**AGREEMENT / EMPANELMENT CONTRACT FOR ROAD DESPATCHES FOR SOLID PRODUCTS**

THIS AGREEMENT made at Kolkata this ……………….. .. (hereinafter referred to as “Agreement” or “Empanelment Contract”) between MCPI PRIVATE LIMITED, a private company registered in India under the Companies Act 1956 and having its Registered Office at TECHNA Building, EM-3, Sector-V, Salt Lake, Kolkata - 700091 (hereinafter referred to as 'MCPI' or “OWNER”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors, representatives and permitted assignees )

AND

M/s. -----------------------------------------------------------, a company / partnership firm registered in India under the Companies Act, 1956 / Partnership Act and having its registered office / principal place of business at -------------------------------------------------------, hereinafter referred to as “CARRIER” / “CARRIER” (which expression shall unless it be repugnant to the context or meaning thereof mean and include it’s heirs, executors and administrators) on the Other Part:



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**WHEREAS** MCPI had invited tenders from various CARRIERS for the purpose of transportation ofPTA products from its plant located at Haldia to various destinations across India.

**WHEREAS t**he CARRIER has confirmed that it has sufficient expertise and competence and also has adequate number of vehicles suitable for transportation of PTAproducts and had submitted its offer for transportation of the PTA products from Haldia to various destinations across India.

**WHEREAS** pursuant to the deliberations and negotiations between MCPI and the CARRIER, MCPIhas agreed to empanel/shortlist the CARRIER for transportation of PTA products from Haldia to various destinations across India subject to the terms and conditions hereunder written, and as agreed to by the CARRIER.

NOW THIS AGREEMENT WITNESSETH AS UNDER:

1. **OBLIGATIONS OF CARRIER**
2. The CARRIER shall provide to MCPI all such information including but not limited to:

a) Full particulars of the Ownership of the vehicles, history of the vehicle, and the details of manner in which CARRIER has come in possession of every vehicle i.e. whether hypothecated or not.

* 1. Details of engine number and chassis number of the vehicles.
  2. Details of RTO registration number of the vehicles.
  3. Details of road permits, PUC certificate of the vehicles.
  4. Photographs of the driver and cleaner of every vehicle and their residential addresses prior to engagement of the vehicle for a particular consignment.
  5. Registering with MCPI the names, designations and the signatures of such representatives of the CARRIER who shall be authorized to sign Lorry Receipts on behalf of the CARRIER.

1. In the event, the CARRIER takes on hire any vehicle for complying with its obligations under this Agreement, the CARRIER shall obtain all details of such vehicles and furnish the details to MCPI at an appropriate time.
2. The CARRIER will ensure that the Owners of the hired vehicles will give a prior letter of firm understanding to MCPI that they are offering their vehicles through the CARRIER willingly for a period of this Agreement and will not solicit any separate business with MCPI except through the CARRIER.
3. It is essential that the CARRIER get the names, addresses, designations and signatures of their authorized representative duly registered in advance with MCPI and the signature of such authorized representatives of the CARRIER shall be indicated on the Lorry Receipt



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(LR) of the CARRIER for loading of product at MCPI’s plant at Haldia or any other location as designated by MCPI from time to time. Any change or variation in the name or designation of such authorized representative should be intimated to MCPI in advance. Any loss of product, issued on the basis of the LR signed by the authorized representative of the CARRIER will be at the entire risk, cost and expenses of the CARRIER only without any claim of whatsoever nature on MCPI. Further, if any loading of product is undertaken in the vehicle in the absence of such LR, or in respect of any irregularity therein, the same will not absolve the CARRIER from liability in respect of transportation of such products and all the provisions contained in this Agreement shall also apply to such products so loaded in such vehicles.

1. **RESPONSIBILITIES OF CARRIER**
2. The CARRIER should be clear of the fact that the Empanelment Contract does not bind the Owner to award transportation commercial contract to the CARRIER by any means. The empanelment contract only makes the CARRIER eligible to take part in the freight negotiation process
3. The CARRIER should be responsible to read all the guidelines and procedures for the freight negotiation process before taking part into it. The CARRIER should attend all the trainings/discussion sessions arranged by the Owner before taking part in the freight negotiation process.
4. The CARRIER will be responsible for offering vehicles fit to carry PTA products and transporting / delivering the same in good condition within the agreed transit time as mentioned in Rate Agreement, to the address of the dealers / consumers / customers or to other storage points as may be mentioned in the excise invoice and the CARRIER shall be solely held accountable for any malpractice / adulteration / contamination / shortage / wet / damage of the PTA product en route.
5. Vehicles belonging to operators suspended / blacklisted by MCPI will not be offered by the CARRIER.
6. CARRIER will be responsible for any act / omission / misconduct and attempts to pilfer products by the vehicle crew of all vehicles including the hired vehicles, offered as per this Agreement. Any action taken by MCPI against such errant vehicles including the hired vehicles, operators / crew of any such vehicles will not be challenged by the CARRIER.
7. CARRIER should note that representative of MCPI or MCPI’s customer/s shall be allowed under all circumstances, if so requested by MCPI, to travel along with the vehicle crew while transporting the PTA product meant for customer/s or any other storage points.
8. The representative of the CARRIER shall be responsible to carry Duplicate CARRIER’s copy of Tax relevant Gate Pass cum Invoice or any other documents which indicate payment particulars and other relevant details as per applicable taxation laws, along with the consignment and handing over the same at the receiving location to the consignee, failing which any resultant loss of applicable tax amount incurred by consignee will be recovered, from the CARRIER, by MCPI Any other financial losses resulting due to loss of statutory documents by CARRIER in transit or otherwise would be recovered from CARRIER by MCPI.
9. **Timely and correct feedback for any delay or probable delay in delivery of goods to customers:**

In case of any delay in delivery of goods to customers / any other storage points or probable delay because of any incidents on the way or missing of loaded trucks, CARRIER shall provide correct information time to time as required by MCPI about the status of the trucks. Incorrect information or delay in feedback for such cases over a period of 24 hrs shall lead to imposition of penalty @ Rs 5000 per incident on the CARRIER BY MCPI.

1. The CARRIER shall ensure that its employees / vehicle crew etc. working for the CARRIER or hired by the CARRIER, as the case may be, while on the premises of MCPI, or while carrying out their obligations under this Agreement, observe the general discipline laid down by MCPI.



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1. The CARRIER will not use the name of MCPI in any manner either for credit arrangement or otherwise and it is agreed that MCPI is in no way responsible for the debts, of the CARRIER and/or its employees and/or any personnel including vehicle crew hired by the CARRIER.
2. The CARRIER will not do or cause to be done upon the premises of MCPI or in the execution of their obligations under this Agreement anything whatsoever which solely in the opinion of MCPI may be or become nuisance or annoyance or dangerous or which may adversely affect the property, reputation or interest of MCPI, in any manner whatsoever.
3. The CARRIER will have their office or their representatives; to ensure speedy clearance of goods at all places, as may be required under this Agreement. The CARRIER must advise MCPI in writing the name and address of such offices or representatives.

**2.13.** The CARRIER will arrange to bring into use Lorry Receipt’s (L/R‟s) exclusive for MCPI consignments only and with printed serial number, or MCPI will arrange for such L/R(s) through MCPI’s ERP system. The cost of MCPI- arranged L/R(s) may be recoverable from the CARRIER. The CARRIER has to ensure proper acknowledgement of receipt of the consignment by the consignee in the format of acknowledgement provided on the reverse of the L/R(s), and have this acknowledged L/R(s) deposited with MCPI within the prescribed time.

**2.14.** The CARRIER will furnish L/R(s) and other documents as per MCPI requirement (in case ofexport consignment, such issuance will be governed by the provisions of applicable taxation laws. CARRIER shall give only clean and unconditional L/R(s) and remarks like

“Said to contain” or at “Owner’s risk” will neither be valid nor accepted. In the event L/R(s) containing such remarks are issued, the terms and conditions of MCPI will prevail.

**2.15** The CARRIER shall ensure that before the vehicle leaves MCPI’s premises with the consignment, all the documents required by the CARRIER like, Challans, Road Permits / e-waybills, Taxation documents, Declaration forms under applicable Taxation Laws and any other relevant documents are handed over to the driver of the vehicle duly checked and acknowledged by him**.The CARRIER, may also need to generate E-way bills in the relevant government tax site as per the direction of the OWNER and follow the said guidelines mentioned above**. The CARRIER should ensure for the safe delivery of these documents to the consignee and any loss / penalty arising due to the loss of such documents will be recoverable from the CARRIER. The CARRIER shall also be responsible for any penalty imposed en-route by applicable Tax /other Govt. authorities for non-availability of required documents and / or formalities, wrongly filled/ incomplete way bills, road permits, transit pass, other related documents as carried along with the consignment.

**2.16** The CARRIER shall be liable for all payments to his staff employed for the performance of carrying out of the said work and in respect of all claims and liabilities of the CARRIER’s business and MCPI shall in no event be liable or responsible for any such payment and the CARRIER shall keep MCPI indemnified against the same and from all proceedings in respect thereof.

**2.17** The employees of the CARRIER shall never be deemed to be the employees of MCPI.

**2.18** The CARRIER shall be solely responsible for and shall pay any compensation to his employees‟ payable under the Workmen’s Compensation Act or any other statutory enactments and the amendments thereto for the injuries caused to his workmen.

**2.19** CARRIER shall make sure that his staff follows safety rules & regulations of MCPI and adhere to the strictest discipline.

CARRIER shall adhere to safe working practice and guard against hazardous and unsafe

Working conditions and shall comply with OWNER’S safety rules as set forth therein.



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In respect of all workers /workmen directly or indirectly employed in the WORK for the performance of Carrier’s part of this agreement, the CARRIER shall at his own expense arrange for all the safety codes of C.P.W.D., Indian Standards Institutions, the Factories Act/ rules, The Electricity Act, and such other acts as applicable.

The CARRIER shall observe and abide by all fire and safety regulations of the OWNER. Before commencement of WORK, the CARRIER shall consult with OWNER”S Safety Engineers or Officer-in-Charge and must make good to the satisfaction of the OWNER any loss or damage due to fire to any portion of the WORK done or to be done under this agreement or to any of the Owner’s existing property.

The CARRIER shall be responsible for, and pay the expenses for providing medical treatment to any of its employee who may suffer any bodily injury as a result of any incident /accident which may occur in the course of operation undertaken by the CARRIER in every case in which by virtue of the relevant statutory provisions as applicable from time to time. In case MCPI is obliged to pay compensation to the CARRIER’s employees, the amount of compensation so paid and without prejudice to the statutory rights of MCPI it shall be at liberty to recover such amount or any part thereof by deducting it from any sum due from MCPI to the CARRIER whether under this agreement or otherwise. If for any reason, MCPI is required to pay compensation under this section, it shall be entitled to be indemnified by the CARRIER. The CARRIER shall be liable to indemnify MCPI for all claims made by MCPI without any demur.

**SAFETY REGULATIONS:**

The CARRIER shall have to follow all the safety rules and regulations followed by MCPI and also to ensure that your workers are well equipped with safety shoes and helmets and all other safety appliances which also includes Personal Protective Equipments (PPEs) required during the execution of the work.

**Penalty for violating safety rules & procedures:**

1. **In case of accident of a CARRIER's employee:**
2. In case of physical injury (LTI) or fatal accidents, MCPI will investigate and impose such penalty based on incidents and the amount may vary on case to case basis.
3. **In case of different types of injuries:**
4. First Aid Case (FAC), Medical Treatment case (MTC) , Restricted Work Case (RWC), MCPI will investigate and impose such penalty based on incidents and the amount may vary on case to case basis.

1. **In case of violation of Safety Rules/ Procedures:**

For violation in PPEs norm as laid down in respective area and not complying with the general Safety rules/ procedures of the company and for any subsequent recurring issues MCPI will investigate and impose such penalty based on incidents and the amount may vary on case to case basis.. These penalties (if any) will be deducted from CARRIER's respective monthly bills.

**The above penalties will be independent of any statutory penalties and/or other action against the CARRIER.**



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**Methodology for identification of violation of safety rules and regulations and recovery of penalty (Category A & B):**

1. MCPI will declare any injury as First Aid Case (FAC), Medical Treatment Case (MTC), Restricted Work Case (RWC), Loss Time Injury (LTI) & (Fatality) FLT.
2. Investigation will be carried out within 24 hours by MCPI’s safety team. For major accidents (LTI / FLT) a cross functional investigation team will be formed by management.
3. MCPI’s Team Leader (TL) - Safety will check the nature & cause of such unsafe act or unsafe condition and whether CARRIER IS responsible or not.
4. Finance Department will deduct money from the Bills of the CARRIER on the certification / confirmation of the MCPI's Head - HSEF.
5. For violation of any safety rules and for unsafe act safety personnel at site will issue a penalty slip to the CARRIER representative at site with a copy to Team Leaders and Finance dept. CARRIER representative will have to sign in the penalty slip.

Failure in complying safety rules / operational procedures by truck crews inside plant premises, shall lead to imposition of instant penalty based on incident and the same shall be communicated to CARRIER representative.

**PENALTY FOR ACCIDENTS / INCIDENTS CAUSED BY CARRIER:**

If the CARRIER /his employee(s)/agent(s)/representative(s) are found guilty of causing damage, breaking and/or defacing, deface or destroy any property including building, machineries, structures belonging to MCPI or of others within Plant premises during execution of the Contract, the same shall be made good by the CARRIER at his own risk and cost and in default thereof, the affected party/ parties may cause the same to be made good by other agencies and recover expenses from the CARRIER.

In case of physical injury (LTI) or fatal accidents, MCPI will investigate and impose such penalty based on incidents and the amount may vary on case to case basis. Any type of penalty money shall be realized from the CARRIER. Such realization shall be made first by adjusting the CARRIER's Bills. CARRIER shall pay the balance penalty, if any, without delay and demure.

The CARRIER will be exclusively liable for the payment of the aforesaid penalties notwithstanding any other compensation and/or reliefs whatsoever that might be paid by any other statutory authorities or otherwise.

**2.20** The CARRIER will be fully and exclusively liable for the payment of any and all statutory payments, Taxes, Duties, etc. as applicable, now or hereafter imposed by any Central or State Government authorities which are imposed with respect to the continuation of the contract. Necessary Tax deductions at source (TDS) will be made as per rules and regulations in force in accordance with acts prevailing from time to time.



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The CARRIER shall be solely liable to obtain and to abide by all necessary licenses / permissions from the concerned authorities as provided under the Contract Labour (Regulation & Abolition) Act 1970.

The CARRIER shall be responsible solely for necessary contribution towards PF, family pension, ESIC or any other statutory payment to Government agencies as applicable under the law in respect of the contract and personnel employed by the CARRIER for rendering service to MCPI and shall deposit the required amounts with the concerned statutory authorities on or before the due dates. Each CARRIER shall obtain a separate P.F number from the concerned Regional Provident Fund Commissioner and submit necessary proof of having deposited the employees as also the employer’s administration / inspection charge there-of, wherever applicable in respect of the personnel deployed by him relating to the WORK of MCPI.

The CARRIER shall regularly submit all relevant records / documents in this regards to MCPI representative for verification and upon such satisfaction, only MCPI will release payment of the amounts due.

The CARRIER shall indemnify the OWNER against all losses or damages caused to it on account of acts of the personnel deployed by the CARRIER.

The CARRIER shall at his expense, ensure due compliance with all applicable and governing Industrial and Labour Laws, Rules & Regulations & bye-Laws both of the Central & State Government and all other local authorities and shall keep the OWNER safe and indemnified in respect thereof.

The CARRIER shall pay fair wages to all persons employed by him and will not indulge in any unfair labour practice.

**2.21** The CARRIER agrees to abide by the provisions of Motor Vehicles Act, Payment of Wages Act and other labour regulations in force in the area where he is plying the vehicles.

**2.22** The CARRIER shall not be entitled to assign, subrogate, sublet or part with his right, title and interest under this contract for any reason whatsoever. The CARRIER shall not cause or allow any change in the constitution of its firm without obtaining prior written approval of MCPI.

**2.23** The CARRIER shall observe and implement all the laws of the land and the rules framed there under which are beneficial to the staff employed by him and that MCPI shall, in no event be liable or responsible for any default that will arise out of non-observance of or noncompliance with such laws or rules on the part of the CARRIER and the CARRIER shall indemnify and keep MCPI indemnified against the same from all proceedings in respect thereof.

**2.24** The CARRIER shall, to the best of its ability and at its own expenses, collect up-to-date market information that is required to provide up-to-date, true and accurate services hereunder to the MCPI, as is required by MCPI from time to time.

**2.25** The CARRIER shall at all times during performance of services cooperate with the personnel of MCPI and shall not interfere or cause inconvenience in any manner with the functioning of MCPI and/or the relevant nominated affiliate while provision of services hereunder.



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**2.26** In a very rare case, on MCPI requirement, CARRIER may need to bring back material from the consignee end to plant at Haldia as per the advice of MCPI. Forward freight rate as applicable for that destination from Haldia, will be applicable for such movement with other terms and conditions remain same.

1. **LIABILITIES OF CARRIER**
2. The CARRIER shall accept the goods at his own risk and shall accept full responsibility for the losses arising out of damage / contaminations of the goods and shall also accept the full responsibility for non-delivery or short delivery of the goods due to theft, pilferage, accident, fire or any acts of God.

The carrier will remain liable for all costs including incidental expenses incurred by the Carrier in order to address and/or resolve any issue of loss or damage to cargo or Customer’s property, incorrect documentation, or other problems arising out of omission and/or commission on our part or any incident in transit.

MCPI will also be entitled to be reimbursed by the CARRIER for the amount of loss suffered by MCPI as per MCPI’s computation under these provisions and the decision and determination by MCPI or its authorized representative as to the reasons for such loss or as to the existence of any acts or events such as riots, civil commotion or natural calamities as prescribed shall be final and binding on the CARRIER and shall not be questioned in any Court of Law, or arbitration or otherwise and the CARRIER do hereby irrevocably authorize MCPI to set off and adjust such loss or damage against the pending payments to the CARRIER and in the event of shortfall therein, the CARRIER shall immediately upon a certificate issued by MCPI pay the same to MCPI without demur or objection.

1. The CARRIER shall be liable for any loss or damage to MCPI employees, the Carrier’s employees or to any third party resulting from fire, leakage, negligence, explosion, accident or any other cause in operating the said vehicles at the time of loading, unloading, and/or during transit and the CARRIER shall indemnify and keep MCPI indemnified against any such loss or damage and shall pay to MCPI such amount as MCPI may be called upon by law to pay. The CARRIER shall remain at all times, liable and responsible to MCPI for any loss or damage caused to any building, plant and machinery or the property of MCPI / MCPI’s customers / MCPI’s associates by any carelessness, negligence, inexperience or wilful fault of the CARRIER or his agent or by his employee of which MCPI alone shall be the sole judge. MCPI shall be at liberty to recover any cost of repair or loss or damage from the CARRIER.
2. The CARRIER will make good to MCPI any loss arising from:
3. The confiscation of any quantity of the products delivered to the CARRIER or transportation by government or local authorities due to any fault or negligence on part of the CARRIER.

**3.3.2.** Loading, unloading, transhipment, storage of goods and delay in transit for reasons otherthan the natural calamities such as earthquake, cyclone, floods and lighting, riots or civil commotion.

In case the materials loaded in a particular vehicle is damaged, degraded, tampered with, pilfered or dealt with in any manner adversely affecting the material, its packing or quality thereof, the carrier have the sole responsibility of returning back the affected material to MCPI, Haldia at no cost to MCPI for either way (onward and return), and the carrier will have no claim for freight charges on MCPI for the said. Loss to the loaded Product, so affected in transit, shall be borne by the carrier, to the extent the claim for such loss is not admitted and indemnified by the Insurance Company. MCPI may, if it so deems fit, hold back payment covering the total value of Product packed in the number of affected bags (including but not limited to basic price of material, taxes and duties, freight charges and insurance cost thereon) pending final settlement of the Insurance Claim.

1. The CARRIER agrees to employ competent and efficient employees and operators / crew to ensure that deliveries are correctly executed. Any consequential loss caused on account of contamination of the product during the course of transit or by Carrier’s employees and representatives inside MCPI installations or for any other reason whatsoever shall be made good by the CARRIER.
2. The CARRIER is responsible for timely delivering the correct quality and quantity of the product as per invoice at the destination specified. The Carrier’s drivers should satisfy themselves regarding the weights and quality at the time of loading of the goods onto the

vehicle at MCPI’s premises. In the event of any loss of product recorded at the destinations



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as reflected by shortfall in weights, MCPI will recover the amount of any such shortage from the CARRIER. Such shortage amount would be debited to the CARRIER. In the event of the CARRIER providing proper documentation of such loss, MCPI shall take steps for claiming such loss from the insurance company and any amount so recovered from the insurance company shall be reimbursed to the CARRIER. It is however agreed that MCPI shall not be responsible for any shortfall that the CARRIER may have to bear after such realization from the insurance company.

3.6. It is desirable that the CARRIERS are having web based live tracking system in their portal which will help other interested parties to track any consignment whenever required.

It is expected that the above tracking is based on GPS or any other advanced technology.

1. The CARRIER agrees to ensure safe delivery of the consignment in all instances within the agreed transit time and will not permit his vehicles to be off the road for any unreasonable period and will not hold up deliveries for any cause. The CARRIER shall also be responsible for safe conduct of supplies in transit. In the event of delay at reaching the delivery destination beyond the agreed transit time, the CARRIER shall be penalized at the rate of Rs. 100 / MT/ DAY (the amount can be revised based on criticality of incident) as “Late Delivery Penalty”.
2. The carrier ensure that no crew members report for loading and unloading of vehicles under influence of intoxicant and that none of the crew of vehicles or representatives shall some or consume chewing tobacco/ gutkha/ zarda/ pan masala inside the Plant premise. The carrier must understand that such acts, if detected shall attract financial penalty as per rules of MCPI.
3. The CARRIER shall not have the exclusive right to operate vehicles for MCPI and MCPI will be at liberty to appoint one or more additional CARRIER(s) either to run concurrently with the CARRIER or separately on such terms, as MCPI may deem fit.
4. In case the vehicles are rendered unserviceable for want of repairs and or servicing, the CARRIER will make arrangements to effect supplies in alternate serviceable, vehicles to be provided by the CARRIER. The CARRIER will be paid for the actual quantity carried by such alternative vehicles.
5. In the event of the Carrier’s failure to perform the various other obligations contained in this agreement herein, the CARRIER shall be liable to reimburse MCPI for all expenses, in case MCPI is required to make such expenses for making other arrangements for effecting supplies, without prejudice to all other rights of MCPI.
6. **CAPACITIES AND SUITABILITY OF VEHICLES**
7. It shall be the responsibility of the CARRIER to ensure that the weight and volume of goods loaded for consignment in the vehicle is within the permissible limits prescribed in the Government regulations and RTO Registration Book. The CARRIER shall solely be responsible and bear the loss and damage if any suffered by MCPI on account of violation and/or breach of the weight and volume limits prescribed in all Government regulations and in the RTO Registration Book. MCPI shall not be liable to pay any detention or hire charges in respect of those vehicles that do not conform to the specifications described in the RTO Registration Book.
8. The CARRIER will ensure the vehicles provided are in perfect roadworthy condition and maintain all features necessary for smooth and safe transportation of products to their respective destinations.
9. The Consignments are required to be adequately covered with minimum 4(Four) layers of tarpaulins on the top and surroundings to the satisfaction of the OWNER out of which two layers at the top has to be waterproof / wax coated to protect the material from any kind of water ingress. In case of half bodied trucks, sufficient size of tarpaulin coverage to be given to both the sides of the truck.



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At the bottom of consignment on platform of the truck, good quality / thick plastic sheet is required to be provided to avoid any damage to the packing of the consignment. If containerized trucks are provided by the CARRIERs then those have to leakage proof and have to be pre-checked. It is mandatory that Extra plastic liner (thickness not less than 100 microns) has to be provided with each truck as extra measures to protect the quality of goods from getting deteriorated during rainy season.

1. The CARRIER will ensure that the vehicle provided is equipped with all the valid and subsisting permits and licenses and conform to pollution norms from respective transport and statutory authorities required for authorized road movement.
2. The CARRIER will ensure that the vehicles provided are owned or otherwise belong to the CARRIER or hired from its contractor. For any of the vehicles hired / which do not belong to the CARRIER, it shall not absolve the CARRIER from any of its obligations under this agreement or mitigate the liabilities arising out of breach of the conditions implied or expressed therein.
3. The CARRIER will ensure that in respect of all vehicles provided for transportation, the CARRIER shall arrange to take photographs of the driver, helper and the vehicle concerned before the vehicle’s taken inside the factory for loading and shall produce the same to MCPI /

Police or such other persons as and when required. In case MCPI decides to install any equipment for taking photographs of the drivers for purpose of security, the cost of such photographs will be borne by the CARRIER.

1. The CARRIER will ensure that the road and other tax certificates, insurance documents, PUC (Pollution under control) certificates and other necessary statutory documents for the vehicle and driving license of the driver are kept valid during the period of transportation of the goods till delivery to the destination.
2. MCPI may ask the CARRIERS to supply containerised trucks for carrying materials exclusively for some specific customers.
3. **ACCIDENT TO VEHICLE**
4. In case of any accident to the vehicle, the CARRIER will initiate action as per statutory requirements. Further, the CARRIER will intimate MCPI and act in accordance with the instructions of MCPI and will be governed by the internal procedures / documentation of MCPI which the CARRIER has familiarized himself prior to the commencement of this Agreement.
5. The CARRIER will be responsible for providing alternate vehicle to salvage the product from the vehicle under accident at its own cost. The CARRIER must not deliver the damaged consignment to the MCPI’s customers. The CARRIER must bring back the damaged consignment to MCPI at his own cost. MCPI shall not pay freight amount for both sides (to & fro) in such cases.
6. Recovery for any product loss from the CARRIER will be made at rates decided by MCPI.
7. The CARRIER will be responsible in case of accidents to the vehicles while in transit or any other stage including immediate intimation & lodging of FIR/GD to the nearest local police, as well as all concerned offices of MCPI about the accident at their own expense and cost.
8. **PRODUCT AND PACKAGING**

i. MCPI shall provide load to every trucks and trailers in such manner that maximum payload utilization can be achieved subject to the pack-size of the Product and the permissible limit of Gross Vehicle Weight specified in the trailers’ registration document.

ii. Carrier shall ensure that trucks and trailers are not overloaded under any circumstance and during any leg of the entire span of transit, and that the actual quantity loaded in every trucks and trailers are within the permissible payload limit as per the statutory norms.

iii. MCPI shall load the Product, in the container, packed in Flexible Intermediate Bulk Container (FIBC) with a net Product content not exceeding 1200 Kgs in each FIBC . However, the pack-size of the Product may be suitably modified from time to time to suit the requirements of MCPI.

|  |  |  |  |
| --- | --- | --- | --- |
| Product | Physical Form | Nature of Packing | Net Wt. (kgs) |
| PTA | Powder | Packed in flexible intermediate bulk container bag | 1200 |

1. **MALPRACTICE**

It would be the responsibility of CARRIER to deliver right quantity of goods to MCPI customer in good condition and on right time. In case of pilferage of materials from the product bags



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by tampering stitches or by damaging the product bags or by any other means whatsoever, MCPI at its sole discretion, shall impose a penalty of Rs 1,00,000/- only (the amount can be revised based on criticality of incident) in addition to recovery of all the direct and consequential losses arising out of such pilferage. For such losses of materials, Survey shall be done as per clause of Insurance Policy and insurance claim shall be raised based on submission of FIR ( or relevant proofs) by concerned CARRIER. Further, MCPI shall not be responsible, if such claims are not accepted by the Insurance Co.

If the crew of any vehicle provided by the CARRIER is involved in any malpractice, MCPI will be entitled to suspend the operation of the vehicle and its crew forthwith and to conduct an investigation into such malpractice/s.

If however, the investigation reveals the involvement of the CARRIER / his employees / associates in such malpractice, MCPI shall have the right to terminate the contract forthwith without any cost or consequence to MCPI and/or recover the losses so incurred both direct & consequential arising out of such malpractice by the CARRIER.

Tampering in LR by the CARRIER or by the person engaged by the CARRIER, if detected, will be treated as malpractice. Defaulted CARRIER shall be penalized with a penal amount of Rs 10,000/- per incident (the amount can be revised based on criticality of incident) in such cases. This penalty amount may get revised based on criticality of incident.

1. **REJECTION DUE TO CONTAMINATION/INORDINATE DELAY**
2. The CARRIER shall ensure that any act or omission on his part or his crew does not contaminate the products entrusted to him by MCPI in terms of this Agreement. If the products get contaminated due to any reason whatsoever and such contamination is confirmed as per the findings of the Laboratory Test report of MCPI or any other agency as may be determined by MCPI, the contaminated product will be disposed off at MCPI’s discretion. The difference between the cost of the product entrusted to the CARRIER and value recovered from such disposal along with other incidental expenses will be recovered by MCPI from the CARRIER.
3. In case of any inordinate delay in delivery beyond 7 days of the scheduled transit time, the consignment may get rejected and the defaulted CARRIER may be debited the Invoice value at sole discretion of MCPI along with associated cost, if any, to issue replacement material to the consignee. The refund of the debited amount will be made upon the sale of the returned consignment deducting the loss of value, if any.
4. In case of any rejection of material by the customer on account of suspected contamination or inordinate delay, MCPI would recover the entire cost of such material, so rejected, from the CARRIER. For the event of contamination, apart from realizing the loss from the CARRIER, MCPI shall have the option of suspending and blacklisting the vehicle crew / vehicle / CARRIER.
5. No transportation charges will be paid by MCPI for the futile trip during which the product got contaminated / damaged / inordinately delayed / affected or rejected due to any incident in transit or otherwise and also for the subsequent trip for transportation of the damaged/affected/ inordinately delayed / adulterated/ contaminated product to a location nominated by MCPI.
6. The provisions herein above will apply mutatis mutandis to cases of contamination of the product for the purposes of suspension of vehicles or termination of this Agreement.
7. The CARRIER agrees that in event of there being any failure or neglect on the part of the CARRIER to provide the vehicles or laying off or lack of utilization of the vehicle due to

Breakdown or any other reason, which may affect the use thereof by MCPI, MCPI shall be



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entitled to claim such damages, loss and expenses and other amounts as MCPI may have suffered or may suffer on account or by reason of the Carrier’s delay, neglect or default irrespective of whether or not the Agreement is valid.

1. **AGREEMENT PERIOD**

This agreement will come into effect from “…………………” (“**Effective Date**”) and will remain in force for period of 1 Year there from. It will also be open to MCPI to extend the Agreement for further period as and when required at the sole discretion of MCPI on the same terms and conditions.

1. **CONTRACT RATES**
2. **MCPI** shall pay to the CARRIER freight rates calculated as per the freight negotiation carried out through a reverse auction, which shall be considered as an integral part of Rate Agreement. The freight rates would remain firm for two months period from the effective date. (which can be extended further as per MCPI’s decision) of the rate contract executed between MCPI and the Carrier.
3. The rates prescribed in the rate agreement will be inclusive of :
4. All applicable taxes that may be imposed during contract period by any Central / State / HDA / Municipal or other bodies, on the vehicle, levies on the value of the material carried. However, the contract rates referred to in Rate Agreement are exclusive of all taxes payable in respect of the goods.
5. All incidental / miscellaneous expenses which are required to be incurred in order to discharge the contractual obligation as mentioned herein shall be exclusively borne by the CARRIER.
6. Any charges towards statutory levies, rates for labour employed by the CARRIER as prescribed by any statutory body or Government Agency wherever in force will be paid by CARRIER.

9.3.4 The rates shall remain firm during the span of six months of the contract period (which can be extended further as per MCPI’s decision) and no escalation of any kind will be granted on any ground whatsoever, including but not limited to, increase in the cost of spares / tyres or levies as mentioned above**. The rate per MT shall however be subject to variation on account of variation in the price of high-speed diesel (subject to the conditions laid down in the following paragraph) as officially announced by the Government of India from time to time. The variation in rate per MT (based on assumed 15 MT loadability per truck) shall be calculated on the basis of consumption of HSD @ 4.0 KM per litre of HSD and the prices of HSD as prevailing at Kolkata shall be considered. The quoted rate shall be based on HSD price prevailing at IOC published rates in Kolkata as on *1st May,2019 (Rs.XX / liter).***

**The variation in rates on account of changes in the prices of HSD, as mentioned above, would be subject to:**

**i) The Average HSD Price for a month will be calculated from 25th-24th cycle based on IOC published rates in Kolkata**

**ii) The revised transportation rates would be changed only if there is a variation (+/-) of more than Rs 1 per litre from the HSD rates considered in the prevailing freight rate.**

1. In case a new freight destination is required which is falling beyond 50KM from the existing nearest freight destination, freight for such freight destination is to be finalized by extrapolating the applicable freight of the existing nearest freight destination.



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1. The rate for a particular destination should be made applicable for such destinations which are not specifically listed in the Commercial Bid but which fall within a radius of 50 KM of the quoted destination.
2. Tax will be deducted at source (TDS) as per applicable rate.
3. **CHUNGI / NAKA**

The CARRIER will undertake to observe all the formalities relating to Chungi / Naka at the check posts. The CARRIER will indemnify MCPI / MCPI’s customers / MCPI’s associates against all losses damages arising due to the Carrier’s non observance of the formalities and rules.

1. **SUBMISSION OF BILLS AND PAYMENT:**
2. The CARRIER must submit the bills, as per schedule determined by MCPI, supported by copies of duly acknowledged original billing copy of L/R‟s and other dispatch documents stating the details of the condition of the delivered goods along with details of damages, shortages if any, and date of delivery, evidencing that the delivery of the consignment was in accordance with the terms and conditions of the Agreement. These bills along with all the necessary supporting documents are to be submitted by CARRIER to MCPI latest by the next following month, in which the product was despatched.
3. The payments will be released only after verification of all the concerned documents, which are to be made available to MCPI, to its full satisfaction.
4. Payment of CARRIER bills will be made by MCPI at Kolkata / Haldia, by Online Fund Transfer (RTGS / NEFT) / Account Payee cheques, within 30 days from the date of receipt of complete and clear bills along-with necessary, prescribed supporting documents**.**
5. **MODE OF TRANSPORT:**

The CARRIER shall transport the goods by road only. If it is found that the CARRIER has transported the goods by any mode other than by road as agreed therein, MCPI shall be entitled to terminate the Agreement. Incase and as per requirement, MCPI may give prior written authorisation to the CARRIER to use any other mode of transportation as it may deem fit at it‟s own discretion.

The rates for such transportation will be determined by MCPI

1. **TRANSIT TIME**

The maximum acceptable delivery period (transit time) will be detailed out in rate agreement. In case of delays on the part of the CARRIER beyond the aforesaid acceptable delivery period (excluding holidays if they fall on the due delivery time and date and if the receiving point is closed on such holidays), MCPI will be entitled, in addition to recovery of the loss / damage



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suffered by MCPI, to levy late delivery penalty upon the CARRIER @ Rs 100/ MT/DAY ( amount may get revised based on criticality of incident) for any delayed delivery beyond the stipulated period, unless any explanation acceptable to MCPI is submitted in writing by the CARRIER. The delivery period (transit time) will be calculated from the next day of the date mentioned in the invoice to one day before the date of delivery as acknowledged by the consignee.

1. **TRANSHIPMENT**

The total quantity of the Product as mentioned in the invoice must be delivered at one time and not in instalments. Transhipment and / or part delivery of consignment during transit

en route is strictly prohibited unless prior written permission from MCPI is obtained. In case of breach of this condition, it will be the liability of the CARRIER to pay to MCPI for any loss/damage suffered in addition to a penalty of Rs. 10,000/- for every consignment transhipped and/or partly delivered.

However, If any deviation is found where the CARRIER has transhipped the material without the written approval from MCPI then the CARRIER may be blacklisted from MCPI apart from other penalties imposed thereof. Therefore, written permission through e-mail in this case is mandatory.

1. **SHORTAGES**

No shortages during transit will be allowed. Value of any shortages will be recovered by deduction from the Carrier’s bills at the sole discretion of MCPI.

1. **EMD**

In the event of reverse auction, empanelled Carriers will submit an EMD of 5 Lakhs for MCPI before every reverse auction cycle.

The EMD of all empanelled Carriers will be refunded within 7 days of signing of the commercial contracts. The earnest money deposit will be forfeited in case the bidder fails to sign the commercial contract or fails to start the operations even after award of the rate contract.



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**18. VOLUME ALLOCATION**

The volume of business as mentioned in the contract documents is only the indicative volume, that will vary in day to day operation based on MCPI business requirement.

CARRIER who will participate in tender process to provide his service in any of the given clusters/destinations, must be capable of taking up the % business volume awarded to them by MCPI.

However, MCPI at its sole discretion, shall allocate any percentage of business volume of stated clusters/destinations to the CARRIERs at their agreed rate depending on the total volume of business and number of CARRIERs selected for that particular cluster.

It is understood that there is no commitment by MCPI to any particular volume of business in any of the destinations/ clusters allotted to the CARRIER and the same is likely to vary from time to time. MCPI’s decision in respect of allotment of volume to the CARRIER at any point of time is final. The volume of work allotted, cannot be used by the CARRIER to claim any relaxation in the conditions of this Agreement.

MCPI Management reserves the right to change Cluster and use services of any CARRIERs in any cluster during the contract period in case of exigency.

**19 PLACEMENT AND PERFORMANCE**

19.1 Carrier shall arrange good quality truck &trailers for timely delivery of the Product from the Plant to the delivery point/destination/plant of the Customer as per the requirement of MCPI. The trucks and trailers to be provided for performance of the Transportation Services shall be in good running condition and fit for transportation of the Product and shall always be equipped with statutory licenses, permits, regulations etc. which are mentioned in ‘Motor Vehicles Law & Rules’ or any other applicable law for the time being in force. Such trucks and trailers shall be properly checked for roadworthiness, adequacy and condition of carriage and body, fixtures, fitments and equipments, mechanical fitness, competence of the respective crew members to handle the Product and emergencies related thereto, adequacy of documents as per statutory regulations and customer’s requirements, and such other guidelines as may be required statutorily and to preserve the quality of the Product loaded till it’s final delivery at the destination or delivery point and acceptance by the intended customer in good order. Carrier shall arrange all the permissions and follow all the rules and regulations relating to transportation of the Product through vehicles.

19.2 MCPI shall have the right to inspect the conditions of the trucks and trailers before loading of the Product and has the right to reject the same on dissatisfaction without any liability of paying charges for return of empty trucks and trailers. In Order to meet immediate demand, MCPI may issue indent for trucks to be placed on the same day.

19.3 In case such trucks and trailers are either not placed at the Plant exactly on the scheduled date and time as mentioned in the Delivery Order or not found in accordance with MCPI’s requirements, MCPI shall have the discretion to refuse acceptance of the trucks and trailers and no payment for detention or any other charges shall be released for such trucks and trailers.



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19.4 In case of failure on part of the CARRIER to provide requisite number of vehicles for transportation of the goods within specified time as per advice of MCPI, it will entitle MCPI at its sole discretion to levy a penalty of Rs. 100 / MT per day (the amount can be revised based on criticality of incident) as non placement penalty over and above the other actions MCPI would be entitled to initiate as per above paragraph 19.1, 19.2 and 19.3.

19.5 Any excess placement in the past will not be adjusted against the present failure for the purpose of determining penalty.

19.6 The performance of the CARRIER will be adjudged on a day-to-day basis after taking into account the exigencies of the despatch requirement, and the decision of MCPI in this regard will be final.

**20 FORCE MAJEURE**

20.1Neither party shall be under any liability for failure to comply with the terms and conditions of this Agreement if such failure is due to act of public enemy, acts or failure to act by the other party, acts of civil or military authority, governmental priorities, and strikes or other labour disturbances, cyclone, earthquake, fire, flood, epidemics, embargoes, war and riots. Upon the occurrence of such cause(s) and upon its termination, the party alleging that it has been rendered unable as aforesaid thereby, shall notify the other party in writing immediately but not later than 72 (seventy two) hours of the alleged beginning and ending thereof, giving full particulars and satisfactory evidence in support of its claim.

20.2The parties shall ascertain the particulars of such cause or causes as soon as possible and the parties shall meet to discuss the measures or actions each will take to alleviate or minimize the impact of the Force Majeure event, such meeting (s) to occur at intervals as appropriate.

20.3If a force Majeure event prevents the CARRIER from performing a portion of the Agreement, then the CARRIER shall perform such other portions of this Agreement and each party shall continue to take all actions within its respective power to comply as fully as possible with the terms of this Agreement.

20.4 If a force Majeure event continues for a period of 60 days or longer, and which cause or causes have a material adverse affect on this Agreement, then either party shall have the right to cancel the portion of this Agreement that is affected by the force Majeure event or terminate this Agreement and neither party shall be held liable for any loss, damage or delay suffered by the other party due to a force Majeure event.

**21 TERMINATION**

Notwithstanding anything hereinabove contained, in the event of the CARRIER being adjudicated insolvent, or being a Company resolved or ordered to be wound up, then in such event, the Agreement shall automatically stand terminated and in the event of breach, default or violation of any of the terms hereof by the CARRIER or for any reason whatsoever, MCPI shall be at liberty to terminate this Agreement forthwith and without



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prejudice to all other rights and claims of MCPI under this Agreement and the CARRIER shall not be entitled to any claim for loss, compensation or damage arising out of any such early termination.

**22 INDEMNITY**

CARRIER hereby agrees to indemnify and hold harmless MCPI, its officers and employees from and against all claims, demands, actions, suits and proceedings, whatsoever that may be brought or made against MCPI by or on behalf of any person, body, authority whosoever and all duties, penalties, levies, taxes, losses, damages, costs, charges and expenses and all other liabilities of whatsoever nature which MCPI may now or hereafter be liable to pay, incur or sustain by virtue of or as a result of the performance or non-performance or observance or non-observance by the CARRIER of any of the terms and conditions of this Agreement.

Without prejudice to MCPI’s other rights MCPI will be entitled to deduct from any dues payable to the CARRIER, the amount payable by MCPI as a consequence of any claims, demands, costs, charges and expenses as a result of the performance or non-performance or observance or non-observance by the CARRIER of any of the terms and conditions of this Agreement.

MCPI shall not be responsible for death, injury or accident to the Carrier’s employees, which may arise out of or in the course of their duties. MCPI shall not be liable for any theft, loss, damage or destruction of any property of the CARRIER or his employees lying in

MCPI’s premises for any cause whatsoever.

**23 ASSIGNMENT**

The benefits and obligations of this Agreement shall not be directly or indirectly assigned or dealt with by the CARRIER without the prior written consent of MCPI. MCPI reserves the right under this Agreement or any Agreement entered into pursuant to this Agreement to assign the terms of this agreement to any person declared to be a subsidiary or affiliate of MCPI.

**24 NOTICES**

All notices under this Agreement shall be in writing and shall be served, either by hand delivery or by sending the same by registered post addressed to either party at the last known place of business or by facsimile and in providing the services of such notice, it shall be sufficient to show that the same has been received in person or property addressed by registered post.

**25 MUTUAL ASSURANCE:**

Each of the parties hereby covenants to use its best efforts to take or cause to be taken, all action and do or cause to be done, all things necessary, proper or advisable under applicable laws and regulations to consummate and make effective as soon as reasonable practicable the transactions herein contemplated. Each party shall co-operate with others, as reasonably requested, to assist such parties in complying with the request of clients and requirements of governmental and regulating authorities. Either party shall provide all



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relevant information to the other party, which may be sought by one party to the other in regard to matters concerning this Agreement.

**26 SEVERABILITY**

In the event of any one or more of the provisions of this Agreement is held to be unenforceable under any applicable laws, such enforceability shall not affect any other provision of this agreement and this agreement shall be construed as if the unenforceable provision were not contained therein and the party shall negotiate in good faith to replace the unenforceable provision by such other provisions which has the effect nearest to that of the provisions being replaced.

**27 WAIVER**

No delay or omission on the part of either party in exercising any right, power or remedy under this Agreement will impair such right, power or remedy or operate as waiver thereof. The single or partial exercise of any right, power or remedy under this Agreement will not preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

1. **SURVIVAL**

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

1. **AMENDMENT**

No change, amendment or modification of this Agreement shall be valid or binding upon the party hereto unless such changes, amendment or modification shall be in writing and duly executed by both the parties hereto.

1. **ARBITRATION**

30.1 Any dispute or difference of any nature whatsoever, any claim, cross claim, counter claim and set off by MCPI against the CARRIER or regarding any rights, liability, act omission or account of any of the parties hereto arising out of or in relation to this Agreement shall be referred to the sole arbitrator to be nominated by MCPI. It is also a term of this contract that no person other than a person nominated by MCPI as aforesaid shall act as arbitrator hereunder. The award of the arbitrator so appointed shall be final conclusive and binding on all parties to the Agreement subject to the modification or re-enactment thereof and the rules made there under for the time being in force shall apply to the arbitration proceedings under this clause.

30.2 The award shall be made in writing and published by the arbitrator within three months after entering upon the reference or within such extended time not exceeding further six months as the sole arbitrator shall think fit. The parties shall be deemed to have irrevocably given their consent to the arbitrator to make and publish the award within the period referred to herein above and shall not be entitle to raised objection or protest thereto under any circumstances whatsoever.

30.3 The arbitrator shall have power to order and direct either of the parties to abide by and observe and perform all such directions as having regards to the matters in difference i.e. dispute before him. The arbitrator shall have all summary powers and may take such evidence oral and/or documentary, as the arbitrator in his absolute discretion thinks fit and shall be



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entitled to exercise all power under the Arbitration and Conciliation Act, 1996. The seat of the arbitration shall be at Kolkata and the arbitration shall be conducted in English Language.

**31 JURISDICTION (GOVERNING LAW)**

The Contract shall be governed by and construed according to the laws in force in India.

SIGNED AND DELIVERED By SIGNED AND DELIVERED By

the within named M/s the within named M/s.

MCPI Pvt. Ltd.

in presence of in the presence of

WITNESS WITNESS

1 ……………… 1 ………………

2 ……………… 2 ………………



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