Mineralogical Specification and
- c). Grain Size Distributions

SPECIFICATIONS OF THE PRODUCT

Sample : Ilmenite
 Sample No : 4074/ILM - 15/05/2018

CHEMICAL ANALYSIS

Contents	Weight%
TiO ₂	49.00
Maximum Moisture	00.50

MINERALOGICAL ANALYSIS

Constituent	Wt%	
Magnetite	00.83	
Ilmenite	86.58	
Altered Ilmenite	02.91	
Monazite	00.40	
Garnet	00.78	
Others	01.92	
Total Magnetics		93.42
Rutile	01.54	
Zircon	03.19	
Total Non-Magnetics		04.73
Total Heavies		98.15
Quartz	01.85	
Total Light Mineral		<u>01.85</u>
Total		100.00

SIZE DISTRIBUTION

B.S.S (MESH NO.)	APERTURE SIZE	WEIGHT PERCENTAGE	CUMULATIVE WEIGHT PER CENTAGE (retained)
+ 32	+500 Micron	00.12	00.12
+ 60	+250 Micron	01.90	02.02
+100	+150 Micron	15.84	17.86
+150	+106 Micron	50.80	68.66
+170	+ 90 Micron	15.81	84.47
+200	+ 75 Micron	09.76	94.23
+240	+ 63 Micron	04.42	98.65
- 240	- 63 Micron	01.33	-----
Working loss		00.02	-----
Total		<u>100.00</u>	



Chemist
 Lanka Mineral Sands Ltd

SECTION 4 - INSTRUCTIONS TO BIDDERS AND BIDDING DATA (ITB &BD)

4.1 DEFINITIONS

4.1.1. The term ‘Interested Party’ is defined the party who have potential for Heavy Mineral Products, “Bidder” is the party who submit the bid, “Successful Bidder/ Buyer / Purchaser” is the party who won the Tender or a part of tender “the Product” is the heavy mineral sands offered for sale by the Seller while the Goods / Stocks means the certain product reserved for buyer for shipment.

4.1.2 Throughout these bidding process the term “in writing” means communicated in written form by mail (including electronic mail) or hand delivered with proof of receipt.

4.1.3 If the context so requires, “singular” means “plural” and vice versa; and “day” means calendar day.

4.2. ETHICS, FRAUDS & CORRUPTIONS

4.2.1 The attention of the Bidders is drawn to the following guidelines to ensure smooth governing of the sales process.

- a). Parties associated with sales actions, namely, Bidders/ Buyers and Officials shall ensure that they maintain strict confidentiality throughout the process;
- b) Officials shall refrain from receiving any personal gains from any Sale Action. No gifts or inducement shall be accepted. Bidders/ Buyers are liable to be disqualified from the bidding process if found offering any gift or inducement which may have an effect of influencing a decision or impairing the objectivity of an official.

4.2.2. The Seller requires the Bidders/ Buyers to observe the highest standard of ethics during the sale and execution of such contracts. In pursuit of this policy:

- a).“corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the sales process or in contract execution;
- b) “fraudulent practice” means a misrepresentation or omission of facts in order to influence a sale process or the execution of a contract;
- c) “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of the Seller to establish bid prices at artificial, noncompetitive levels; and
- d) “coercive practice” means harming or threatening to harm, directly or indirectly, persons or the property to influence their participation in the sales process or affect the execution of a contract.

4.2.3. If the Seller found any unethical practices as stipulated under Clause 4.2.2 above, that a Bidder directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for the Contract in question, the Seller will reject a bid.

4.3. BIDDING DOCUMENT

4.3.1. Bidding Document is also referred to as Tender Document and consists with Tender Notice (Invitation for Bids), General Information, Product for sale and, Related Services, Instructions to Bidders, Bid Evaluation Criteria, Terms and Conditions of Contract, Bidding Forms & Contract Agreement.

4.3.2. The communication language is English and therefore, every documents and correspondence should be in English

4.4. ELIGIBLE BIDDERS

4.4.1. All bidders shall possess legal rights to buy Heavy Mineral Sands under this contract and for imports of the product. A Bidder shall not have a conflict of interest, under a declaration of ineligibility at the date of submission of the bid & the date of contract award and debarred in any country. All bidders found to have conflict of interest shall be disqualified.

4.4.2. To be qualified for submission and acceptance of the bid, the bidder should originally process a valid business registration either by incorporated or individual business Company registered in Abroad or Sri Lanka

4.4.3. The respective addresses and the contact details given and set out by the bidders in the bid will be considered for all purposes. The Parties choose their respective addresses set out in the Agreement for all purposes arising out of or in connection with this Agreement, at which addresses all processes and notices arising out of or in connection with this Agreement, its breach or termination may validly be served upon or delivered to the Parties

4.5. PREPARATION FOR BID

4.5.1. The product is delivered at the IRZ Plant on, EX-WORKS (2010), PULMODDAI basis. The costs & risk are on account of the Bidder and Seller in terms of Ex- Works (2010) unless otherwise stated in the clause 3.2 of Section -3 PS&RS.

4.5.2. The bidder could bid for the product offered for sale but the entire quantity of the product. Therefore, the bidder has no permission to bid and purchase a part of quantity of product.

4.5.3. The product is guaranteed to the specifications provided by the Seller. However, the party, who chooses to analyze the product offered for sale, they could visit at IRZ Plant and take sample for their own analysis. As well, the sample could be obtained from the Marketing Division of Lanka Mineral Sands Ltd, No. 341/21, Sarana Mawatha, Rajagiriya, Sri Lanka on normal working days upon submission of written request to Marketing Manager.

4.5.4. The bid should be submitted by the bidder in United State Dollars (USD) and it should remain valid for 45 days from the date of opening of tender. The bid submitted in any other currency will not be accepted.

4.5.5. The Bidding Document could be downloaded from the official website www.industry.gov.lk or www.lankamineralsands.com free of charge. However, the Prescribed Bidding Forms authenticated and issued by the Seller should only be used for submission of bid as they are the legal forms . This may be purchased upon payment of a non-refundable fee of LKR10,000.00 or USD 60.00 from Marketing Manager, Lanka Mineral Sands Ltd. 341/21, Sarana Mawatha, Rajagiriya, Sri Lanka on normal working days during 0900hrs to 1500hrs from the date of **04/ 04/ 2019**. and on submission of written request. The issuance of Bidding Forms will be closed at 1500hrs on **29 /04/2019**. The bidders who are interested in participating of tender should ensure to work within the stipulated time frame and no delay in submission of the bid.

4.5.6. The bidder, who wish to obtain the Prescribed Bidding Forms via electronic mail, should send an official request on lmenite@slt.lk and minmarketing@slt.net.lk together with the copy of remittance advice issued by the bank upon payment of bidding forms fee. On receipt of such requests and the payment, the Seller will forward the Bidding Forms stamped and authenticated to the Applicant by return email. Those, who wish to obtain Bidding Forms via e- mails should ensure to work in advance on submission of the bid on time.

4.5.7. The bid should be prepared with Bid Form and Bid Submission Form duly filled and accompanied the followings.

- i) Particular Bid Security
- ii) Copy of valid Business Registration along with the document of shareholders/ Owner identical details specimen signatures therein
- iii) Copy of last year Audited Financial Statement of the Company
- iv) Copies of National Identity Card/ Passport of the Company Owner
- v) Authorization for representative if authorization is granted to work on the Tender (if required) and
- vi) Submission of documentary evidence to prove the bidder's competence to perform the contract successfully in trading of mineral sands storage warehouse facility available and facility in manufacture of value-added products will be added advantage in the evaluation of bids at a critical decision. The bidder should be the Owner/ Shareholder of the Company. A representative could be assigned by the Owner of the Company delivering authority certifying the specimen signature of the representative for dealing with the tender as signatory. These two signatories could only be dealing in the tender and signed in the Contract Agreement.

4.5.8. The bid security should be valid for 45 days from the opening dated of tender and it could be made in cash or in the form of Bank Guarantee corresponding to the amount of Security specified in the **Section-1 IFB**.

4.5.8. 1). Bid Security, by cash shall either be in **SLR or USD**, giving reference to Tender Number, be deposited in favour of **Lanka Mineral Sands Ltd** to credit of **Rupee A/c No 0931** or **US Dollar A/c No.73449850 (Swift Code- BCEYLKXLX)** maintained at the **Bank of Ceylon, Corporate Branch of Colombo 01, Sri Lanka before 1300hrs on 30/ 04/2019. The copy of remittance advice/cash deposit advice certified/authenticated by the Authorized Officer of the bank / Attorney-at -Law should also be attached to the Prescribed Bid Form.**

4.5.8. 2). The Bid Security in the form of Bank Guarantee should be furnished with the Specimen form of Bid Guarantee provided by the Seller in accordance with the **Section -07 bidding Forms** and it should be unconditional, and payable on first demand of the Seller. The bank guarantee should be in favour of Chairman, Lanka Mineral Sands Ltd from any Commercial Bank registered under Central Bank of Sri Lanka or a Bank in another country but guarantee "confirmed" by a bank operating in Sri Lanka registered under Central Bank of Sri Lanka. **(The original bank guarantees should be attached to the Bid submitted with Bidding Form)**

Some of Banks operating in Sri Lanka are listed below for easy reference.

- | | |
|------------------------------------|---------------------------------------|
| i) Bank of Ceylon | xiv) National Development Bank PCL |
| ii) Peoples Bank PLC | xv) Nation trust Bank PLC |
| iii) Amana Bank PLC | xvi) Pan Asia Bank in Cooperation PLC |
| iv) Axis Bank Ltd | xvii) Public Bank Berhad |
| v) Cargills Bank Ltd. | xviii) Sampath Bank PLC |
| vi) City Bank N.A. | xix) Seylan Bank PLC |
| vii) Commercial Bank of Ceylon PLC | xx) Standard Chartered Bank |
| viii) Deutsche Bank AG | xxi) State Bank of India |
| ix) DFCC Wardana Bank | xxii) The HSBC Ltd |
| x) Habib Bank Ltd | xxiii) Union Bank of Colombo Ltd |
| xi) HNB PLC | xxvi) ICICI Bank |
| xii). Indian Bank | xxv) MCB Bank |
| xiii) Indian Overseas Bank | |

4.5.9. The Royalty imposed on export of mineral products is 7% of FOB value. Since the delivery mode is on Exw- IRZ Plant Pulmoddai. The royalty incurred for value difference of Exw- IRZ Plant, Pulmoddai and FOB Colombo / Trincomalee is on account of the buyer. It will be approximately USD1.78/MT for any product including tax. Therefore, this royalty is payable by the successful buyer in addition to the bid price. The royalty and taxes will be subject to revision of the Government.

4.6. AMENDMENT TO BIDDING DOCUMENT.

4.6.1. Amendment to the Bidding Document could be made by the Seller and to give prospective Bidders reasonable time in which to take an addendum into account in preparing their bids, the Seller may, at its discretion, extend the deadline for the submission of bids. Any addendum issued shall be part of the Bidding Documents and shall be communicated in writing to all who have obtained the Bidding Document and published on the websites for others reference. In which cause all rights and obligations of the Seller and Bidders previously subject to the deadline shall thereafter, be subject to the deadline as extended. A Bidder granting the request shall not be required or permitted to modify the bidding document.

4.6.2. In exceptional circumstances, prior to the expiration of the bid validity date, the Seller may request Bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. If a Bid Security is requested to extend by the Seller, it shall also be extended for a corresponding period. A Bidder may refuse the request without forfeiting its Bid Security.

4.7 SUBMISSION, WITHDRAWAL, MODIFICATION AND OPENING OF BIDS

4.7.1. The Bidding Form authenticated by the Seller should be used for submission of bid.

4.7.2. The Bidder shall submit the sealed bid within the period valid for submission of bid duly filled together with respective Bid Security and other required documents detailed in the **clause 4.5.7 of Section – 4 ITB&BD** by registered post or hand delivery as instructed in the **clause 4.7.3 of Section -4 ITB&BD** below.

4.7.3. The bid together with the other documents enclosed in a suitable envelope marked “Sale of Heavy Mineral Sands Tender No. LMS/MKT/TDR/19/02 ” on the top left- hand of the envelop should either be sent by courier / registered post to Chairman, Ministry Tender Committee (Sales), Ministry of Industry & Commerce, P.O. Box 570, No. 73/1, Galle Rd, Colombo- 03, Sri Lanka to receive before **1400hrs on 30 /04 / 2019** or deposited in the tender box kept at the Chief Accountant’s Office of same address.

4.7.4. All details and documents requested by the Seller with the Biding Form should be furnished by the Bidder. The submission of incomplete bid without perfect filling and or documents required will result rejection of bid.

4.7.5. A Bidder may withdraw or modify its bid, after it has been submitted by sending a written notice to the Chairman, Ministry Tender Committee (Sales) duly signed by the Signatory or an Authorized Representative with a copy of the authorization. The corresponding substitution or modification of the bid must accompany the respective written notice. All notices must be submitted in the formal way and in addition, the respective envelope shall be clearly marked “WITHDRAWAL” “SUBSTITUTION” or “MODIFICATION;” and received by the Seller prior to the deadline prescribed for submission of bids.

4.7.6. Bids requested to be withdrawn shall be returned to the Bidders only upon notification of contract award to the Successful Bidder. No bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Buyer on the Bid Submission Form or any extension thereof.

4.7.7. The tender will be opened in public at the Ministry of Industry & Commerce, P.O. Box 570, No. 73/1, Galle Rd, Colombo- 03, Sri Lanka, immediately after closing the tender at 1400hrs on **30/ 04/2019.**

4.7.8. Late bids will not be accepted and rejected by being returned to the party without opening by mail or any means available.

4.7.9. Seller will not consider of any request from the potential bidders for revise of tender opening date at all unless receipt of same prior to 07 working days to the deadline.

4.8. CONTRACT AWARD, SETTLEMENT OF PAYMENT AND DISCHARGE OF BID SECURITY

4.8.1. The Seller shall award the Contract to the Bidder whose offer has been determined to be the highest evaluated bid substantially responsive to the Bidding Documents, provided further that the Bidder is determined to be qualified and satisfactory to perform the Contract. **The Seller will take every effort to award the tender within 30 days of opening of tender unless there will otherwise be any updates.**

4.8.2. The additional royalty specified in the subclause 4.5.9 above will be invoiced for the Successful Bidder in the award of Tender.

4.8.3. The Seller, at the award of tender, reserves the right to increase or decrease the quantity of product originally specified in the Section-1 IFB with the consent of the Successful Bidder and provided this does not exceed twenty five percent (25%) of the original quantity without any change to the unit prices or other terms and conditions stipulated in the Bidding Documents. The seller's discretion shall take precedence over this additional quantity issues. The Successful bidder's acceptance and confirmation to the enquiry of Seller for deviation of the qty will also be the imperative factor in the revision of quantity.

4.8.4. Prior to the expiration of bid validity, the Seller shall notify the Successful Bidder, in writing, that its bid has been accepted.

4.8.5. The Seller & Successful Bidder should enter into the Contract Agreement at the award of tender. Until a formal Contract is prepared and executed, the notification of award shall constitute a binding Contract.

4.8.6. Upon receipt of the formal approval to award the Tender to the Successful Bidder, the Seller will promptly notify each unsuccessful Bidder of the bidder selected for award of the tender and for their representation if any.

4.8.7. The bid bond of the bidder, whose bid would not be the highest and substantially responsive will be released, after recommendation of the Ministry Tender Committee / formal approval for award of tender and upon receipt of written request for withdrawal from the unsuccessful bidders. However, the bid bond of successful bidder who has submitted highest bid substantially responsive will only be released after signing the contract & the settlement of the contract value within time stipulated and execution of the obligations of the Successful Bidder. The bid security furnished by the successful bidder will therefore, be performing as a security until the settlement of contract value in full. The payment settled on contract value by the successful bidder will thereafter, set off as performance bond until the entire stock is removed.

4.8.8. Within Seven (7) days of notification of the tender award, the Seller shall complete the Agreement, and inform the Successful Bidder to sign it. The Successful Bidder shall sign the Contract Agreement within Ten (10) days of notification of award. If the Successful Bidder is from abroad and wishes to sign Contract Agreement via e-mail, they should convey the message to the Seller for same in writing. The Seller will thereafter, make necessary arrangements to forward the contract agreement through e- mail to be signed the same at the Office of the Embassy of Sri Lanka in the successful bidder's country in the presence of Official designated by the Embassy of Sri Lanka. LMSL will make the ground for signing the contract agreement in the Embassy.

4.8.9. The pro forma Invoice will also be issued by the Seller on request of successful bidder. It includes the total value of the product at a rate of bid and the additional royalty and details for payment and shipment.

4.8.10. The payment term is on advance and shall be settled within fourteen (14) **working** days from the date of award of the tender. On receipt of entire payment of the Contract, the Seller shall discharge the Bid Security of the Successful Bidder.

4.8.11. The failure of Successful Bidder to settle the full payment of the contract value and sign the Contract within stipulated time frame will constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security.

4.8.12 Where the Successful Bidder fails to execute their any obligations after award of tender within stipulated time frame and where the Seller thereby decides to cancel the award, the bidder who has submitted the bid in the second highest and substantially responsive to the tender document could purchase the product at the highest bid price received in the tender for the product under the same terms and conditions. The seller will, in such a decision, inform the second highest bidder before 30 days of opening of tender and negotiate for their option unless they have withdrawn their bid bond.

4.8.13 The bidder, who was instructed under sub clause 4.8.12 above should forward their response within 3 working days in writing along with their option whether to agree or not for purchase the products & qty. The response of the bidder after three working days will not be considered by the Seller.

4.8.14 The Bidder and Successful Bidder should bear the all charges levied by Foreign and Local Banks in transmission of any remittance through banks.

4.8.15. The Seller acknowledges the Successful Bidder the receipt of payment.

4.8.16. In the case of extension requested for settlement of payment by the Successful Bidder, the Seller may consider the request and grant extension if the reasons explained by the Successful Bidder is acceptable. At its case of discretion, the Seller may impose 0.1% interest of the total tendered value per day and charge. But such extension is limited to a month in maximum. An additional invoice will be issued for this interest charges.

4.9. CLEARENCE OF GOODS PURCHASED

4.9.1. The products purchased should be removed within **60 days** of issuance of the acceptance letter on Award of Tender.

4.9.2. The Successful Bidder is permitted to remove the stock only upon settlement of full Contract Value and should commence the clearance of stock within 10 days of payment made.

4.9.3. Partial Shipment is permitted and allowed by the Seller.

4.9.4. The Successful Bidder shall instruct to the Seller of their shipment schedule prior to 07 working days of shipment to make ready the export license, loading and other documents that are required for transport and exports of the stock.

4.9.5. The Successful Bidder could provide the Seller the Transporters, Freight Forwarders and the Consignees abroad for the shipments in writing. The inland transport permit is provided by the seller on submission of required documents by the Buyer / Transporter of nominated by the buyer. In the assigning of Consignee for shipment, the Seller issues necessary documents for shipment but the buyer shall bear all responsibilities in respect of their performance.

4.9.6. The local bidder being the successful in the tender could shift the product to their Foreign Parties with the export license provided by the LMSL(Seller). In such an indirect export, every detail of export should be provided to the Seller by the Local Buyer other than their sale prices. The exports should be complying with the documents issued by the Seller. The Local Buyer should forward the original Bill of Lading, Party's Copy of CUSDEC and LC (if required) no sooner the export clearance of consignment is completed for reference of the Seller and records. The original Export License should, be returned to the Seller at the completion of entire export or during the exports if required for verify at the Seller's end.

4.9.7. The Successful Bidder should commence the stock clearance no sooner the payment is settled and take every effort to clear the stock within 60 days as specified in the **clause 4.9.1 of Section 4 ITB&BD above**. Unless otherwise extension has been granted by the Seller, demurrage will be charged for the stock not removed within **60 days** pursuant to **clause 6.23.2 of Section-6, Terms & Conditions of Contract**. The stock retains under demurrage will strictly be limited to **30 days**. The Seller reserves the right to forfeit the stock remaining further after completion of **90 days** from the award of tender and terminated the tender.

4.9.8. The Seller shall issue the goods on request of the buyer and provide the documents for transport and export of goods in pursuant to Section -3 PS&SR viz documents of Commercial Invoice, Country of Origin, Packing List, Weight Certificate, Copy of Export License and regulatory permits required on International Preferential / Free Trade Agreements at request of the Successful Bidder in addition to the documents forwarded by the freight forwarder.

SECTION 5 – BID EVALUATION CRITERIA (BEC)

5.1 The Seller shall evaluate each bid which has been determined, up to this stage of the evaluation, to be substantially responsive and compare all substantially responsive bids to determine the highest-evaluated bid. The seller will consider the arithmetic mistakes of the bidder if any and accept the bid for evaluation.

5.2. There is no any domestic preference for evaluation of bids. Every bidder whether they are foreign or local both has equal opportunity.

5.3. The bid price offered by the bidder will be the most important factor in the evaluation of bids.

5.4. The past performance and experienced of the bidder in the settlement of payment, removal of the stock and submission of relevant documents by the local party after completion of shipments are considered as past response and satisfactory execution of the bidder's obligations. The competency of the bidder in trading, processing and value addition on heavy mineral sands based are considered as an additional qualification for award of the tender only at critical selection of the successful bidder.

5.5. The global market published by reputed Organizations and acceptable to LMSL are also taken into consideration at the evaluation of bids.

SECTION 6 – TERMS AND CONDITIONS OF CONTRACT (T & CC).

6.1 DEFINITION.

6.1.1. The following words and expressions shall have the meanings hereby assigned to them:

- a). “Contract” means the Contract Agreement entered into between the Buyer and the Seller together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein.
- b). “Contract Documents” means the documents listed in the Contract Agreement, including the amendments thereto.
- c). “Contract Price” means the price payable to the Seller as specified in the Contract Agreement, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract.
- d). “Day” means calendar day.
- e). “Completion” means the fulfillment of the Delivery /supply of Products/Goods and imports and exports to the destination in terms of INCOTERM specified and completion of the Related Services by the Seller and the Buyer in accordance with the terms and conditions set forth in the Contract.
- f). “T&CC” means the Terms & Conditions of Contract.
- g). “Goods / Products” means all of the commodities that the Seller is required to sell and deliver to the buyer under the Contract.
- h). “Seller” means the entity sells / delivers the Goods/ products and Related Services, **as stated in the clause 2.1.1 of Section 2 GINFO.**
- i). “Related Services” means the services incidental to the imports and exports of the goods/ products such as insurance, transport of goods and other obligations of the Seller and Buyer under the Contract.
- j). “Subcontractor” means any natural person, private or government entity, or a combination of the above, to whom any part of the Goods to be supplied or execution of any part of the Related Services is subcontracted by the Buyer / Seller.
- k). “Buyer/ Successful Tenderer” means the natural person, private or government entity, or a combination of the above, whose bid to perform the Contract has been accepted by the Seller and is named as such in the Contract Agreement.
- l). “The IRZ Plant Pulmoddai” where applicable, means the place named as a delivery point of products.
- m). The “Global Market” means the source of prices of heavy mineral products published by reputed organizations of reviewing the heavy mineral industry and is the source acceptable to Lanka Mineral Sands Ltd

6.2. CONTRACT DOCUMENTS

6.2.1 Subject to the order of precedence set forth in the Contract Agreement, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary, and mutually explanatory. The Contract Agreement shall be read as a whole.

6.3. FRAUD AND CORRUPTION

6.3.1 The Government of Sri Lanka requires the Seller as well as Buyer to observe the highest standard of ethics during the Sale process and execution of such contracts. In pursuit of this policy:

- i) “corrupt practice” means offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the Sales process or in contract execution;
- ii) “fraudulent practice” means a misrepresentation or omission of facts in order to influence a Sales process or the execution of a contract;

- iii). “collusive practice” means a scheme or arrangement between two or more bidders, with or without the knowledge of the Seller to establish bid prices at artificial, noncompetitive levels; and
- iv). “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the Sales process or affect the execution of a contract.

6.4. INTERPRETATION

6.4.1 The contract constitutes the entire agreement between the Seller and the Buyer and supersedes all communications, negotiations and agreements (whether written or oral) of the parties with respect thereto made prior to the date of Contract.

6.4.2. No amendment or other variation of the Contract shall be valid unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each party thereto.

6.4.3 Severability if any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

6.5. LANGUAGE

6.5.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Seller and the Buyer, shall be written in English language. Supporting documents and printed literature that are part of the Contract may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified, in which case, for purposes of interpretation of the Contract, this translation shall govern.

6.5.2 The Buyer shall bear all costs of translation to the governing language and all risks of the accuracy of such translation, for documents provided by the buyer.

6.6. JOINT VENTURE CONSORTIUM OR ASSOCIATION

6.6.1. If the Buyer is a joint venture, consortium, or association, all of the parties shall be jointly and severally liable to the Seller for the fulfillment of the provisions of the Contract and shall designate one party to act as already with authority to bind the joint venture, consortium, or association. The composition or the constitution of the joint venture, consortium or association shall not be altered without the prior consent of the Seller.

6.6.2. The bid submitted by the party should accompany the power of attorney.

6.7. ELIGIBILITY

6.7.1. All goods delivered under this contract shall be complied with the specifications provided by the Seller unless otherwise stated the product has no warranty. In the absence of such standards, the products should be tested at the independence laboratory acceptable to both Seller and Buyer before shipment on Exw basis within the validity for removal of stock.

6.7.2. If the Seller has determined for compensation of the product, additional quantity for compensation, corresponding to the default accepted by the seller will be issued only in the same product and not by payment. However, the buyer should bear the additional all charges incurred in respect of permits and documents and incidental thereto.

6.8. GOVERNING LAW

6.8.1. The Contract shall be governed by and interpreted in accordance with the laws of the Democratic Socialist Republic of Sri Lanka.

6.9 SETTLEMENT OF DISPUTES

6.9.1. The Seller and the Buyer shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.

6.9.2. If, after twenty-eight (28) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Seller or the Buyer may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration. Arbitration may be commenced prior to or before delivery of the Product under the Contract. Arbitration proceedings shall be conducted in accordance with the Arbitration Act No:11 of 1995. The venue of arbitration taken place is Colombo, Sri Lanka.

6.9.3. Notwithstanding any reference to arbitration herein,

(a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and (b) the Buyer shall pay the Seller any monies due the Seller.

6.10. SCOPE OF SALE

6.10.1. The Products to be sold / delivered and the services to be rendered shall be as specified with Section- 3, Products for Sale, Related Services and Specifications

6.11. BUYER'S RESPONSIBILITIES

6.11.1. The Buyer shall clear the stock purchased and execute the Services in accordance with Section - 3 Products for Sale and Related Services and Seller as well.

6.12. CONTRACT PRICE

6.12.1. Bid price offered by the Bidder for the Products and the Related Services performed under the Contract shall not vary from the prices quoted by the bidder in its bid.

6.13. TERMS OF PAYMENT

6.13.1. The Contract Price, shall be paid as specified in the clause **4.8.10 of Section -4 ITB & BD.**

6.13.2. The Seller's request, for payment shall be made to the Buyer in writing, accompanied the Pro forma Invoice describing as appropriate

6.13.3. Payments could be made promptly by the Buyer/ successful bidder at the request for payment by the Seller until Contract Agreement is signed. referred to the Pro forma Invoice and submission of acceptance for award.

6.14. TAXES AND DUTIES

6.14.1. The Seller will be entirely responsible originally for all Inland Taxes, Duties, License Fees, etc. However, where there is any compensation of product in place of any measures both agreed, the expenses incurred upon submission of subsequent documentary incidental thereto viz taxes, levies License fees shall be borne by the Buyer

6.15. PERFORMANCE SECURITY

6.15.1. As specified in the Instructions to Bidder **clause 4.8.7 of Section – 4 ITB&BD** the buyer shall not furnish or provide a performance security. The Bid Security submitted is continued instead of Performance for the contract until the payment is made by the buyer. The payment of the tender settled by the buyer will thereafter, be the security for rest of obligations of the buyer until remove the stock purchased.

6.15.2. The Bid Security shall be payable to the Seller as compensation for any loss resulting from the Buyer's failure to execution of its obligations under the Contract.

6.15.3. The Bid Security shall be discharged by the Seller and returned to the Buyer or relevant Bank as applicable not later than twenty-one (21) days upon Completion of the Buyer's obligations in settlement of contract value under the Contract.

6.16. CONFIDENTIAL INFORMATION

6.16.1. The Seller and the Buyer shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract,

6.16.2. The Buyer shall not use such documents, data, and other information received from the Seller for any purposes unrelated to the contract. Similarly, the Seller shall not use such documents, data, and other information received from the Buyer for any purpose other than the performance of the Contract.

6.16.3. The above provisions shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the sale or any part thereof.

6.16.4. The provisions of Terms & Conditions of Contract Clause 6.16 shall survive completion or termination, for whatever reason, of the Contract.

6.17. SPECIFICATIONS AND STANDARDS

6.17.1. Composite Minerals of the Product are certified to the specifications provided. The Product is, unless otherwise stated as no warranty, delivered on guarantee. in pursuant to clause 3.3 of Section- 3 PS & RS.

6.17.2 The product that has no warranty will be delivered "AS IS" in the existing condition. However, the moisture in such a product will be analyzed at the delivery of product and the moisture above 2% if any will be compensated with the same product equivalent to weight of excessive moisture.

6.17.3. In such a compensation (mentioned above in sub clause 6.17.2), the total levy & taxes incurred should be borne by the buyer and the stock should be removed within the time period originally provided.

6.18. PACKING AND DOCUMENTS

6.18.1. The Seller, as stated in the Section- 3 products are delivered in bulk or bagged with the required documents. The Seller, despite to the mode of package, could accept the specific packaging of products if the Buyer will bear the entire cost of packaging.

6.19. INSURENCE

6.19.1. Unless otherwise specified in the Section -3 regarding the obligation vested with the insurance, the Seller will be account for the product until such a period specified for removal or delivery of the products to the buyer or their Transport Contractor on Exw, Pulmoddai basis. Thereafter, responsibility upon any loss or damage incidental thereto in acquisition, transportation, storage and freight is vested with the buyer

6.20. TRANSPORTATION

6.20.1. Unless otherwise specified in the Section -3 PS & RS the transport will be on account of the Seller, the responsibility in transportation of the Goods and freight shall be on account of the Buyer.

6.21. INSPECTIONS AND TESTS

6.21.1. The Seller shall at its own expenses and at no cost to the Buyer carries out all tests and/or inspections of the Goods at the Seller's premises before the shipment of product. If the Buyer needs to analyze the product on their own expenses, the Seller will grant permission for their own analysis.

6.21.2. The buyer or its designated representative shall be entitled to attend for the test and/or inspections. If such instant buyer shall bear all of its all costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.

6.21.3. The Seller shall provide the buyer with a report of the detailed results of any test and/or inspection carried out on request of bidder.

6.21.4. The buyer has no permission to reject any products after imported to their destination outside Sri Lanka. However, where the Seller found any dispute in the product at the Seller's end, there will be a proportionate compensate either by the same product or payment to the buyer at the discretion of the Seller. The buyer is also account for execute of their obligations if any within a time frame allowed by the seller regarding the compensation.

6.22. FORCE MAJEURE

6.22.1. The Seller will not be liable for forfeiture of buyer's Bid Security or stock if and to the extent that its delay and failure to perform its obligations under the Contract is at the result of an event of Force Majeure.

6.22.2. For purposes of this Clause, "Force Majeure" means an event or situation beyond the control of the Seller/Buyer that is not foreseeable, unavoidable, and its origin is not due to negligence or lack of care on the part of the Seller/Buyer. Such events may include, fires, floods, epidemics, quarantine restrictions, and freight embargoes.

6.23. EXTENSION OF TIME & DEMURRAGES

6.23.1. There is no any extension for removal of stock or settlement of payment where there is no acceptable reasons or case of Force Majeure.

6.23.2. The demurrage will be charged at Rs125 per MT or an amount equivalent in USD per week. for the stock not removed within 60 days stipulated **in the clause 4.9.7 of Section - 4 ITB & BD.** The Seller will not be account for the contamination or loss to the stock not removed within the period originally provided for removal. The maximum period for removal of the stock will be **90 days** from the award of tender inclusive of period allowed on demurrage. where there is no extension for removal. The Seller is of the right to forfeit the stock further remains after completion of **90 days** from the award of tender.

6.24 THE EXPORT CLEARENCE LEVY

6.24.1 The Export Customs clearance and any other charges incurred with the Ports and Customs are on account the buyer.

6.24.2. The Export CESS imposed by the Government for export of Mineral products shall also be borne by the Buyer

6.25. TERMINATION

6.25.1 Termination for Default

- (a) The Seller, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Successful Buyer, may terminate the Contract in whole or in part:
- i) if the Successful Buyer fails to remove and clear any or all of the stock within the period specified in the Contract, or within any extension thereof granted by the Seller.
 - ii). if the Successful Buyer fails to perform any obligation under the Contract; or breach the terms and conditions stipulated in the tender document
 - iii). if the Successful Buyer, in the judgment of the Seller has engaged in fraud and corruption, as defined in Clause 3 of Section – 6 T&CC and clause 4.2 of Section 4 ITB & BD, in completing for or in executing the Contract.

6.25.2 The Seller may take action to deprive the opportunity for participating for the tender to whom the shipping documents and permits provided by Seller will not be returned/ submitted after completion of the exports pursuant to the clause 4.9.6 of Section 4 ITB &BD and the bidders who are breaching terms and conditions of Contract.

6.26. ASSIGNMENT

6.26.1. Neither the Seller nor the Buyer shall assign, in whole or in part, their obligations under this Contract, except with prior written consent of the other party.

6.26.2. The Successful Bidder has no permission to change or commit of ownership of the Tender to the other party.

SECTION 7 – BIDDING FORMS

7.1(a) Prescribed Bid Submission Form (PBSF)

(b) Prescribed Bid Form (PBF)

(c) Specimen Bid Guarantee Form (SBGF)

Bid Submission Form

[The Bidder shall fill in this Form in accordance with the instructions indicated. No alterations to its format shall be permitted and no substitutions shall be accepted.]

Date.....:..... [insert date (as day, month and year) of Bid Submission]

Ref- Tender No.: [insert number of bidding process]

To:..... [insert complete name of Seller]

.....
.....
.....

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Documents, including Addenda No.:..... [insert the number and issuing date of each Addenda];
- (b). We offer the bid to purchase in conformity with the Bidding Documents and in accordance with The removal of goods within time frame specified in the Section -3 PRS&SPCS on sale of [insert a brief description of the Goods];
- (c) The total value of our Bid offered without applicable Royalty is USD..... [insert the total value in figure (qty x rate)] [insert in words]; at a price of USDper MT on Exw -IRZ Plant, Pulmoddai [insert the rate of bid prices in words only];
- (d) Our bid shall be valid for a period of 45 days pursuant to Clause 4.5.4 of Section -4 ITB & BD from The Date fixed for the bid submission deadline and it shall remain binding upon us and may be Accepted at any time before the expiration of that period;
- (e) If our bid is accepted, we commit to purchase and remove on time the product(s) paying the full Tendered value given in the Pro forma Invoice raised by the Seller in accordance with clause 4.8.10 of Section – 4 ITB & BD and clause 6.13.1 of Section -6 T&CC.
- (f) We have no conflict of interest in accordance with clause 4.4.1 of Section -4 ITB & BD
- (g) Our firm, for any part of the contract, has not been declared blacklisted by any statutory bodied.
- (h) We understand that this bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal contract is prepared and executed
- (i) We understand that you are not bound to accept the highest evaluated bid or any other bid that you may receive.

:..... [insert signature of person whose name and capacity are shown]

..... [insert the legal capacity]

.....[insert full name of person signing the Bid Submission Form]

Duly authorized to sign the bid for and on behalf of.....: [insert complete name of Bidder]

Dated on day of [insert date of signing]



Ministry of Industry and Commerce
Lanka Mineral Sands Ltd
PRESCRIBED BID FORM



Tender No.: LMS/MKT/TDR/19/02

DETAILS OF THE BIDDER

Name of Company:

Address :

.....

Tele Phone General..... Fax..... Mobile T.P.....

Email..... Website.....

Mobile/ WhatsApp / WeChat of Head of Company

Owner.....

	PRODUCTS	QUANTITY IN METRIC TONNE	BID SECURITY	TERMS OF PAYMENT	TERMS OF DELIVERY	BID PRICE PER METRIC TONNE	
						USD	Cts
1	ILMENITE (HS2614 00 10)	8,000	LKR 19,736,640.00 or USD112,000.00	100% on ADVANCE	IN BULK (EXW- IRZ PLANT)		

PASTE HERE THE PHOTOCOPY OF PAYMENT ADVICE ISSUED BY THE BANK UPON PAYMENT OF BID SECURITY IN CASH OR ATTACH THE ORIGINAL BID SECURITY IN THE FORM OF BANK GUARANTEE.

[In addition to the above the copies of Valid Business Registration & the document the specimen signatures of the board of company therein, Audited Financial Statement (last year), and Evidence for the competence of the bidder in the mineral industry should also be attached]

Authorized Signatory

1. Name.....
Designation.....
Address.....
.....
Specimen Signature

(attach a copy)

2. Name.....
Designation.....
Address

(Attach a copy)

Authorization of the Owner / Shareholder of Company

I /we hereby agree with the terms and conditions stipulated in the tender document and abide to the instructions of Seller,(Lanka Mineral Sands Ltd) and duly authorized to sign the correspondence of behalf of our/ my Company.

Name in full.....

Capacity / Designation.....

NIC/ Passport No. (please attach a copy)

Signature.....Date.....

Common Seal of the bidder

SPECIMEN BID GUARANTEE

[This Bank Guarantee form shall be filled in accordance with the instructions indicated in brackets]

----- [Insert issuing agency's name and address of issuing branch or office]

----- [Insert **Beneficiary:**

Date: ----- [insert (by issuing agency) date]

BID GUARANTEE No.: ----- [insert (by issuing agency) number]

We have been informed that ----- [insert (by issuing agency) name of the Bidder; if a joint venture, list complete legal names of partners] (hereinafter called "the Bidder") has submitted to you its bid dated ----- [insert date (by issuing agency)] (hereinafter called "the Bid") for the purchase of ----- [insert name of product (s)] under Invitation for Bids No. ----- [insert IFB number] ("the IFB").

Furthermore, we understand that, according to your conditions, Bids must be supported by a Bid Guarantee.

At the request of the Bidder, we ----- [insert name of issuing agency] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of -----

--- [insert amount in figures] ----- [insert amount in words] upon receipt by us of your first demand in writing accompanied by a written statement stating that the Bidder is in breach of its obligation(s) under the bid conditions, because the Bidder:

- a) has withdrawn its Bid during the period of bid validity specified; or
- b) does not accept the correction of errors in accordance with Bid Evaluation Criteria or
- c) having been notified of the acceptance of its Bid by the Purchaser/ Buyer during the period of bid validity,
 - (i) fails or refuses to execute the Contract Form, if required, or
 - (ii) fails or refuses to settle the tendered value within the stipulated period, in accordance with the 4.8.10 of ITB&BD.

This Guarantee shall expire: (a) if the Bidder is the successful bidder, upon our receipt of copies of the Contract signed by the Bidder and of settled the tendered value in full within the time frame by the Bidder; or (b) if the Bidder is not the successful bidder, upon the earlier of (i) our receipt of a copy of your notification to the Bidder that the Bidder was unsuccessful, otherwise it will remain in force up to ----- (insert date)

Consequently, any demand for payment under this Guarantee must be received by us at the office on or before that date.....

[Signature(s) of authorized

CONTRACT AGREEMENT

This contract Agreement is made the day of 2019

by and between,

(1)..... a company registered under the Company Act The Democratic Socialist Republic of Sri Lanka and having its principal place of business at Sri Lanka (hereinafter called “the Seller”), and

(2)..... bearing registration No. and having its principal place of Business at..... (Hereinafter called “the Purchaser”)

WHEREAS modus operandi in the contract agreement is that the seller invites bids for the sale of MT. of Ilmenite under tender no LMS/MKT/TDR/19/02 (here after called and referred to as “the product” and the successful bidder (hereafter called and referred to as “purchaser”) upon a price inclusive of all relevant taxes (herein after called and referred to as “contract value” adhering to the tentative schedule embodied in the Bidding Document and both seller and Purchaser agree that this contract agreement to term as a forward sales agreement of which shall last for a period of one year from the date of signing.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are Respectively assigned to them in the Terms & Conditions of Contract referred to as follows:

a)“Contract” means the Contract Agreement entered into between the Seller and the Buyer, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein.

b)“Contract Documents” means the documents listed in the Contract Agreement, including any amendments thereto.

c) “Contract Price” means the price payable to the Seller as specified in the Contract Agreement, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract.

d) “Day” means calendar day.

e) “Completion” means the fulfillment of the supply / shift of Goods to the destination specified and completion of the Related Services by the Seller and buyer in accordance with the terms and conditions set forth in the Contract.

f) “T&CC” means the Terms & Conditions of Contract.

g) “Goods” means all of the commodities and/or other materials that the Seller is required to supply to the buyer under the Contract and buyer is to remove on time.

h) “successful bidder” means the entity purchasing the Goods and Related Services, as specified in the Products for Sale and Related Services and further defined in the T&CC.

i) “Related Services” means the services incidental to the supply of the goods, such as delivery of goods, removal of goods and documentary works on transport, exports and imports and other such obligations of the Seller and Buyer under the Contract.

j) “Subcontractor” means any natural person, private or government entity, or combination of the above, to whom any part of the Goods to be supplied or execution of any part of the Related Services is Sub contracted by the Seller or Buyer.

k) “Seller” means the natural person, government entity, or a combination of the above, whose bid to perform the Contract has been accepted by the buyer and is named as such in the Contract Agreement.

1) "The IRZ Plant," where applicable, means the place named in the tender document as the delivery point of goods on Exw-Pulmoddai basis and the place.

m) The "Global Market" means the price of heavy mineral product published by any reputed source of reviewing the heavy mineral industry and is the source acceptable to Lanka Mineral Sands Ltd

2. Seller and Successful bidder agree that the following documents listed below is which is an integral part of the tender procedures in respect of this transaction and pledge to adhere and to respect to the terms, conditions, rulings and requirements of the documents that are integrated to this sale and purchase agreement and undertake not to violate any of these conditions.

A). Tender Notice

B). Bidding Document consist with the following supporting documents

* Specifications of the product and warranty provided by the Seller

* Instructions to Bidder & Bidding Data

* Bid Evaluation criteria

* Terms & Conditions of Contract

* Bid guarantee

* Bid Submission Form

* Bid Form

C) Notification of award of the Seller and Acceptance of Buyer for the same

D) Pro forma Invoice

3. Buyer may covenant to pay the Seller in consideration of the provision of award of the tender on sale of product and due services and the remedying of defects therein, the contract value or such other sum as may become payable under the provisions of the contract at the time and in a manner prescribed by the contract

4. Seller undertakes to delivery & supply ofMT of within a stipulated period mentioned in the clause 4.9.7 & 4.9.8 of Section- 4 ITB & BD and to ensure the loading without delay and to consider for extension where there is any delay occurred at the end of Seller

5. The Buyer undertakes to remove the stock within the 75days of period mentioned in clause 4.9.7 of Section-4 ITB&BD and pursuant to clause 6.23 of Section -6 T&CC unless otherwise extension for removal of the product was not provided by the Seller.

6. Seller will issue commercial invoice, the certificate of origin, packing list with the weighing certificate for the product issued and cleared for export, quality certificate for the product of guaranteed (Specifications), the copy of export license and regulatory permits as required to the buyer other than quarantine Certificate for each consignment of the product on receipt of the bill of lading to the Seller.

7. Pre- shipment survey and pre- analysis of the product if required could be carried out by the buyer before the removal of the stock at the buyer's expenses.

8. At any defaults of the buyer by non- executing of the obligations & responsibilities vested with and breaching of Terms & Conditions of the contract, the Seller reserves the right to terminate the tender and finally, cancel the tender awarded recovering any payment payable by the buyer to the Seller from the bid security/ performance security unless remedial actions is taken at the buyer's end.

9. The Contract shall be governed by and interpreted in accordance with the laws of the Democratic Socialist Republic of Sri Lanka. Any disagreements or disputes arising between Seller & Buyer in connection with the contract are resolved amicably by direct informal negotiation. The Arbitration may be commenced prior to or before delivery of the product under the Contract. Arbitration proceedings shall be conducted in accordance with the Arbitration Act No:11 of 1995. The place of arbitration will be in Colombo, Sr Lanka.

9. The Contract shall be governed by and interpreted in accordance with the laws of the Democratic Socialist Republic of Sri Lanka. Any disagreements or disputes arising between Seller & Buyer in connection with the contract are resolved amicably by direct informal negotiation. The Arbitration may be commenced prior to or before delivery of the product under the Contract. Arbitration proceedings shall be conducted in accordance with the Arbitration Act No:11 of 1995. The place of arbitration will be in Colombo, Sr Lanka.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of Democratic Socialist Republic of Sri Lanka on the day, month and year indicated above.

For and on behalf of the Seller

.....
.....

In the capacity of Chairperson

.....
.....

In the capacity of Director

in the presence of Mr.

General Manager.....NIC /Passport No..... Issued on

..... Signature

for and on behalf of the Buyer

.....
.....

Authorized Signatory

In the capacity of Director

..... (Signature)

..... (Name in Full)

Authorized Signatory

.....

In the presence of Mr/ Mrs. of

NIC/ Passport No..... Issued on Signature.....