

State Mining Corporation Limited



Bidding Document for Hiring of Excavator for loading and unloading of gypsum in Motanga Stockyard, Samdrup Jongkhar



SECTION I: LETTER OF INVITATION

- 1) State Mining Corporation Limited (SMCL), Samtse hereby invites sealed bid from licensed and eligible Hiring Agents or Contractors for the following scope of work:

“Hiring of Excavators for loading and unloading of Gypsum in Motanga Stockyard, Samdrup Jongkhar.

The Bidders must submit a copy of valid Registration License and Tax clearance certificate along with the sealed bid.

- 2) A complete set of bidding document can be downloaded from www.smcl.bt at free of cost starting from 19th November to 3rd December 2024. The bidding document should not be altered, except those standard forms as instructed. If the document is found altered, the Bid shall be considered as non-responsive and eventually shall lead to rejection. Bidders may obtain further information on the Bid Document from Procurement Section SMCL, Gurung Basti, Samtse at telephone no. +975 -05 – 365887/85/86/17743273 during office hours.
- 3) The bid must be delivered to the address given below at or before 10:00 hrs on 3rd December, 2024 and shall be opened on the same day at 10:30 hrs in presence of Bidders or authorized representatives who choose to attend in the conference hall of SMCL Corporate Office, Samtse.

CONTACT ADDRESS:

**Chief Executive Officer
State Mining Corporation Limited
Post Box No. 320, Samtse, Bhutan.
Telephone No. 05-365885/86/87, Fax No. 365888**



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SECTION II: INSTRUCTIONS TO BIDDERS**1. Scope of Work**

- 1.1 SMCL has been operating Khothakpa Gypsum Mines (KGM) from 1st Jan 2019. The Company has been transporting gypsum to Samdrup Jongkhar Stockyard (SJS) and dispatch to domestic and export market. Two excavators will be deployed to unload and load the gypsum for delivery. The total estimated dispatch from SJS using 2 excavators for loading is about 600,000 MT for 2025. Per day loading for 2 excavators will be about 2000 MT. Unloading of materials shall be of very minimal volume, about 10 trucks per day.

Name of Machine/ Equipment & specifications if any	Number of excavators required	Age of the machine
Excavator, (150 HP with 20 tonne or higher, minimum 0.9 cum bucket capacity) or PC 220 equivalent or higher	2	Should not be more than 8-year-old as on 31.12.2024

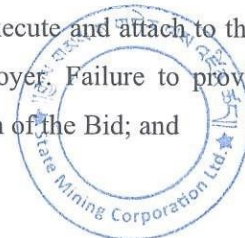
- 1.2 The work involved shall be hiring of two Excavators with operators and HSD. Excavators will be deployed at Motanga stockyard, Samdrup Jongkhar to unload and load the Gypsum.
- 1.3 Bidders should familiarize themselves with local site conditions and take these into account in preparing their bid. To obtain first-hand information on the work and local conditions, Bidders are encouraged to visit the site at their own cost.
- 1.4 Bidders shall bear all costs associated with the preparation and submission of their bids. The Employer is not bound to accept any bid, and reserves the right to annul the selection process at any time prior to Contract award, thereby, without incurring any liability to the Employer.

2. Fraud and Corruption

It is Employer's policy to require that Bidder and their Personals to observe the highest standard of ethics during the execution of contract. In pursuance to this policy, Employer:

- 2.1 Will reject a proposal for award if it determines that the Bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the contract in question;
- 2.2 Will sanction a Bidder or individual, including declaring them ineligible, either indefinitely or for a stated period of time, to be awarded a contract if at any time it determines that they have, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for, or in executing, a contract;
- 2.3 Requires Bidders, as a condition of admission to eligibility, execute and attach to their bids an Integrity Pact Statement in the form provided by the Employer. Failure to provide a duly executed Integrity Pact Statement shall result in disqualification of the Bid; and


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2.4 Will report any case of corrupt, fraudulent, collusive, coercive or obstructive practice to the relevant SMCL agencies, including but not limited to the Anti-Corruption Commission (ACC) of Bhutan, for necessary action as per the statutes and provisions of the relevant agency.

3. Bid Validity

The Bid must remain valid for 30 days after the submission date. Should need arises, Employer may request in writing to extend the validity period of their bids.

4. Exclusion of Bidders

A Bidder shall not be permitted to submit a bid or to be awarded a Contract under any of the following circumstances:

4.1 It is insolvent or is a bankrupt or is in the process of being wound up, or has entered into an arrangement with creditors;

OR

4.2 Its affairs are being administered by a court, judicial officer or by an appointed liquidator;

OR

4.3 It has suspended business;

OR

4.4 It has been found guilty of professional misconduct by a recognized tribunal or professional body;

OR

4.5 It has not fulfilled its obligations with regard to the payment of taxes, social security or other payments due in accordance with the laws of the country in which it is established or of the Kingdom of Bhutan;

OR

4.6 It has been convicted for fraud and/or corruption by a competent authority;

OR

4.7 The Firm has been debarred from participation in public procurement by any competent authority as per law.



5. Contents, Clarification and Amendment of the Bid Document

5.1 The bid document shall comprise of the following:

- 5.2 Section 1 - Letter of Invitation
- 5.3 Section 2 - Instructions to Bidder
- 5.4 Section 3 - Terms and Conditions of the Contract
- 5.5 Section 4 - Technical Specifications
- 5.6 Section 5 - Price Schedule
- 5.7 Section 6 - Integrity Pact
- 5.8 Section 7 - Forms

5.9 At any time before the submission of Bids, the Employer may amend the bid by issuing an addendum in writing. The addendum shall be sent to all the Bidders who have purchased the document and will be binding on them. The Bidders shall acknowledge receipt of all addenda before the final date and time established for the submission of Bid. To give Bidders reasonable time in which to take an addendum into account in their Bid documents the Employer may, if the addendum is substantial, extend the deadline for the submission of Bids.

6. Language

Bid documentation and execution of contract shall be in English.

7. Financial Proposals

The Financial Proposal shall be prepared to cover all costs associated with Excavators, operators/supervisors/helpers including repairs, maintenance and fuel as per the terms and conditions under the contract. All activities and items described in the Price Schedule must be priced including those not described shall be assumed to be included in the prices of other activities or items.

8. Taxes

The Bidder shall be subject to payment of all local taxes as applicable (such as value added or sales tax, social charges or income taxes, TDS, etc.) on amounts payable by the Employer under the Contract. Any such amounts shall be included in the Financial Proposal.

9. Sealing & Submission of Proposals

The Bid shall contain no interlineations or overwriting except as necessary to correct errors made by the Bidder itself. The person who signed the Bid must initial such corrections. Submission letter for the Bid shall be in the format provided by the Employer.

An authorized representative of the Bidder shall initial all pages of the original bid document. The authorization shall be in the form of a written power of attorney accompanying the Bid or in any other form demonstrating that the representative has been duly authorized to sign.




The Bid shall be sent to the address below:

Chief Executive Officer
State Mining Corporation Limited
Post Box No. 320, Samtse, Bhutan.
Telephone No. 05-365885/86/87, Fax No. 365888

All inner envelopes shall:

- a) be signed across their seals by the person authorized to sign the Bid on behalf of the Bidder; and
- b) Indicate the name, address and contract number of the Bidder to enable the Bid Document to be returned unopened in case it is declared late.
- c) All envelopes shall be sealed with adhesive or other sealant which will prevent re-opening.

The Bids shall be delivered by hand or by registered post in sealed envelopes to the above address not later than the time and the date indicated, or any extension to this date. Any bids received by the Employer after the deadline for submission shall be returned unopened.

10. Withdrawal of Bids

A Bidder may withdraw after it has been submitted by sending a written notice in accordance with this section, duly signed by an authorized representative, and shall include a copy of the authorization (the power of attorney). All notices must be received by the Employer prior to the deadline prescribed for submission of Bids.

Bids requested to be withdrawn shall be returned unopened to the Bidder.

No Bids shall be withdrawn in the interval between the deadline for submission of Bids and the expiry of the period of Bid validity or any extension thereof. *Any such withdrawal shall result in the forfeiture of EMD or Bid Security.*

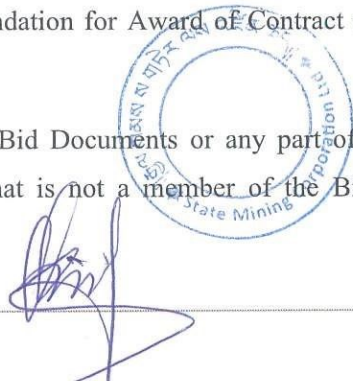
11. Opening of Proposals

Immediately after the closing date and time for submission of Bids, any envelopes marked "Withdrawal" and accompanied by a properly authorized withdrawal notice shall be put aside, and stored safe and secure, ready for return to the Bidder. The Employer shall then open all remaining Bids at 10:00 hrs on 3rd December 2024 in the conference hall of SMCL, Gurung Basti, Samtse.

12. Evaluation to be Confidential

From the time the Bids are opened to the time the Contract is awarded, the Bidder shall not contact the Employer on any matter related to its Bid. Any effort by any Bidder to influence the Employer in the examination, evaluation, ranking of Bids, and recommendation for Award of Contract may result in the rejection of the Bid.

After the opening of Bids, information concerning the Bid Documents or any part of the contents thereof shall not be released to any person or party that is not a member of the Bid Evaluation Committee.



The evaluation proceedings shall be kept confidential at all times until the award of Contract is announced.

13. Public Opening and Evaluation of Bids

Bids shall be opened publicly in the presence of the Bidders or authorised representatives who choose to attend. At the time of opening, following information shall be read out and recorded:

- (a) Name of the Bidder; and
- (b) Bid Price

The Evaluation Committee shall correct any computational errors. When correcting computational errors, in case of any discrepancy between a partial amount and the total amount, or between words and figures, the former shall prevail. In addition to the above corrections, activities and items described in the Bid Document but not priced shall be assumed to be included in the prices of other activities or items.

14. Employer's Right

The Employer reserves the right to accept or reject any Bids, and to annul the bidding process and reject all Bids at any time prior to Contract award, without thereby incurring any liability to the Bidders.

15. Award of Contract

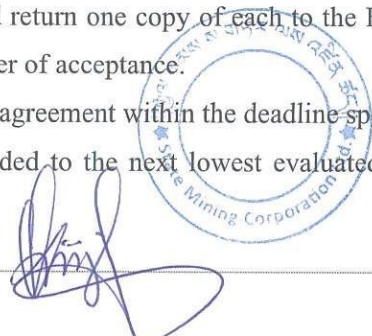
After completing negotiations, the Employer shall award the Contract to the selected Bidder, and as soon as possible notify unsuccessful Bidders, and

After completing negotiations, the Employer shall issue the letter of acceptance to award the Contract to the successful Bidder. The unsuccessful Bidders shall be notified within 15 days from the date of the decision to award the Contract.

Following the decision to award the Contract, the parties shall enter into a written Contract. The Contract shall be signed by the successful Bidder or duly authorized representatives of the parties and shall bear the date of signature.

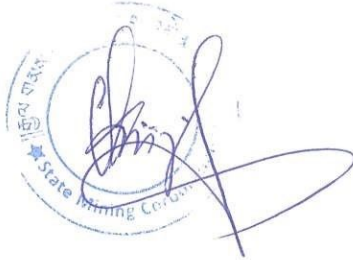
Where both the parties do not sign the Contract simultaneously,

- (a) The Employer shall send to the selected Bidder two original copies of (1) the Contract Agreement and (2) the letter of acceptance (letter of notice), each signed by its duly authorized representative together with the date of signature;
- (b) The letter of acceptance shall indicate the deadline by which it must be accepted, which shall normally be not more than 15 days from the date of its receipt by the Bidder;
- (c) The Bidder, if agrees to conclude the Contract, shall sign and date all original copies of the Contract agreement and the letter of acceptance and return one copy of each to the Employer before the expiry of the deadline indicated in the letter of acceptance.
- (d) In case the selected Bidder fails to sign the Contract agreement within the deadline specified in the letter of acceptance the Contract shall be awarded to the next lowest evaluated Bidder. Such a failure shall be considered as withdrawal.



16. Performance Security

Prior to signing of the Contract, the successful Bidder shall furnish performance security of Nu. 10 % of the contract amount and shall be in form of Demand Draft/Bank Guarantee/Cash Warrant issued by the Authorized Financial Institution in Bhutan, in favour of State Mining Corporation Limited, Samtse.



SECTION III: TERMS AND CONDITIONS OF THE CONTRACT


1. Definitions

<p>1.1 Definitions</p>	<p>Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:</p> <p>(a) Applicable Laws of Bhutan: The laws and any other instruments having the force of law in Bhutan</p> <p>(b) Contractor/hiring agent: An individual or a legal entity entering into a Contract to provide the Services to the SMCL under the Contract. The term contractor and hiring agent in this case are synonymous, and use inter-changeably.</p> <p>(c) Contract: The formal agreement in writing, including the Terms and Conditions of Contract, Price Schedules and the Appendices if any, entered into between the Employer and the Contractor, on acceptable terms and conditions and which are in compliance with all the relevant provisions of the laws of the Kingdom of Bhutan, for the execution of the works.</p> <p>(d) Contract Price: The price to be paid for the performance of the Works as described in the contract.</p> <p>(e) Day: A calendar day.</p> <p>(f) Effective Date: The date on which this Contract comes into force and effect as mentioned in the letter of acceptance or letter of notice to award.</p> <p>(g) Employer: State Mining Corporation Limited (SMCL).</p> <p>(h) In writing: Communicated in written form (e.g. by mail, electronic mail, fax, telex) with proof of receipt.</p> <p>(i) Local Currency: Bhutanese Ngultrum (BTN).</p> <p>(j) Member: Any of the entities that make up the joint venture/consortium/association; and “Members” means all these entities.</p> <p>(k) Party: The SMCL or the Contractor, as the case may be, and “Parties” means both of them.</p> <p>(l) Personnel: Professional, support staff and workforce provided by the Contractor to perform the works or any part thereof; “Foreign Personnel” means such professional and support staff who at the time of being so provided have their domicile outside Bhutan; “Local Personnel” means such professional and support staff who at the time of being so provided have their domicile in Bhutan.</p> <p>(m) Third Party: Any person or entity other than the Government, the</p>
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	SMCL, the Contractor.
1.2 Law Governing Contract	This Contract, it's meaning and interpretation and the prevailing laws of Bhutan shall govern the relation between the Parties.
1.3 Language	This Contract shall be executed in English, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.
1.4 Notices	
1.4.1	Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed.
1.4.2	A Party may change its address for notice hereunder by giving the other Party notice in writing of such change to the address specified by the Parties.
1.5 Location	The Works shall be performed in Samdrup Jongkhar.
1.6 Authority of Member in Charge	In case the Contractor consists of a joint venture/consortium/ association of more than one entity, the Members hereby authorize the entity to act on their behalf in exercising all the Contractor rights and obligations towards the Employer under this Contract, including without limitation the receiving of instructions and payments from the Employer. Formal approval from Employer must be sought if bidders wish to form joint venture.
1.7 Authorized Representatives	Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Employer or the Contractor may be taken or executed by the officials authorized by the Parties.
1.8	Fraud and Corruptions
1.8.1 Definitions	It is the Employer's policy to require that Contractor and their Personnel observe the highest standards of ethics during the execution of the Contract. In pursuance of this policy, the Employer: (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, directly or indirectly, of anything of value to influence improperly the actions of another party; (ii) "fraudulent practice" means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or



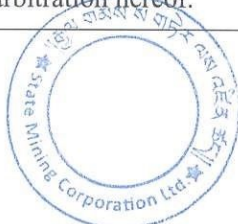
	<p>attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;</p> <p>(iii) “collusive practice” means an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;</p> <p>(iv) “coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;</p> <p>(v) "obstructive practice" means:</p> <p>(aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order materially to impede any investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or</p> <p>(bb) acts intended materially to impede the exercise of the inspection and audit rights of the Employer or any organization or person appointed by the Employer.</p>
<p>1.8.2 Measures to be taken</p> 	<p>(a) will cancel the Contract if it at any time determines that representatives of the Contractor, or any other participant in the procurement and Contract execution process, were engaged in corrupt, fraudulent, collusive, coercive or obstructive practices during the procurement and selection process or the execution of the Contract.</p> <p>(b) will sanction a Contractor, including declaring them ineligible, either indefinitely or for a stated period of time, to be awarded under SMCL financed contract if at any time it determines that they have, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for, or in executing, an SMCL financed contract.</p> <p>(c) will report the case of corrupt, fraudulent, collusive, coercive or obstructive practice to the relevant Employer’s agencies, including but not limited to the Anticorruption Commission (ACC) of Bhutan, for necessary action in accordance with the statutes and</p>

	provisions of the relevant agency.
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2. Commencement, Completion, Modification and Termination of Contract

2.1 Effectiveness of Contract	This Contract shall come into force from the effect date mentioned in the Contract or letter of notice. This notice shall confirm on the effectiveness conditions, if any.
2.2 Contract Period	The contract duration is for ONE year from the effective date. .
2.3 Commencement of Works	The Contractor shall begin carrying out the Works immediately after the Effective Date being specified in the “letter of notice/letter of acceptance”.
2.4 Expiration of Contract	Unless terminated, this Contract shall expire at the end of one year after the Effective Date.
2.5 Modifications or Variations	Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the Scope of the Works, may only be made by written agreement between the Parties. However, each Party shall give due consideration to any proposals for modification or variation made by the other Party.
2.6 Force Majeure	
2.6.1 Definition	For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party and which makes a Party’s performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.
2.6.2 No Breach of Contract	The failure of a Party to fulfil any of its obligations under the Contract shall not be considered to be a breach of, or default under, this Contract in so far as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.
2.6.3 Extension of Time	Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.
2.6.4 Payments	During the period of its inability to perform the Services as a result of an event of Force Majeure, the Contractor shall not be subject to Liquidity Damage during the period and any additional cost incurred during such period for the purpose of the services and in reactivating the Service as approved by the employer shall be reimbursed.
2.7 Termination	

<p>2.7.1 By the Employer</p>	<p>The Employer may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause. In such an occurrence the Employer shall give not less than thirty (30) days written notice of termination to the Contractor, or sixty (60) days in the case of the event referred to in paragraph (e) of this Clause.</p> <p>(a) If the Contractor does not remedy a failure in the performance of its obligations under the Contract within thirty (30) days after being notified or within any further period as the Employer may have subsequently approved in writing.</p> <p style="text-align: center;">OR</p> <p>(b) If the Contractor becomes insolvent or bankrupt.</p> <p style="text-align: center;">OR</p> <p>(c) If the Contractor, in the judgment of the Employer has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.</p> <p style="text-align: center;">OR</p> <p>(d) If, as the result of Force Majeure, the Contractor is unable to perform a material portion of the Services for a period of not less than sixty (60) days.</p> <p style="text-align: center;">OR</p> <p>(e) If the Employer, in its sole description and for any reason whatsoever, decides to terminate this Contract.</p> <p style="text-align: center;">OR</p> <p>(f) If the Contractor fails to comply with any final decision reached as a result of arbitration proceedings.</p>
<p>2.7.2 By the Contractor</p>	<p>The Contractor may terminate this Contract, by not less than thirty (30) days written notice to the Employer, such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (c) of this Clause:</p> <p>(a) If the Employer fails to pay bills due to the Contractor pursuant to this Contract within forty-five (45) days after receiving written notice from the Contractor that such payment is overdue.</p> <p>(b) If, as the result of Force Majeure, the Contractor is unable to perform a material portion of the Services for a period of not less than sixty (60) days.</p> <p>(c) If the Employer fails to comply with any final decision reached as a result of arbitration hereof.</p>



3. Obligations of the Contractor

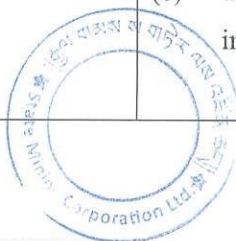
3.1 General	
3.1 Standard of Performance	<p>(d) In the beginning of deployment of Excavators and during replacement, the machine shall be inspected and if found not suitable to perform efficiently it shall be rejected.</p> <p>(e) The transportation charges to and fro of excavators to site in both directions shall be borne by the Contractor.</p> <p>(f) The machine must always be fuelled for minimum of 10 working hours per day, irrespective of the hours determined by the employer.</p> <p>(g) Arrangement for repair, maintenance watch and ward of Excavators and accommodation of the operator at/near work site shall be the responsibility of the Contractor.</p> <p>(h) The Contractor shall perform the Works and carry out its obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and methods.</p> <p>(i) The Contractor shall provide all required excavators and tools necessary to perform the unloading and loading works and bear the expenses of all repairs of tools and machineries.</p> <p>(j) The Contractor shall always act, in respect of any matter relating to this Contract, and shall at all times support and safeguard Employer's legitimate interests in any dealings with other Parties.</p>
3.2 Insurance to be Taken Out by the Contractor	<p>The Contractor</p> <p>(a) shall take out and maintain, at their own cost but on terms and conditions approved by the Employer, insurance against the risks, and for the coverage of its employees, labours and equipment/machineries to be deployed at the work site; and</p> <p>(b) at the Employer's request, shall provide evidence showing that such insurance has been taken out and maintained and that the current premiums have been paid.</p>
3.3 Maintenance of Site Order Book	<p>(a) The Contractor shall maintain at site the Site Order Book (SOB) or Register to receive and record any instructions of the Employer's Representatives during the day-to-day site supervision and monitoring visits.</p> <p>(b) All instructions shall be recorded in the SOB and jointly signed both by the Contractor or its representative and Employer's representatives issuing the instruction. All pages of SOB shall be serially numbered and hand over to the Employer at the end of the contract.</p>



3.4 Contractor's Actions Requiring Employer's Prior Approval	<p>The Contractor shall obtain the Employer's prior approval in writing before taking any of the following actions:</p> <p>(a) entering into a subcontract for the performance of any part of the Works,</p> <p>(b) Appointing such members of the Personnel not listed by name in bid document.</p> <p>(c) The Contractor shall not remove or replace the machine from the site without the prior permission from the Employer.</p>
3.6 Breakdown of machineries	<p>Should it become necessary for the machineries be replaced due to problems associated with machinery breakdown or other reasons, the contractor shall immediately provide replacement which is of equivalent or better quality in terms of make, model, and condition or complete repair of machinery within 7 days failing which the employer reserve the right to hire from other hiring agencies and the difference in hiring rate recovered from the bidder.</p>

4. Contractor's Personnel

4.1 Description of Personnel	<p>The Contractor shall provide qualified and experienced excavator operators with matching experience operate machines efficiently.</p>
4.2 Facilities to the Workers	<p>The Contractor shall at all times comply with the Labour Act of Kingdom of Bhutan and its Rules and Regulations in force.</p>
4.3 Removal and/or Replacement of Personnel	<p>(a) Except the Employer may otherwise agree, no changes shall be made in the Personnel. If, for any reason beyond the reasonable control of the Contractor, such as retirement, death, medical incapacity, among others, it becomes necessary to replace any of the Personnel, the Contractor shall provide as a replacement a person of equivalent or better qualifications and skills as may directed by the employer.</p> <p>(b) If the Employer (i) finds that any of the Personnel have committed serious misconduct or have been charged with having committed a criminal action, or (ii) has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Contractor shall, at the Employer's written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Employer.</p> <p>(c) The Contractor shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.</p>



5. Obligations of the Employer

5.1 Change in the Applicable Laws of Bhutan Related to Taxes and Duties	<p>(a) If, after the date of this Contract, there is any change in the Applicable Laws of Bhutan with respect to taxes and duties which increases or decreases the cost incurred by the Contractor in executing the Works, then the expenses otherwise payable to the Contractor under this Contract shall be increased or decreased accordingly by agreement between the Parties.</p> <p>(b) The Employer shall have the full right to deploy its Excavators at the related sites as and when required.</p>
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6. Payments to the Contractor

6.1 Payment	Monthly payment shall be made on the basis of total MT of Gypsum loaded and dispatched for sale and must be certified by the relevant officials.
6.2 Interest on Delayed Payments	If the Employer has delayed payments beyond 60 days after receipt of the invoice by the Employer, interest shall be paid to the Contractor for each day of delay at the rate 5% per annum calculated for number of days delayed.

7. Injury and Accident at Work Place

7.1 Injury and Accident at Work Place	Contractor shall take all necessary measures on the safety and welfare of its employees and labours by taking adequate safety precautions, providing safety gears and protective uniforms as deemed necessary, guard against hazardous and unsafe working conditions and comply with the instructions of the Employer's Representatives. In the event of an injury or casualty due to accident at the work place, Contractor shall be liable in respect of any damages or compensations payable to any workman.
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8. Working Hours

8.1 Working Hours	The employer shall inform in advance the working hours as per the requirement at site.
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9. Penalty for breach of Performance

9.1 Penalty for breach of performance & termination	<p>(a) If the work is disrupted because of fuel shortages, failing to replace the machine immediately or any other matters, the contractor shall be imposed penalty of 50% of the quoted rate for every per MT shortfall from the target load.</p> <p>(b) If the Contractor fails to deploy the machine within 7 working days after the deadline the contract shall be terminated with the forfeiture of the performance security.</p>
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10. Good Faith

10.1 Good Faith	The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.
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11. Settlement of Disputes

11.1 Amicable Settlement	The Parties agree that the avoidance or early resolution of disputes is crucial for a smooth execution of the Contract and the success of the assignment. The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.
11.2 Dispute Resolution	<p>Any dispute between the Parties as to matters arising pursuant to this Contract that cannot be settled amicably within thirty (30) days after receipt by one Party of the other Party's request for such amicable settlement may be submitted by either Party for settlement in accordance with the provisions below:</p> <p>Disputes shall be settled by arbitration in accordance with the following provisions:</p> <ol style="list-style-type: none"> 1. <u>Selection of Arbitrators.</u> Each dispute submitted by a Party to arbitration shall be heard by a sole arbitrator or an arbitration panel composed of three arbitrators, in accordance with the following provisions: <ol style="list-style-type: none"> (a) Where the Parties agree that the dispute concerns a technical matter, they may agree to appoint a sole arbitrator or, failing agreement on the identity of such sole arbitrator within thirty (30) days after receipt by the other Party of the proposal of a name for such an appointment by the Party who initiated the proceedings, either Party may apply to <i>National Arbitration Committee, Royal Government of Bhutan</i> for a list of not fewer than five nominees. Upon receipt of such list, the Parties (commencing with the DHI when the list comprises an even number of nominees, and with the Consultant when the list comprises an odd number of nominees) shall alternately strike names there from, and the last remaining nominee on the list shall be the sole arbitrator for the matter in dispute. If the last remaining nominee has not been determined in this manner within sixty (60) days of the date of the list, <i>National Arbitration Committee, Royal Government of Bhutan</i> shall appoint, upon the request of either Party and from such list or otherwise, a sole arbitrator for the matter in dispute. (b) Where the Parties do not agree that the dispute concerns a technical matter, the Employer and the Consultant shall each appoint one arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the arbitrators named by the Parties do not succeed in appointing a third arbitrator within thirty (30) days after the



	<p>latter of the two arbitrators named by the Parties has been appointed, the third arbitrator shall, at the request of either Party, be appointed by <i>Royal Government of Bhutan</i></p>
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SECTION IV: TECHNICAL SPECIFICATIONS

1. Compliance

The scope of works stated above shall be carried out fully as per the terms and conditions of the contract. All the environmental requirements shall be followed strictly as per the environmental mitigation plans stated in the Environmental Impact Assessment to ensure minimum social nuisance and damage to the environment both within the stockyard area and to adjoining surroundings.

The Employer shall from time-to-time issue instructions to the Bidder on the requirements to follow based on the circummundane.

SECTION V: PRICE SCHEDULE

1.1 Machineries, which disqualify the required age **shall not** be accepted for the evaluation.

Bidders must provide registration certificate.

1.2 BOQ

The quoted rate shall be inclusive for all cost on fuel, operators/drivers /supervisor, repairs, maintenance, and helpers. The rate shall also include any other cost such as, watch and ward, accommodation of the operators/helpers at sites and as specified under the contract.

Price schedule

SI#	Name of Machinery/ Equipment & specifications	Engagement/Operation	MACHINE requirement	Units	Rate in Nu figure	Rate in words	Amount
1	Excavator (150 HP /20 tonne or higher with minimum of 0.9cum bucket capacity) or PC 220 equivalent or higher.	Loading of Gypsum from stock yard	2	Metric tonne (MT)			
	TOTAL						

1.3 Measurement of Work: Works shall be measured on metric tonne of Gypsum loaded and dispatched for sale or if SMCL requires engaging the excavator in other works other than unloading and loading, payment on hourly basis shall be on the basis of the derivation of the work done on accepted tonnage basis.

1.4 Quantity measurement for payment shall be based on SMCL’s weighbridge weighment



SECTION VI: INTEGRITY PACT**1. General**

Whereas **General Manager, HRAD**, representing the **State Mining Corporation Limited**, hereinafter referred to as the Employer on one part, and..... representing the (Name of Bidder)as the other part hereby execute this agreement as follows:

This agreement should be a part of the tender document, which shall be signed and submitted along with the tender document. The head of the employing agency/or his authorized representative should be the signing authority. For the bidders, the bidder himself or his authorized representative must sign the Integrity Pact (IP). If the winning bidder had not signed during the submission of the bid, the tender shall be cancelled.

2. Objectives

Now, therefore, the Employer and the Bidder agree to enter into this pre-contract agreement, hereinafter referred to as Integrity Pact, to avoid all forms of corruption by following a system that is fair, transparent and free from any influence/unprejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into, with a view to: -

- 2.1 Enabling the Employer to obtain the desired contract at a reasonable and competitive price in conformity to the defined specifications of the works, goods and services; and
- 2.2 Enabling bidders to abstain from bribing or any corrupt practice in order to secure the contract by providing assurance to them that their competitors will also refrain from bribing and other corrupt practices and the Employer will commit to prevent corruption, in any form by their officials by following transparent procedures.

3. Commitments of the Employer:

The Employer commits itself to the following: -

- a) The Employer hereby undertakes that no official of the Employer, connected directly or indirectly with the contract, will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the Bidder, either for themselves or for any person, organization or third party related to the contract in exchange for a advantage in the bidding process, bid evaluation, contracting or implementation process related to the Contract.
- b) The Employer further confirms that its officials has not favoured any prospective bidder in any form that could afford an undue advantage to that particular bidder during the tendering stage and will further treat all Bidders alike.
- c) All the officials of the Employer shall report to the head of the employing agency or an appropriate Government office any attempted or completed violation of clauses 3.1 and
- d) Following report on violation of clauses 3.1 and 3.2 by officials), through any source, necessary disciplinary proceedings, or any other action as deemed fit, the Employer may initiate including criminal proceedings and such a person shall be debarred from further dealings related to the contract process. In such a case while the Employer is conducting an enquiry the proceedings under the contract would not be stalled.

4. Commitments of Bidders

The Bidder commits himself to take all measures necessary to prevent corrupt practices, unfair means, and illegal activities during any stage of his bid or during any pre-contract or post-contract stage in order to secure the contract or in furtherance to secure it and in particular commits himself to the following: -



- a) The Bidder will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Employer, connected directly or indirectly with the bidding process, or to any person, organization or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the Contract
- b) The Bidder further undertakes that he has not given, offered or promised to give, directly or indirectly any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Employer or otherwise in procuring the Contract or forbearing to do or having done any act in relation to the obtaining or execution of the Contract or any other contract with the Government for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other contract with the Government.
- c) The Bidder will not collude with other parties interested in the contract to preclude the competitive bid price, impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract
- d) The Bidder, either while presenting the bid or during pre-contract negotiations or before signing the contract, shall disclose any payments he has made, is committed to or intends to make to officials of the Employer or their family members, agents, brokers or any other intermediaries in connection with the contract and the details of services agreed upon for such payments.

5. Sanctions for Violation

The breach of any aforesaid provisions or providing false information by employers, including manipulation of information by evaluators, shall face administrative charges and penal actions as per the existing relevant rules and laws. The breach of the Pact or providing false information by the Bidder, or any one employed by him, or acting on his behalf (whether with or without the knowledge of the Bidder), or the commission of a n offence by the Bidder, or any one, employed by him, or acting on his behalf, shall be dealt with as per the provisions of the Penal Code of Bhutan, 2004, and the Anti-Corruption Act, 2006.

The Employer/relevant agency shall also take all or any one of the following actions, wherever required: -

- a) To immediately call off the pre-contract negotiations without giving any compensation to the Bidder. However, the proceedings with the other Bidders) would continue.
- b) To immediately cancel the contract, if already awarded/signed, without giving any compensation to the Bidder.
- c) The Earnest Money / Security Deposit shall stand forfeited
- d) To recover all sums already paid by the Employer.
- e) To encash the advance bank guarantee and performance bond/warranty bond, fi furnished by the Bidder, to recover the payments, already made by the Employer, along with interest.
- f) To cancel all or any other Contracts with the Bidder.
- g) To debar the Bidder from entering into any bid from the government of Bhutan as per the Debarment Rule.

6. Conflict of Interest

- a) A conflict of interest involves a conflict between the public duty and private interests (for favour or vengeance) of a public official, in which the public official has private interest which could improperly influence the performance of their official duties and responsibilities. Conflict of Interest would arise in a situation when any concerned members of both the parties are related either directly or indirectly, or has any
- b) association or had any confrontation. Thus, conflict of interest of any tender committee member must be declared in a prescribed form (sample form attached).



- c) The Bidder shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any committee member, and if he does so, the Employer shall be entitled forthwith to rescind the Contract and all other contracts with the Bidder.

7. Examinations of Books of Accounts

- a) In case of any allegation of violation of any provisions of this Integrity Pact or payment of commission, the Employer/authorized persons or relevant agencies shall be entitled to examine the Books of Accounts of the Bidder and the Bidder shall provide necessary information of the relevant financial documents and shall extend all possible help for the purpose of such examination

8. Monitoring and Arbitration

- a) The respective procuring agency shall be responsible for monitoring and arbitration of IP as per the Procurement Rules.

9. Legal Actions

- a) The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.

10. Validity

- a) The validity of this Integrity Pact shall cover the tender process and extend until the completion of the contract to the satisfaction of both the Employer and the Bidder.
- b) Should one or several provisions of this Pact turn out to be invalid; the remainder of this Pact remains valid. In this case, the parties will strive to come to an agreement to their original intentions. We, hereby declare that we have read and understood the clauses of this agreement and shall abide by it. Further, the information provided in this agreement is true and correct to the best of our knowledge and belief.

The parties hereby sign this Integrity Pact at.....on.....

.....

 Chhimi Rinzin (CID No. 10716000103)



BIDDER



Form 1: Key Personnel information

Qualifications and experience of key personnel proposed for administration and execution of the Contract.

The supporting documents such detailed CVs signed in original supported by certificates for qualification and experience.

Position	Name	Qualification	Year of experience in proposed position	Remarks
Site Supervisor				
Operator				



Form 2: Letter of acceptance/notice

Bid.No.....

_____ [date]

To: _____

[name of the successful bidder]

[address]

This is to notify that your Bid dated _____ for the “Hiring of excavators at Matanga stockyard, Samdrup Jongkhar” for Bid Price of Nu _____ [fig] (.....[amount in words]), as corrected and modified in accordance with the Instructions to Bidders is hereby accepted by SMCL. You are therefore required to execute the Contract no later than.....days from date

- a. The Effective Date for the Contract is on.....
- b. Date of commencement of work shall be after 15 days from the Effective Date.
- c. The completion date for whole of the work/contract shall be one year from the Effective Date.

If acceptable, you are hereby instructed to proceed with the execution of the said works within 15 (fifteen) days from the Effective Date. You are also required to furnish Bank Guarantee for performance security with 15 days from the Effective Date.

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Agency: _____



Form 3: Bank Guarantee for Bid Security

Bid No.....

Date.....

**The Chief Executive Officer,
State Mining Corporation Limited,
Samtse**

BID GUARANTEE No:

We have been informed that *[name of Bidder]* (hereinafter called “the Bidder”) intends to submit to you its Bid dated *[date of bid]* for the execution of the Works of *[description of works]* under the above Invitation for Bids.

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, without cavil or argument, any sum or sums not exceeding in total an amount of Nu *[insert amount in figures and words]* upon receipt by us of your first written demand accompanied by a written statement that the Bidder is in breach of its obligation(s) under the Bid conditions, because the Bidder:

- (a) has withdrawn its Bids 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; or
- (c) having been notified of the acceptance of the Bid by the Employer during the period of Bid validity, (i) fails or refuses to furnish the performance security in accordance with instructions to bidder, or (ii) fails or refuses to execute the Contract,

This guarantee will expire

- (a) if the Bidder is the successful Bidder, upon our receipt of a copy of the Performance Security and a copy of the Contract signed by the Bidder as issued by you; or
- (b) if the Bidder is not the successful Bidder, thirty days after the expiration of the Bidder’s bid validity period, being *[date of expiration of the Tender]*.

Consequently, we must receive at the above-mentioned office any demand for payment under this guarantee on or before that date.

Signature

Signature



PERFORMANCE GUARANTEES No:

We have been informed that *[name of Contractor]* (hereinafter called “the Contractor”) has undertaken, pursuant to Contract No *[reference number of Contract]* dated *[date of Contract]* (hereinafter called “the Contract”), the execution of works *[description of works]* under the Contract.

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

At the request of the Contractor, we *[name of bank]* hereby irrevocably undertake to pay you, without cavil or argument, any sum or sums not exceeding in total an amount of Nu *[insert amount in figures and in words]* upon receipt by us of your first written demand accompanied by a written statement that the Contractor is in breach of its obligation(s) under the Contract conditions, without you needing to prove or show grounds or reasons for your demand of the sum specified therein.

This guarantee is valid until *[date of validity of guarantee]*, consequently, we must receive at the above-mentioned office any demand for payment under this guarantee on or before that date.

Signature	Signature
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Form-6: Contract Agreement

THIS AGREEMENT, made the [day] of [month] [year] between [name and address of Employer] (hereinafter called “the Employer”) of the one part and [name and address of Contractor] (hereinafter called “the Contractor”) of the other part.

WHEREAS, the Employer invited sealed Bids for certain Works, viz, [brief description of the Works] and has accepted the Bid by the Contractor for the execution of those works in the sum of Ngultrum [insert amount in figures and words], hereinafter called “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 Terms and Conditions of Contract hereinafter referred to.
2. The documents forming the Contract shall be interpreted in the following order of priority:
 - (a) The signed Contract Agreement;
 - (b) The letter of Acceptance;
 - (c) All forms under Section 7 of this Contract;
 - (d) Terms and Conditions of Contract;
 - (e) Technical Specifications
 - (f) Price Schedule
3. In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to execute and complete the Works and to remedy any defects therein in conformity in all respects with the provisions of the Contract.
4. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works 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 thereto have caused this Agreement to be executed in accordance with the laws of Bhutan on the day month and year first before written.

	For the Employer	For the Contractor
Signature		
Print Name		
Title		
In the presence of (Name)		
Address		

