



Rs. 5,000/- (Five Thousand only)

HCIL Receipt No.:

Date:

Signature:

BIDDING DOCUMENT
FOR
SUPPLY AND DELIVERY OF
5000MT. NON-COKING COAL

BID INVITATION NOTICE No. 12/073/074



HETAUDA CEMENT INDUSTRIES LTD.

(An undertaking of Government of Nepal)

CENTRAL OFFICE

P.O.Box No. 24, Hetauda

Makawanpur, Nepal

Tel.: 00977-57-412852/413020

Fax : 00977-57-412123

Email : info@hetaudacement.org.np



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Section - I
BID INVITATION NOTICE



Bid Invitation Notice for Supply and Delivery of Non-Coking Coal

Contract Identification No. **12/073/074**

(First Publication Date: 30/10/2016)

1. Hetauda Cement Industries Limited (HCIL) invites sealed bids or electronic bids from eligible bidders for the Supply and Delivery of **5000 Metric Ton of Non-Coking Coal** at plant site, Hetauda of HCIL.
2. Eligible Bidders may obtain further information and inspect the bidding documents at the office of Hetauda Cement Industries Ltd., Central office Hetauda or visit *Govt. eGP portal www.bolpatra.gov.np or our official website www.hetaudacement.org.np*
3. A complete set of bidding documents in English may be purchased by eligible Bidders on submission of a written application along with the copy of company /firm registration certificate and upon payment of non-refundable fee of **Rs.5,000.00** from Central Office, Hetauda or Kathmandu Office, Anamnagar, Kathmandu (Phone No.014269099) of HCIL within **15.00 hours of 30th** day from the first publication date of this notice. For the purpose of bidders who choose to submit their bids electronically through *Govt. eGP portal www.bolpatra.gov.np* the bidder may purchase the hard copy of bidding documents as mentioned above or may choose to download the bidding documents, prepare their bids and submit their electronic bids as specified in the instructions to bidders. Bidders are also advised to follow E-procurement information of the same website *www.bolpatra.gov.np*. In case the Bidder choose to download and submit bid electronically, the Bidders shall be required to deposit the non refundable fee for bidding document in the bank account of HCIL as specified in the bidding documents and electronic scanned copy(*.pdf format) of the bank deposit voucher shall also be submitted along with the electronic bid files and original Bid Document along with bid security should have to submit within 7 days from the date of bid opening.
4. Bids must be submitted to the Central office Hetauda on or before **12.00 hours of 31st day** from the first publication date of this notice. Alternatively, Bidders may submit their bid electronically through *Govt. eGP portal www.bolpatra.gov.np* within the same time and day. Late bids will be rejected.
5. Bids must be valid for a period of **90 days** counting from the day of bid opening and must be accompanied by a cash voucher for **Rs. 1,840,000.00** (One Million Eight Hundred Forty Thousand only) deposited in the bank account of HCIL or bank guarantee issued or counter guaranteed by "A" class commercial bank of Nepal in favor of HCIL for the same amount as bid security which shall be valid for minimum **120 days** from the date of bid opening. Bidders submitting their bids electronically shall be required to submit scanned copy of bid security along with the electronic bid files.
6. Bids (including e-bids) shall be opened in the presence of Bidders' representatives who choose to attend at **15.00 hours on 31st** day from the first publication date of this notice at central office, Hetauda.
7. If the last date of purchasing, submission and opening falls on a HCIL's holiday then the next working day shall be considered the last day. In such a case the bid validity and bid security validity shall be recognized with effect from the original bid submission deadline.
8. HCIL reserves the right to accept or reject any or all bids without assigning any reason, whatsoever.



Hetauda Cement Industries Ltd. (HCIL)

Central Office: P.O.Box No. 24, Hetauda, Makawanpur, Nepal

Phone No.: +977-57-413020/412852, Fax : +977-57-412123

Email : info@hetaudacement.org.np



Section - II
INSTRUCTIONS TO BIDDERS



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INSTRUCTION TO BIDDERS

A. INTRODUCTION

1. SCOPE OF BID

- 1.1 Hetauda Cement Industries Ltd. (herein after called HCIL or purchaser) invites Bids for the **Supply and Delivery of 5000 MT. of Non-Coking Coal** as mentioned specifications in section VI.
- 1.2 All Bids are to be completed and returned to the Purchaser in accordance with these Instructions to Bidders within the deadline of bid submission. However, bidders wishing to submit their bids electronically through website <http://www.bolpatra.gov.np> may purchase the hard copy or may choose to download the bidding documents, prepare their bids and submit their electronic bids as specified in the instructions to bidders. Bidders are also advised to follow e-procurement information of the same website <http://www.bolpatra.gov.np>. Incase the Bidder choose to download and submit bid electronically, the Bidders shall be required to deposit the non refundable fee for bidding document in the bank account of HCIL as specified in the bidding documents and electronic scanned copy(*.pdf format) of the bank deposit voucher shall also be submitted along with the electronic bid files. Bidders who have submitted their bids electronically they should submit hard copy of all bid documents including required evidence with attestation from notary public within **7 days** from the date of bid opening.

2. ELIGIBLE BIDDERS

- 2.1 This invitation for Bids is open to all eligible suppliers who submit copy of following documents with attestation from Notary Public Office.
- (a) up to date firm/company registration certificate.
 - (b) VAT & PAN registration certificate.
 - (c) Tax clearance certificate up to **F/Y 2072/073**.
(b and c of above will not be applicable to Non-Nepalese bidders).
 - (d) A written declaration stating that the bidder is not ineligible to participate in the bid; has no conflict of interest in the proposed bid procurement proceedings and has not been punished for the profession or business related offence.
 - (e) Joint venture authorization/ Agreement (if any)
 - (f) Power of Attorney.



3. COST OF BIDDING

The bidder shall bear all costs associated with the preparation and delivery of its bid and the purchaser will in no case be responsible for those costs.

4. ONE BID PER BIDDER:

Each Bidder shall submit only one bid, either individually or as a partner in a joint venture. A Bidder who submits or participates in more than one bid shall cause all the proposals with the Bidder's participation to be disqualified.

5. BIDS SUBMITTED BY A JOINT VENTURE

Bids submitted by a joint venture of two or more firms as partners shall comply with the following requirements, unless otherwise stated in the Bidding Data:

- a. The bid shall be signed so as to be legally binding on all partners;
- b. All partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
- c. One of the partners will be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of any and all partners of the joint venture; and this authorization shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all the partners; and
- d. The execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.

B. THE BIDDING DOCUMENTS

6. BIDDING DOCUMENTS

6.1 The Bidding Documents include:

Section -I	Bid Invitation Notice
Section -II	Instructions to Bidders.
Section -III	Bid Form and Price Schedule
Section -IV	Contract Agreement Form
Section -V	Conditions of Contract
Section -VI	Specification of Coal
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Bid Security Form	VII-1
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6.2 The bidder is expected to examine all instructions, II- 2 Documents. Failure to furnish all information required by the Bidding Documents or submission of any bid not substantially responsive to the bidding document in every respect will be at bidder's risk and may result in the rejection of the Bid.

7. CLARIFICATION OF BIDDING DOCUMENTS:

A prospective bidder requiring any further information or clarification of the Bidding Documents may request the Purchaser in writing or by fax. The purchaser will respond in no later than fifteen (15) days prior to the deadline for the submission of Bids.

8. AMENDMENT OF BIDDING DOCUMENTS:

1. At any time prior to the deadline for submission of bids, the Purchaser may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective bidder, shall amend or modify the Bidding Documents by issuing the addenda.
2. The amendment shall be part of the Bidding Documents, pursuant to Sub-Clause 6.1, will be notified in writing or by fax to all prospective Bidders who have purchased the Bidding Documents.
3. In order to allow prospective Bidders reasonable time in which to take the amendment into account in preparing their Bids, the Purchaser may, at its discretion, extend the deadline for the submission of bids in accordance with Clause 21.

C. PREPARATION OF BIDS

9. LANGUAGE OF BID.

The Bid prepared by the bidder and all correspondence and documents relating to the Bid exchanged by the bidder and the purchaser shall be written in Nepali or in English.

10. DOCUMENTS COMPRISING THE BID

The Bid prepared by the bidder shall comprise the following components:

- a) A Bid Form and a price schedule completed in accordance with clauses 11, 12 & 13.
- b) Documentary evidence established in accordance with clause 15, that the bidder is eligible to bid.
- c) Documentary evidence established in accordance with clause 16, that the bidder is qualified to perform the contract if its bid is accepted.
- d) Bid security furnished in accordance with clause 17.

11. BID FORM

The bidder shall complete the Bid Form and the appropriate price schedule furnished in the Bidding Documents.



12. BID PRICES AND CURRENCIES

12.1 The Bidders shall complete the appropriate price schedule included herein, stating the unit prices and total bid prices of the coal to be supplied under the contract. The bid prices shall be quoted in the following manner;

- a) Foreign bidders except from India shall quote the price in any convertible currency or in US\$ and Indian bidder must quote the price in Indian Rupees on the basis of CIF plant site, Hetauda Nepal inclusive of all taxes and duties leviable inside and outside Nepal and unloading charges at the place of final delivery except custom duty, VAT etc to be paid in custom office of Nepal.
- b) Indian bidders should also note that Sales tax will not be charged for the coal exporting to Nepal as the custom clearance certificate can be sent after entry of Coal into Nepal. Indian bidders shall also submit excise invoice for Nepal if the coal is excisable and if it is refundable to the government of Nepal as per the trade and transit treaty between Nepal and India.
- c) Nepalese Bidders should quote the price on the basis of CIF plant site, Hetauda, Nepal in Nepalese currency inclusive of all taxes and duties including VAT leviable in Nepal and unloading charges at the place of final delivery.

12.2 Price quoted by the Bidder shall remain fixed and valid until completion of the contract performance and will not be subject to variation on any account.

12.3 If the Bidder intends to offer any discount, it should always be expressed in fixed percentage and that will not vary as the quantities varies and be applicable to each unit rate.

12.4 Though the price quoted by the foreign bidder shall be except custom duty, VAT etc to be paid in the custom office of Nepal as mentioned in clause No.12.1 (a), it will be the responsibility of the bidder to pay these taxes and duties at Nepalese custom office while entering the coal into Nepal, which will be reimbursed to the supplier by the purchaser after receipt and acceptance at plant site of the purchaser up to the amount paid by the supplier as per rule of government of Nepal for the quantity accepted. The documents of the custom office like custom declaration form/ Pragyapan Patra, money receipt etc shall be in the name of purchaser as a importer. These documents should be presented to the purchaser for reimbursement within one month from the date of payment made to the custom office.

13 CURRENCY OF BID :

Prices shall be quoted in the currency as specified in clause No. 12.



14. LOCAL AGENT:

14.1 A foreign Bidder wishing to have or already having a local agent should state the following:

- i. Name and address of the Agent/Representative,
- ii. The Agent/Representative providing type of services,
- iii. Amount of commission if the Agent/ Representative is entitled to get such payment and if he/she participate in the procedure of payment,
- iv. Other agreement with Agent/Representative, if any,
- v. Bidder should certify in the Letter of Authorization as follows:
"We certify that the statement and disclosure made by us on the above are complete and true to the best of our knowledge and belief"

If the agent has not been appointed:

- i. Source of information about tender invitation,
- ii. The remuneration given to the individual or firm/company or organization to work on his behalf for submitting tender, representation in the bid opening and other required action in connection with the tender,
- iii. Transfer or handover an evidence of foreign currency exchanged which required to be submitted with the tender,
- iv. If the bank account of any Nepali citizen has been used for the exchange of foreign currency specify the name of the individual and his address. If the foreign currency has been exchanged by self then the certificate of currency exchange.

14.2 If a foreign Bidder in his Bid, has not provided the information mentioned in Sub Clause 14.1 or has submitted his bid stating that the Bidder does not have a local agent and later it is proved that the bidder has a local agent or it is proved that the commission mentioned in the Bid is less than the commission received by the local agent then the Purchaser shall initiate proceedings to black list such bidder.

15. DOCUMENTS ESTABLISHING THE ELIGIBILITY OF THE BIDDER

The bidders shall furnish document for eligibility as mentioned in clause No. 2 & 16.

16. If the Contract agreement was terminated by HCIL within a period of last 18 months due to default of the bidder, the bid proposal of such bidder will be disqualified.



17. BID SECURITY :

- 17.1 Pursuant to clause 10, the bidder shall furnish, as part of its Bid, bid security in the amount of not less than **Rs. 1,840,000.00 (One Million Eight Hundred Forty Thousand only)** The bid security should remain valid for 120 days from the date of opening of the bids.
- 17.2 The bid security shall be in one of the following forms;
- Bank guarantee issued or counter guaranteed by any "A" class commercial bank of Nepal in the form provided in Sample form VII-1 .
 - Cash deposited in the bank account of purchaser as shown in List of Bank Accounts VII-5.
- 17.3 Any Bid not secured in accordance with clauses 17.1 and 17.2 above will be rejected by the purchaser as non-responsive.
- 17.4 An unsuccessful bidder's bid security will be discharged/ returned as promptly as possible upon award of contract, but in any event not later than thirty (30) days after the expiration of the period of bid validity prescribed by the purchaser, pursuant to clause 18.
- 17.5 The successful bidder's bid security will be discharged/ returned upon the bidder's executing the contract, pursuant to clause 36 and furnishing the performance security, pursuant to clause 37.
- 17.6 The bid security may be forfeited:
- If a bidder withdraws its Bid and / or does not accept the correction of errors pursuant to sub clause 26.2
 - In the case of a successful bidder fails :-
 - to accept the notification of award.
 - to furnish the performance security in accordance with clause 37.
 - to sign the contract in accordance with clause 36;

18. PERIOD OF VALIDITY OF BIDS :

- 18.1 Bids shall remain valid for 90 (Ninty days) days from the date of opening of Bids as prescribed by the purchaser. A bid valid for a shorter period shall be rejected by the Purchaser as non-responsive.
- 18.2 In exceptional circumstances, the Purchaser may solicit Bidder's consent to an extension of the period of Bid validity. The request and the responses thereto shall be made in writing (or by cable). If the Bidder agrees to the extension request, the validity of the Bid security provided under Clause 17 shall also be suitably extended. A Bidder may refuse the request without forfeiting its Bid security. A Bidder granting the request will not be required nor permitted to modify its Bid.

19. FORMAT AND SIGNING OF BID:

- 19.1 The Bid Form and accompanying documents (as specified in clause 6), must be received by the purchaser at the date, time and place specified pursuant to clauses 20 and 21.



- 19.2 The Bid shall be typed or written in indelible ink and shall be signed by the Bidder or a person or persons duly authorized to sign on behalf of the Bidder. Such Authorization shall be indicated by written power-of-attorney accompanying the Bid. All pages of Bid shall be initialed by the person or persons signing the Bid.
- 19.3 The bid shall contain no inter lineation, erasures or overwriting, alterations or additions except as necessary to correct errors made by the Bidder or those to comply instructions issued by the Purchaser, in which case, such corrections shall be initialed by the person or persons signing the bid.

D. SUBMISSION OF BIDS

20. Sealing and Marking of Bids :

- 20.1 The Bidder shall seal the Bid in an envelope.
- 20.2 The envelope shall:
- be addressed to the Purchaser at the given address.
 - bear the words " Bidding document for **Non-coking Coal** " Bid Invitation Notice **No. 12/073/074** and a statement: "DO NOT OPEN BEFORE... ..(Date and time)"
- 20.3 The envelope shall also indicate the name and address of the Bidder to enable the Bid to be returned unopened in case it is declared "late."
- 20.4 If the envelope is not sealed and marked as required by Clauses 20.1 and 20.2, the Purchaser will assume no responsibility for the Bid's misplacement or premature opening.

21. DEADLINE FOR SUBMISSION OF BIDS:

- 21.1 The Bid must be received by the Purchaser no later than the time and date specified in the Bid Invitation Notice.
- 21.2 The Purchaser may, at its discretion, extend this deadline for the submission of Bids by amending the Bidding Documents in accordance with Clause 8, in which case all rights and obligations of the Purchaser and Bidders previously subject to the deadline will thereafter be subject to the deadline as extended.
- 21.3 A bidder who wishes to submit the bid electronically shall visit the website mentioned in the bid invitation notice and upload the bid as instructed in the notice. Bidders who have submitted their bids electronically will also submit original bid documents (With attestation from notary public in case of photo copy) within 7 days from the date of bid opening.

22. LATE BIDS:

Any Bid received by the Purchaser after the deadline for submission of Bids prescribed by the Purchaser, pursuant to Clause 21, will be declared "Late bid" and rejected and returned unopened to the Bidder.

23. MODIFICATION AND WITHDRAWAL OF BIDS :

- 23.1 The Bidder may modify or withdraw its Bid after the Bid's submission,



- provided that written notice of the modification or substitution or withdrawal is received by the Purchaser prior to the deadline for submission of Bids prescribed in Clause 21.
- 23.2 The Bidder's modification or withdrawal notice shall be prepared, sealed, and marked and dispatched in accordance with the provisions of Clause 20 and 23.1. with envelope duly marked as "WITHDRAWAL" or "MODIFICATION." as appropriate.
 - 23.3 No Bid may be withdrawn, modified after the deadline for submission of Bids.
 - 23.4 No Bid may be withdrawn in the interval between the deadline for submission of Bids and the expiration of the period of Bid validity specified by the Bidder on the Bid Form. Withdrawal of a Bid during this interval may result in the Bidder's forfeiture of its Bid security, pursuant to the Sub - Clause 17.6.
 - 23.5 Bidders may only offer discounts .or otherwise modify the prices of their bids by submitting Bid Modifications in accordance with Clause 23.

E. BID OPENING AND EVALUATION :

24. BID OPENING:

- 24.1 The Purchaser will open all Bids in the presence of Bidder's representatives who choose to attend, at the time, date, and place as specified in the Bid Invitation Notice. The Bidder's representatives who are present shall sign a register evidencing their attendance.
- 24.2 First, envelopes marked "WITHDRAWAL" shall be opened, read out and recorded and the envelope containing the corresponding bid shall not be opened, but return to the bidder. No bid shall be withdrawn unless the corresponding Withdrawal Notice contains a valid authorization to request the withdrawal and is read out and recorded at bid opening.
- 24.3 Next, envelopes marked "MODIFICATION" shall be opened, read out and recorded with the corresponding bid. No bid shall be modified unless the corresponding Modification Notice contains a valid authorization to request the modification and is read out and recorded at bid opening. Only envelopes that are opened, read out and recorded at bid opening shall be considered further.
- 24.4 The Bidders' names, Bid modifications or withdrawals, Bid prices, discounts and alternative offers, and the presence or absence of requisite Bid security and such other details as the Purchaser, at its discretion, may consider appropriate, will be announced and recorded at the opening. No Bid shall be rejected at Bid opening, except for late Bids, which shall be returned unopened to the Bidder pursuant to Clause 22 and 24.2.
- 24.5 Electronic bids will be downloaded and printed at the time of bid opening and other procedure of bid opening will be followed along with the sealed bids.
- 24.6 The Purchaser will prepare minutes of the Bid opening indicating all remarks containing the name of the bidder, description of bid like modification or substitution or withdrawal, bid prices indicating the



alternative bid prices if requested and discount offered if any, presence and absence of bid security, about late bids and other details as the Purchaser may consider appropriate. This minutes of bid opening shall duly signed by the Bidder and/or its representatives.

25. CLARIFICATION OF BIDS :

To assist in the examination, evaluation and comparison of Bids, the Purchaser may, at its discretion, ask the Bidder for a clarification of its Bid. The request for clarification and the response to it shall be in writing, and no change in the prices and substance of the Bid shall be sought, offered, or permitted, except as required to confirm the correction of arithmetic errors discovered by the Purchaser in the evaluation of the bid.

26. EXAMINATION OF BIDS AND DETERMINATION OF RESPONSIVENESS :

26.1 Prior to detail evaluation Bids, the Purchaser will determine whether each bid

- (a) meets the eligibility criteria defined in Clause 2; and qualification criteria defined in clause 16.
- (b) has been properly signed;
- (c) is accompanied by required securities;
- (d) the Purchaser will examine the Bids to determine whether they are complete, whether any computational errors have been made, whether is substantial responsive to the requirements of the Bidding documents.

26.2 Arithmetical errors will be rectified on the following basis.

- If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail, and the total price shall be corrected.
- If there is a discrepancy between words and figures, the amount in words will prevail.
- If the Supplier does not accept the correction of the errors, its Bid will be rejected, and its Bid security may be forfeited.

26.3 Prior to the detailed evaluation, pursuant to Clause 28, the Purchaser will determine the substantial responsiveness of each Bid to the Bidding Documents. A substantially responsive Bid is one which conforms to all the terms and conditions of the Bidding Documents without material deviations. The Purchaser's determination of a Bid's responsiveness is to be based on the contents of the Bid itself without recourse to extrinsic evidence. A material deviation or reservation is one:

- a. which effects in any substantial way the scope, quality, or performance of the Contract;
- b. which limits in any substantial way, inconsistent with the Bidding documents, the Purchaser's right or the Bidder's obligations under the Contract; or
- c. whose rectification would effect unfairly the competitive position of the other Bidders presenting substantially responsive bids.



- 26.4 The Purchaser may waive any minor informality, nonconformity, or irregularity in a Bid which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any Bidder.
- 26.5 A Bid determined as not substantially responsive will be rejected by the Purchaser and not subsequently be made responsive by the Bidder by correction or withdrawal of non-confirming, deviation or reservations.

27. PROCESS TO BE CONFIDENTIAL :

Information relating to the examination, clarification, evaluation and comparison of bids and recommendations for the Award of Contract shall not be disclosed to Bidders or any other persons not officially concerned with such process until the Award to the successful Bidder has been announced.

28. EVALUATION AND COMPARISON OF BIDS :

- 28.1 The Purchaser will evaluate and compare the Bids which have been determined to be substantially responsive, pursuant to Clause 26.
- 28.2 The Purchaser's evaluation of a Bid will be in the base of Bid Price as specified in the Price Schedule. The price quoted in foreign currency will be converted in Nepalese Rupees on the basis of exchange rate (Selling rate) of bid opening day published by Central bank of Nepal
- 28.3 Custom duty VAT etc as per prevailing rules payable at the Nepalese custom office will be added in the bid price of foreign bidders.
- 28.4 The Purchaser reserves the right to accept or reject any variation, deviation, or alternative offer. Variations, deviations, and alternative offers and other factors which are in excess of the requirements of the Bidding Documents or otherwise result in unsolicited benefits for the purchaser will not be taken into account in Bid evaluation.
- 28.5 The Purchaser's evaluation of a Bid may take into account, in addition to the Bid price quoted in accordance with Clause 12, and one or more of the following factors.
- a. delivery schedule offered in the Bid;
 - b. deviations in payment schedule as prescribed in bid document.
 - c. other specific criteria indicated in the Bidding document and/ or in technical specification.
- 28.5 Comparison of Bids will be between the main Bids only unless alternative bids are to be considered in the event that the alternative Bid, if any, of the bidder whose main Bid is the lowest evaluated is considered more advantageous than its main Bid.

29. CONTACTING THE PURCHASER

- 29.1 Subject to Clause 25, no Bidder shall contact the Purchaser on any matter relating to its bid, from the time of the bid opening to the time the Contract is awarded. If the Bidder wishes to bring additional information to the notice of the Purchaser, it should do so in writing.



29.2 Any effort by a Bidder to influence the Purchaser in the Purchaser's bid evaluation, bid comparison or contract award decisions may result in the rejection of the Bidder's bid.

30. SITE VISIT

The bidder should visit the plant site of purchaser at his own cost and obtain necessary information about the wages of unloading labour prior to submit the bid offer.

F. AWARD OF CONTRACT

31. POST QUALIFICATION :

In the absence of prequalification, the purchaser will determine to its satisfaction whether the bidder that is selected as having submitted the lowest evaluated responsive bid is qualified to perform the contract satisfactorily, in connection with the criteria listed in clause 16.

32. AWARD OF CONTRACT :

The Purchaser will award the contract to the successful Bidder whose Bid has been determined to be substantially responsive and has been determined to be the lowest evaluated Bid, provided further that the Bidder is determined to be qualified to perform the contract satisfactorily.

33. PURCHASER'S RIGHT TO VARY QUANTITIES

The Purchaser reserves the right to increase or decrease, up to 15 percent of the quantity of Coal originally specified in the bid invitation Notice and price schedule of coal without any change in unit price or other terms and conditions.

34. PURCHASER'S RIGHT TO ACCEPT ANY BID AND TO REJECT ANY OR ALL BIDS:

The Purchaser reserves the right to accept or reject any Bid, and to annul the Bidding process and reject all Bids at any time prior to contract award, without thereby incurring any liability to the affected Bidder or Bidders or any obligation to inform the affected Bidder or Bidders.

35. LETTER OF INTENT TO AWARD THE CONTRACT/NOTIFICATION OF AWARD :

35.1 The purchaser shall notify the concerned Bidder whose bid has been selected in accordance with ITB32 within seven days of the selection of the bid, in writing that the purchaser has intention to accept its bid and the information regarding the name, address and amount of selected bidder shall be given to all other bidders who submitted the bid.

35.2 Any Bidder who is not satisfied with the procurement process of purchaser's decision as per sub clause 35.1 and believes that the purchaser has committed an error or breach of duty which has or will result in loss to the bidder then the bidder may give an application for review of the decision to the purchaser with reference to the error or breach of duty committed by the purchaser. The review application should be given within 3 days of receipt of information regarding letter of intent to award the contract by the purchaser to the successful bidder.



35.3 If no bidder submits an application within the period of seven days of the notice provided under ITB35.1 .the purchaser shall accept the bid selected in accordance with ITB 32 and Letter of Acceptance shall be communicated to the selected bidder prior to the expiration of period of Bid validity, to furnish the performance security and sign the contract within fifteen days.

36. SIGNING OF CONTRACT :

36.1 Within fifteen (15) days of receipt of the letter informing the submission of performance guarantee, the successful Bidder shall submit performance security as per clause 37 and sign the contract agreement with the purchaser in the form provided with the bidding documents.

37. PERFORMANCE SECURITY:

37.1 Within fifteen (15) days of the receipt of notification of award from the Purchaser, the successful Bidder shall furnish the performance security equal to 5% (five) percent of the contract agreement amount in accordance with conditions of contract in the form provided in Section VII or another form acceptable to the purchaser.

37.2 Failure of the successful Bidder to comply with the requirement of Sub - Clause 36 or Clause 37.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid security, in which event the Purchaser may make the award to the next lowest evaluated Bidder or call for new Bids.

38. CORRUPT OR FRAUDULENT PRACTICES:

Government of Nepal requires that Purchaser, as well as Bidders observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the Government of Nepal:

- a. defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) **“corrupt practice”** means the offering, giving, receiving or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution; and
 - (ii) **“fraudulent practice”** means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the purchaser and includes collusive practice among Bidders (prior to or after Bid submission) designed to establish Bid prices at artificial non-competitive levels and to deprive the Borrower of the benefits of free and open competition;
- b. will reject a proposal for award if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;
- c. will declare a firm ineligible for a stated period of time.

39. CONDUCT OF BIDDERS:

39.1 The Bidder shall be responsible to fulfill his obligations as per the



requirement of the Contract Agreement, Instruction to Bidders and GON's Procurement Act and Regulations.

- 39.2 The Bidder shall not carry out or cause to carryout the following acts with an intention to influence the implementation of the procurement process or the procurement agreement:
- a. give or propose improper inducement directly or indirectly,
 - b. distortion or misrepresentation of facts,
 - c. engaging in corrupt or fraudulent practice or involving in such act,
 - d. interference in participation of other competing bidders,
 - e. coercion or threatening directly or indirectly to cause harm to the person or the property of any person to be involved in the procurement proceedings,
 - f. collusive practice among bidders before or after submission of bids for distribution of works among bidders or fixing artificial/uncompetitive bid price with an intention to deprive the Purchaser the benefit of open competitive bid price.
 - g. contacting the Purchaser with an intention to influence the Purchaser with regards to the bids or interference of any kind in examination and evaluation of the bids during the period from the time of opening of the bids until the notification of award of contract.

40. BLACKLISTING BIDDERS :

- 41.1 Without prejudice to any other rights of the Purchaser under this Contract, the Public Procurement Monitoring Office (PPMO) may blacklist a Bidder for his conduct up to three years on the following grounds and seriousness of the act committed by the bidder & the bidder shall be ineligible to bid for that period.
- a) if it is proved that the bidder committed acts contrary to the Sub - clause 39.2,
 - b) if the bidder fails to sign an agreement pursuant to clause 36,
 - c) if it is proved later that the bidder has committed substantial defect in implementation of the contract or has not substantially fulfilled his obligations under the contract or the completed work is not of the specified quality as per the contract ,
 - d) if convicted by a court of law in a criminal offence which disqualifies the bidder from participating in the contract.
 - e) if it is proved that the contract agreement signed by the bidder was based on false or misrepresentation of bidder's qualification information,
 - f) other acts mentioned in the conditions of contracts.
- 40.2 A bidder declared blacklisted by the Government of Nepal, (Public Procurement Office) shall be ineligible to bid for a contract during the period of time determine by the PPMO.



Section - III
BID FORM AND PRICE SCHEDULE



1. BID FORM

Date:.....

To,
Hetauda Cement Industries Ltd.
P.O. Box NO. 24, Hetauda
Makawanpur, Nepal

Dear Sirs,

Having examined the Bidding documents, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to **Supply and Delivery of 5000 Mt NON-Coking Coal** in conformity with the said Bidding documents for the sum of [total Bid amount in words and figures] or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Bid.

We undertake, if our Bid is accepted, to deliver the coal in accordance with the delivery period or schedule specified in the price Schedule.

If our Bid is accepted, we will provide a Bank Guarantee acceptable to the Purchaser in a sum equivalent to 5 percent of the Contract Price for the due performance of the Contract, in the form prescribed by the Purchaser.

We agree to abide by this Bid for a period of 90(Ninety days)days from the date of bid opening and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

Commissions or gratuities, if any, paid or to be paid by us to agents relating to this Bid, and to contract execution if we are awarded the contract, are listed below:

Name and address of agent	Amount and Currency	Purpose of Commission or gratuity
-----	-----	-----
-----	-----	-----

(if none, state "none")

Until a formal Contract is prepared and executed, this Bid, together with your written acceptance thereof and your notification of award, shall constitute a binding Contract between us.

As per your requirement, we have attached herewith the bid security in the form of bank guarantee/draft/cash deposit voucher for (Amount) valid for 120 days from the date of opening of bids.

We understand that you are not bound to accept the lowest or any Bid you may receive.

We certify/confirm that we comply with the eligibility requirements as per ITB Clause 2 of the Bidding documents.

Dated this _____[dd] day of _____[mm] month of 20_____[yy].

[Name] _____

[signature] [in the capacity of]

Duly authorized to sign Bid for and on behalf of :



2. PRICE SCHEDULE FOR GOODS

(Applicable for quoting the prices by overseas Bidder in currencies other than Nepalese or Indian Currency)

S.N.	Description	Qty.	Unit Rate		Amount
			In figure	In words	
1.	Non - Coking Coal (As per specification)	5000 MT.			
a)	CIF Calcutta, India				
b)	Transportation and insurance charges from Kolkata port to site alongwith Clearing, forwarding and other charges				
c)	Total CIF Plant Site, Hetauda, (HCIL) Nepal,(Including all taxes and duties, expenses and unloading charges upto final destination inside & outside Nepal except custom duty VAT etc leviable at Nepal custom office.)				
(In words.....)					

Bidders Name :

Address :

Signature of Bidder

Phone :

Date :

Fax No. :

Stamp of Bidder's Firm :



3. PRICE SCHEDULE FOR GOODS

(Applicable for quoting the prices by Indian Bidder in Indian Currencies)

S.N.	Description	Qty.	Unit Rate		Amount
			In figure	In words	
1.	Non - Coking Coal (As per specification)	5000 MT.			
a)	Ex-mines				
b)	Excise duty @.....				
c)	Transportation and insurance upto site				
d)	Clearing, forwarding and other expenses.				
e)	Total CIF Plant Site, Hetauda, (HCIL) Nepal, (including all taxes and duties expenses and unloading charge upto final destination inside & outside Nepal except custom duty, VAT etc leviable at Nepal custom office.)				
(In words.....)					

Bidder's Name :

Address :

Signature of Bidder:

Phone No. :

Date :

Fax No. :

Stamp of Bidder's Firm :



4. PRICE SCHEDULE FOR GOODS

(Applicable for quoting the prices in Nepalese Currency)

S.N.	Description	Qty.	Unit Rate		Amount
			In figure	In words	
1.	Non - Coking Coal (As per specification)	5000 MT.			
a)	VAT @ 13% (+)				
b)	Total CIF Plant site, Hetauda (HCIL), Nepal Including all Govt.taxes and duties, custom duty etc in Nepal and unloading charges at plant site.				
(In words.....)					

Rate and amount of VAT will be charged as applicable at the time of despatch or billing.

Bidders Name :

Address :

Phone :

Fax No. :

Stamp of Bidder's Firm :

Signature of Bidder

Date :



Section - IV
CONTRACT AGREEMENT FORM



CONTRACT AGREEMENT FORM

THIS AGREEMENT made on the *[insert number]* day of *[insert month]*, *[insert year]*, between HETAUDA CEMENT INDUSTRIES LTD of Lamsure, Hetauda-9, Makawanpur, Nepal (hereinafter "**the Purchaser**"), of the one part, and *[insert complete name of Supplier]* of *[insert complete address of Supplier]* (hereinafter "**the Supplier**"), of the other part:

WHEREAS the Purchaser invited Bids for **Supply & Delivery of 5000 Mt Non-Coking Coal** and has accepted a Bid by the Supplier for the supply of those Goods and Related Services in the sum of NRs *[insert amount of contract price in words and figures including taxes]* (hereinafter "**the Contract Price**").

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 Conditions of Contract referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz.:
 - (a) the Purchaser's Notification to the Supplier of Award of Contract;
 - (b) the Bid Submission Form and the Price Schedules submitted by the Supplier;
 - (c) the Conditions of Contract;
 - (d) *[indicate other documents required]*This Contract shall prevail over all other Contract documents. In the event of any discrepancy or inconsistency within the Contract documents, then the documents shall prevail in the order listed above.
3. In consideration of the payments to be made by the Purchaser to the Supplier as indicated in this Agreement, the Supplier hereby covenants with the Purchaser to provide **5000 Mt Non-Coking Coal** and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. The Purchaser hereby covenants to pay the Supplier in consideration of the **Supply and Delivery of the 5000 Mt Non-Coking Coal** and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of "Nepal" on the day, month, and year indicated above.

Signed by... ..
insert authorized signature for
the Purchaser

Signed by
insert authorized signature
for the Supplier

Witness

- 1.
- 2.

Witness

- 1.
- 2.



Section - V
CONDITIONS OF CONTRACT



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CONDITIONS OF CONTRACT

1. Definitions

In this Contract, the following terms shall be interpreted as indicated:

- a. **"The Contract"** means the agreement entered into between the Purchaser and the Supplier, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- b. **"Contract Documents"** means the documents listed in the Agreement, including amendments thereto. Subject to the order of precedence set forth in the Agreement, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary and mutually explanatory.
- c. **"The Contract Price"** means the price payable to the Supplier under the Contract for the full and proper performance of its contractual obligations.
- d. **"The Goods"** means Non-Coking Coal as per specifications herewith which the Supplier is required to supply to the Purchaser under the Contract.
- e. **"The Services"** means those services ancillary to the supply of the Goods, such as transportation and insurance, and any other incidental services, such as installation, commissioning, provision of technical assistance, training, and other such obligations of the Supplier covered under the Contract.
- f. **"Delivery"** means the transfer of the Goods from the Supplier to the Purchaser in accordance with the terms and conditions set forth in the contract.
- g. **"Completion"** means the fulfillment of the related services by the Supplier in accordance with the terms and conditions set forth in the contract.
- h. **"The Purchaser"** means the organization purchasing the Goods.
- i. **"The Supplier"** means the individual or firm supplying the Goods under this contract.
- j. **"The Plant Site"** means the place or places where plant is located.
- k. **"Day"** means calendar day.
- l. **"The Governing Language"** of the contract shall be English/Nepali.



2. Application

These Conditions shall apply to the extent that they are not superseded by provisions of other parts of the Contract.

3. Country of Origin

3.1 All Goods supplied under the Contract shall have their origin in Nepal or in the countries stated by the bidder or as mentioned in the contract.

3.2 For purposes of this Clause, "origin" means the place where the coal was mined or produced.

3.3 The origin of Goods is distinct from the nationality of the Supplier.

4. Standards Of Coal :

The Non-Coking Coal supplied under this Contract shall conform to the Technical Specifications prescribed in Section VI.

5. Use of Contract Documents and Information; Inspection and Audit.

5.1 The Supplier shall not, without the Purchaser's prior written consent, disclose the Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Purchaser in connection therewith, to any person other than

a person employed by the Supplier in the performance of the Contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.

5.2 The Supplier shall not, without the Purchaser's prior written consent, make use of any document or information enumerated above except for purposes of performing the Contract.

5.3 Any document, other than the Contract itself, specified in Clause 5.1 shall remain the property of the Purchaser and shall be returned (all copies) to the Purchaser on completion of the Supplier's performance under the Contract if so required by the Purchaser.

6. Performance Security

6.1 The contractor shall cause performance security to be furnished to the purchaser in the amount of 5% (Five Percent) of the total contract price (inclusive of VAT where applicable). Such performance security shall be provided in the form provided herein or in form satisfactory to the purchaser at the time of signing of the contract agreement.

6.2 The proceeds of the performance security shall be payable to the Purchaser as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.

6.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:



- a) a bank guarantee issued or counter guaranteed by an "A" class commercial bank of Nepal in the form provided herein or another form acceptable to the purchaser.
 - b) Cash deposited in the bank account of purchaser As shown in Section -VII-5.
- 6.4 The validity of the performance security shall be Ninety (90) days from the date of signing of the contract agreement.
- 6.5 The performance security will be released only after 30 days of successful completion of supply of goods under the contract.

7. Unloading

Unloading of coal at plant site, Hetauda will be done by the supplier at his own cost. Unloading time will be opened from 6 AM to 6 PM or as mutually agreed.

8. Delivery of Coal

Delivery of Coal by the supplier at HCIL's plant site, Hetauda, Nepal shall be started within 7 days from the date of agreement or receipt of L/C (whichever is applicable) and completed within **60 (Sixty days)** days to be counted from 7th day of agreement or receipt of L/C The supplier must deliver the coal as follows:

Within 30 days - 2000 Mt

Within 60 days - 5000 MT

The supplier will bear L/C extension charges or bank draft charges in case of delayed supply even if an extension of delivery period has been granted by HCIL, except in case extensions granted by HCIL are attributable to force majeure.

9. Insurance & Transportation:

Supplier need not submit insurance policy, invoice of transporter etc to the purchaser as payment is to be made after receipt and acceptance of coal at plant site, Hetauda. Supplier can take insurance policy for his own safety. Each truck carrying the coal will submit the Challan alongwith the weight of coal taken by the supplier at his own weigh bridge. Trucks should be covered with tarpaulin to avoid rain water.

10. Weight of Coal

Coal sent by the supplier will be weighed at the weigh bridge of the purchaser at plant site. Weighing scale ticket will be issued by the purchaser and net weight will be mentioned in each challan. This weight will be final and binding to both purchaser and the supplier.

The weight of coal mentioned in challan by the supplier will not be final and it will be considered as indicative only.



11. Payment

Payment will be made as follows by A/C payee cheque/bank draft and or irrevocable letter of credit (whichever is applicable) to be opened in favor of supplier.

- (i) 90% amount of each consignment of minimum 350 MT of Coal on presentation of the following original documents after delivery at plant site, Hetauda, Nepal subject to adjustment in price for high moisture as specified in clause no.12 and after deducting income tax on total invoice value before VAT as per prevailing rules of Government of Nepal.
 - a) Commercial Invoice in case of Non-Nepalese supplier and tax invoice in case of Nepalese supplier.
 - b) Certificate of receipt, acceptance and actual weight of Coal issued by HCIL.
- (ii) Balance 10% of remaining C I F value and VAT will be released within 10 days after receipt and acceptance of the total contractual quantity of coal at plant site, Hetauda of purchaser.
- (iii) Any expenses on L/C such as reimbursement charges advising commission and interest incurred out side Nepal and at negotiating bank should be borne by the supplier.

12. Quality analysis

- 12.1 Quality analysis will be done by the purchaser in the laboratory of purchaser at plant site, Hetauda for each lot of minimum 350 MT supplied coal. Sample of coal will be collected on daily basis. Moisture test will be done from collected sample on daily basis and weighted average moisture for each lot of minimum 350MT supplied coal will be calculated. If coal supplied is found to be wet, moisture analysis may be done for individual truck and result of the same will be taken for weighted average calculation of minimum 350MT. Quality analysis for other requirements of specification will be done from the collected sample after supply of minimum 350MT. The analysis report of the purchaser will be final and binding to both the purchaser and the supplier. Supplier must dispatch the Coal in the truck covered with tarpaulin to avoid rain water.
- 12.2 In case of urgency General Manager of HCIL may order to do quality analysis for less than 350MT supplied Coal.
- 12.3 Purchaser will reject coal having gross calorific value less than 5700 KCal/kg. Supplier will have to take back the rejected coal within 10 days from the date of notification and after 10 days the purchaser will not take any legal responsibility for mishandling, loss, etc of such coal.
- 12.4 In case of excess moisture than the specified range in section VI excess percent of moisture will be deducted by the same excess percent from the weight of coal.



12.5 The supplier may depute his representative at the time of weighing, sampling and testing of coal.

13. Price

13.1 Price of Coal for the following specification will be Rs./IRs/US\$.....per MT.

Specification Of Coal After equilibrating at 60% RH and 40°C):

- (i) Gross Calorific Value : Minimum 5800 KCal/Kg.
- (ii) Ash : Should not exceed 25% in average.
- (iii) Volatile Matter : Minimum 28%
- (iv) Sulphur : Should not exceed 1.2%
- (v) Moisture : Up to 5%
- (vi) Pit head coal should be free from lump shale and clayey materials
- (vii) Size of the coal : Max 5" to fines.

Though the gross calorific value mentioned above is minimum, coal of higher calorific value can be supplied without extra claim. However coal having gross calorific value upto 5700 Kcal/Kg. will be accepted after deducting the price on prorated basis.

14. Contract Amendments

No variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties.

15. Assignment

The Supplier shall not assign, in whole or in part, its obligations to perform under this Contract, except with the Purchaser's prior written consent.

16. Delays in the Supplier's Performance

16.1 Delivery of the Coal shall be made by the Supplier in accordance with the delivery schedule pursuant to clause No.8.

16.2 If at any time during performance of the Contract, the Supplier should encounter conditions impeding timely delivery of the Coal the Supplier shall promptly notify the Purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for performance, with or without liquidated damages, in which case the extension shall be ratified by the parties.

16.3 Except as provided under Clause 19, a delay by the Supplier in the performance of its delivery obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to Clause (17), unless an extension of time is agreed upon pursuant to Clause 16.2 without the application of liquidated damages.

17. Liquidated Damages

If the Supplier fails to deliver the Coal within the time period (in accordance with agreed schedule) specified in the contract, the Purchaser shall, without



prejudice to its other remedies under the contract, deduct from the contract price, as liquidated damages, a sum equivalent to 0.05 percent of the delivered price excluding VAT of the delayed portion for each day of delay until actual delivery, up to a maximum deduction of 10 percent of the contract price excluding VAT except in case of force Majeure provided in clause 19.

18. Termination for Default

18.1 The Purchaser, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate this Contract in whole or in part:

- a. if the Supplier fails to deliver the Coal within the period(s) specified in the Contract, or within any extension thereof granted by the Purchaser pursuant to Clause 16; or
- b. if the Supplier fails to perform any other obligation(s) under the Contract.
- c. if the Supplier, in the judgment of the Purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

18.2 In the event the Purchaser terminates the Contract in whole or in part, pursuant to Sub - Clause 18.1, the Purchaser may procure, upon such terms and in such manner as it deems appropriate, Coal similar to those undelivered, and the Supplier shall be liable to the Purchaser for any excess costs for such similar Coal. However, the supplier shall continue performance of the contract to the extent not terminated.

19. Force Majeure

19.1 In the event that the supplier or the purchaser is delayed in performing any of their respective obligation under the contract, and such delay is caused by force majeure, including but not limited to war, civil insurrection, fires, floods, epidemics, earthquakes, quarantine restriction and freight embargoes, such delay may be excused and the period of such delay may be added to the time of performance of the obligation delayed.

19.2 If a force majeure situation arises, either of the parties shall promptly notify in writing of such conditions and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

20. Termination for Insolvency

The Purchaser may at any time terminate the Contract by giving written notice to the Supplier if the Supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the Purchaser.



21. Termination for Convenience

21.1 The Purchaser, by written notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Purchaser's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.

21.2 The Coal which is ready for shipment within seven (7) days after the Supplier's receipt of notice of termination shall be accepted by the Purchaser at the Contract terms and prices.

22. Settlement of Disputes

22.1 If any dispute or difference of any kind whatsoever shall arise between the Purchaser and the Supplier in connection with or arising out of the Contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

22.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Purchaser or Supplier 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.

22.2.1 Any dispute or difference in respect of such a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration board prior to or after delivery of goods under this contract.

22.2.2 Arbitration proceedings shall be conducted in accordance with the rules of Nepal Council of Arbitration; and United Nations Commission of International Trade Law (UNCITRAL) Arbitration Rules.

22.3 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 Purchaser shall pay the Supplier any monies due the Supplier.

23. Governing Language

The Governing Language shall be English but correspondence may be done in Nepali. Subject to Clause 24, the version of the Contract written in the English shall govern its interpretation.

24. Applicable Law

The Contract shall be interpreted in accordance with the laws of Nepal.

25. Notices

25.1 Any notice given by one party to the other pursuant to this Contract



shall be sent to the other party in writing or by facsimile and confirmed in writing to the other party's address.

Purchaser's Address:

Hetauda Cement Industries Ltd.

P.O. Box No. 24, Hetauda,

Makawanpur, Nepal.

Phone: 057-413020, 412852

Email: info@hetaudacement.org.np

Supplier's Name and Address:

.....

.....

25.2 If a notice given pursuant to Sub Clause 25.1 fails to be delivered due to failure to trace the address of the party then the notice shall be published as public notice in a National daily newspaper and when the notice is so published then the notice shall be considered to be delivered to the concerned party.

25.3 A notice shall be effective when delivered or on the notice's effective date, whichever is later.

26. Taxes and Duties

The supplier shall be entirely responsible for all taxes, stamp duties, custom duty, license fees, income tax and other such levies imposed inside and outside Nepal. However the custom duty and taxes to be paid in the custom office of Nepal by the foreign supplier will be reimbursed to the supplier as mentioned in clause 12.4 instruction to the bidder.

27. Supplier's Responsibilities

The Supplier shall supply the total quantity of Coal and Delivery as per the contract.

28. Purchaser's Responsibilities

Whenever the supply of Goods requires that the Supplier obtain permits, approval and import and other licenses from local public authorities, the Purchaser shall, if so required by the Supplier, makes its best effort to assist the Supplier in complying with such requirements in a timely and expeditious manner.



Section - VI
SPECIFICATION OF COAL



SPECIFICATION OF COAL

(After equilibrating at 60% RH and 40°C)

- (i) Gross Calorific Value : Minimum 5800 KCal/Kg.
- (ii) Ash : Should not exceed 25% in average.
- (iii) Volatile Matter : Minimum 28%
- (iv) Sulphur : Should not exceed 1.2%
- (v) Moisture : Up to 5%
- (vi) Pit head coal should be free from lump shale and clayey materials.
- (vii) Size of the coal : Max 5" to fines.



Section - VII

**SAMPLE FORMS & LIST
OF BANK ACCOUNT**



1. BID SECURITY (Bank Guarantee)

Bank's Name, and Address of Issuing Branch or Office
(On Letter head of the 'A' class Commercial Bank)

Date:..... ..

Beneficiary: **Hetauda Cement Industries Ltd.**

P.O. Box NO. 24, Hetauda

Makawanpur, Nepal

Bid Security No.:

We have been informed that name of the Bidder. (hereinafter called "the Bidder") has submitted to you its bid dated (hereinafter called "the Bid") for the execution of **Supply & Delivery of 5000MT Non-Coking Coal** under Invitation for Bids No. **12/073/074 ("the BID")**.

Furthermore, we understand that, according to your conditions, bids must be supported by a bid guarantee.

At the request of the Bidder, we name of Bank. hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of amount in figures (. 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 by the Bidder in the Form of Bid; or
- (b) does not accept the correction of errors in accordance with the Instructions to Bidders (hereinafter "the ITB"); or
- (c) having been notified of the acceptance of its Bid by the Employer during the period of bid validity,
 - (i) fails or refuses to execute the Contract Agreement, or
 - (ii) fails or refuses to furnish the performance security, in accordance with the ITB.

This guarantee will remain in force up to and including the date 120 days after the deadline for submission of Bids as such deadline is stated in the instructions to Bidders or as it may be extended by the Employer, notice of which extension(s) to the Bank is hereby waived. Any demand in respect of this guarantee should reach the Bank not later than the above date.

This Bank guarantee shall not be withdrawn or released merely upon return of the original guarantee by the Bidder unless notified by you for the release of the guarantee.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

..... Bank's seal and authorized signature(s)

Note:

The bid security of has been counter guaranteed by the Bank on (Applicable for Bid Security of Foreign Banks).



2. LETTER OF INTENT FOR AWARD CONTRACT

[on letterhead paper of the Purchaser]

Date:

Notes on Letter of Intent: *The issuance of Letter of Intent is the information of the selection of the bid of the successful bidder by the Employer and for providing information to other unsuccessful bidders who participated in the bid as regards to the outcome of the procurement process. This standard form of Letter of Intent to Award should be filled in and sent to the successful Bidder only after evaluation and selection of substantially responsible lowest evaluated bid.*

To:

Name and address of the Contractor

Subject: **Issuance of letter of intent to award the contract**

This is to notify you that, it is our intention to award the contract dated for execution of the *name of the contract and identification number, as given in the Contract Data/SCC to you as your bid price...* amount in figures and words in Nepalese Rupees as corrected and modified in accordance with the Instructions to Bidders is hereby selected as substantially responsive lowest evaluated bid.

Authorized Signature:

Name:

Title:

CC:

[Insert name and address of all other Bidders, who submitted the bid]



3. LETTER OF ACCEPTANCE

[on letterhead paper of the Employer]

Date:

To:

Name and address of the Contractor

Subject: Notification of Award.

This is to notify that your Bid dated for execution of the*name of the contract and identification number, as given in the Contract Data/SCC* for the Contract price of Nepalese Rupees [insert amount in figures and words in Nepalese Rupees], as corrected in accordance with the Instructions to Bidders is hereby accepted in accordance with the Instruction to Bidders.

You are hereby instructed to contract this office to sign the formal contract agreement within 15 days. You are also required to submit Performance Security, as mentioned in the condition of contract in the form of cash deposit or bank guarantee.

The Purchaser shall forfeit the bid security, in case you fail to furnish the Performance Security and to sign the contract within specified period.

Authorized Signature:
Name and Title of Signatory:

CC:

[Insert name and address of all other Bidders, who submitted the bid]



4. PERFORMANCE SECURITY

Date:.. .. .

To:

Hetauda Cement Industries Ltd.

P.O. Box NO. 24, Hetauda

Makawanpur, Nepal

WHEREAS *[name and address of Supplier]* (hereinafter called "**the Supplier**") has undertaken, in pursuance of Contract *[reference number of the contract]* dated _____ *[yy/mm/dd]* to **Supply and Delivery of 5000MT Non-Coking Coal** hereinafter called "**the Contract**").

AND WHEREAS it has been stipulated by you in the said Contract that the Supplier shall furnish you with a bank guarantee by a reputable bank for the sum specified therein as security for compliance with the Supplier's performance obligations in accordance with the Contract.

AND WHEREAS we have agreed to give the Supplier such a Bank guarantee:

NOW THEREFORE we hereby affirm that we are the Guarantors and responsible to you, on behalf of the Supplier, up to a total of *[amount of the guarantee in words and figures]*, and we undertake to pay you, upon your first written demand such sum being payable in the types and proportions of currencies in which the contract price is payable, and without cavil or argument, any sum or sums within the limits of *[amount of guarantee]* as aforesaid, without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

This Guarantee is valid until a date One hundred twenty (120) days from the date of contract agreement.

Signature and seal of the Guarantors

[name of bank]

[address]

[date]



5. LIST OF BANK ACCOUNT

Sl. No.	Name of Bank	Place	Current A/c No.
1	Bank of Kathmandu Ltd.	Hetauda	0400060042-524
2	Century Bank Ltd.	Hetauda	0260000126 CA
3	Himalayan Bank Ltd.	Hetauda	01100850420015
4	Lumbini Bank Ltd.	Hetauda	02100027
5	Rastriya Banijya Bank	Hetauda	377
6	Nepal Bangladesh Bank Ltd	Hetauda	001731 C
7	Nepal Bank Ltd.	Hetauda	0025-11-0005677
8	Sanima Bank Ltd.	Hetauda	25-00-0115001
9	Nepal Bank Ltd., Bhoogolpark	Kathmandu	2-11-49471
10	NABIL Bank Ltd.	Hetauda	2301017500011
11	Everest Bank Ltd.	Hetauda	04200105200052
12	Kist Bank Ltd.	Hetauda	04400000160 C
13	Nepal SBI Bank Ltd.	Hetauda	2002524020093
14	Agriculture Development Bank	Hetauda	05-085-00273881-01-6
15	Sidhartha Bank Ltd.	Hetauda	2515025912



6. GENERAL GUIDELINE FOR BIDDER

(बोलपत्र फाराम भर्ने सम्बन्धमा बोलपत्रदाताहरूको जानकारीको लागि सुझाव)

बोलपत्रदाताहरूले बोलपत्र फाराम भर्दा निम्नानुसारको कुराहरूमा ध्यान दिनु हुन अनुरोध गरिन्छ ।

- १) बोलपत्रको सूचना प्रायः जानकारीको लागि गोरखापत्र र उद्योगको वेवसाइटमा प्रकाशित हुनेछ । गोरखापत्रमा सूचना प्रकाशित भएपछि सो सूचना राम्रोसँग पढि बोलपत्र फारामको विस्तृत विवरण नेपाल सरकार, सार्वजनिक खरिद अनुगमन कार्यालयको वेवसाइट www.bolpatra.gov.np मा गई आफ्नो फर्मको नाम रजिष्ट्रेसन गरे पश्चात प्राप्त Password बाट Login गरी बोलपत्रको सूचना र बोलपत्र फारामको विस्तृत जानकारी Download गरी हेर्न सकिनेछ । साथै उद्योगको वेवसाइट www.hetaudacement.org.np बाट समेत बोलपत्र आव्हानको सूचना हेर्न/पढ्नका साथै बोलपत्र फारम डाउनलोड समेत गर्न सकिने छ । वा बोलपत्रदाताको लिखित अनुरोधमा तोकिएको फाराम दस्तुर तिरी खरिद गर्न सकिनेछ ।
- २) बोलपत्रदाताले आफ्नो फर्मको तर्फबाट बोलपत्र प्रस्ताव तोकिएको मिति र समय भित्र हातैले उद्योगको केन्द्रिय कार्यालय लामसुरेमा दर्ता गर्न सकिनेछ । साथै नेपाल सरकार, सार्वजनिक खरिद अनुगमन कार्यालयको वेवसाइट www.bolpatra.gov.np मार्फत विद्युतीय प्रस्ताव पेश गर्न चाहने बोलपत्रदाताहरूले सोही वेवसाइटमा तोकिए बमोजिमका आवश्यक प्रकृया पुरा गरी प्रस्ताव दर्ता गर्न सकिनेछ । विद्युतीय माध्यमबाट बोलपत्र प्रस्ताव पेश गर्ने प्रस्तावदाताहरूले सक्कल बोलपत्र प्रस्ताव (Hard copy) प्रस्ताव खुलेको ७ दिन भित्र अनिवार्यरूपमा पेश गर्नु पर्नेछ ।
- ३) बोलपत्र फाराम खरिद गर्दा जुन फर्मको नामबाट रसिद काटिएको छ सोही फर्मकै नामबाट प्रस्ताव पेश गर्नु पर्नेछ । नेपाली फर्महरूले आफ्नो विदेशी प्रिन्सिपल पार्टीको तर्फबाट स्थानीय एजेन्टको हैसियतले बोलपत्र प्रस्ताव पेश गर्दा प्रिन्सिपलकै नाममा पेश गरी विड वण्डमा समेत सोही व्यहोरा स्पष्ट लेखिएको हुनु पर्नेछ । नेपाली फर्मले विड गरेको अवस्थामा भुक्तानी नेपाली रुपैयाँमा नै गरिनेछ ।
- ४) नेपाल सरकार, सार्वजनिक खरिद अनुगमन कार्यालयको वेवसाइट www.bolpatra.gov.np मार्फत प्रस्ताव दर्ता गर्न चाहने बोलपत्रदाताले अन्तिम समयसम्म पर्खेर बस्नु भन्दा पनि कम्तिमा २ दिन पहिले नै आवश्यक कागजात तयार पारी Website मा Upload गर्दा विद्युतीय अबरोध, ईन्टरनेट तथा वेबसाइटमा गडबडी आदिबाट श्रृजना हुने संभावित अबरोध बाट बच्न सकिनेछ ।
- ५) बोलपत्रदाताले बोलपत्र सूचनामा तोकिए बमोजिमको रकम र अबधि पुग्ने गरी (बैंक जमानतको म्याद) विडबण्ड पेश गर्नु पर्छ । बोलपत्र प्रस्तावको खाममा विडवण्ड वापत नगद राख्नु हुँदैन ।
- ६) बोलपत्रफारामको Instruction to bidder का सबै बुँदा राम्रोसँग हेरी प्रस्ताव पेश गर्नु पर्छ ।
- ७) बोलपत्र फारामको हरेक पानामा बोलपत्रदाता फर्मको तर्फबाट अधिकारप्राप्त व्यक्तिले दस्तखत गरी फर्मको छाप समेत लागे नलागेको जाँच गर्नु पर्छ ।
- ८) बोलपत्र फारामको मुख्य उल्लेख गर्ने स्थानमा आफुले पेश गर्न चाहेको मुख्य अंक र अक्षर दुवैमा भर्नु पर्छ ।
- ९) आवश्यकता अनुसार बोलपत्रदाताले आफुले आपूर्ति गर्न चाहेको सेवा वा सामानको ब्राण्ड, वारेण्टी ग्यारेण्टी, दिन सकिने छुट आदि बारे स्पष्ट रूपमा उल्लेख गर्नुका साथै सामानको लिफलेट, क्याटलग संलग्न गर्नु पर्छ ।
- १०) बोलपत्रदाताले बोलपत्र फाराम भर्दा केरमेट भएको ठाउँमा दस्तखत भए नभएको जाँच गर्नु पर्छ ।
- ११) बोलपत्र फारामसाथ पेश गर्नु पर्ने कागजातहरूको प्रतिलिपि नोटरी पब्लिकबाट प्रमाणित गरेको हुनु पर्छ ।
- १२) बोलपत्रदाताले आपूर्ति गरिने सामान वा सेवाको लागि निर्माता वा उत्पादक कम्पनी को आधिकारिक पत्र आवश्यक भनी लेखिएको अवस्थामा सो पत्र पेश गर्नु पर्छ ।

नोट:- बोलपत्रदाताहरूले बेलाबेलामा भुल गर्ने गरेको कारण उपरोक्त व्यहोरा स्मरण गराईएको भएतापनि बोलपत्र सूचना तथा फाराममा उल्लेखित कुराहरू मुख्य रूपमा आधिकारिक हुने भएकोले बोलपत्र फाराम राम्रो संग अध्ययन गरी सोही अनुसार प्रस्ताव पेश गर्न अनुरोध गरिन्छ ।

खरिद विभाग
हेटौंडा सिमेण्ट उद्योग लि.