



PUBLICATION

**FOR SALE OF A VESSEL
EXCLUSIVELY MORTGAGED TO
EXPORT – IMPORT BANK OF INDIA
BY WAY OF ENFORCEMENT OF SUCH MORTGAGE
UNDER THE PROVISIONS OF
MERCHANT SHIPPING ACT, 1958**

JANUARY 2020

**EXPORT-IMPORT BANK OF INDIA
Centre One Building, Floor No. 21,
World Trade Centre Complex, Cuffe Parade, Mumbai – 400 005**

Table of Contents

I. Disclaimer and Important Notice.....	2
II. Invitation for Participation in Bidding Process	3
III. Schedule of Sale Process.....	5
IV. Important Terms and Conditions.....	5
Annexure 1.....	9

CONFIDENTIAL

I. Disclaimer and Important Notice

This document shall be referred to as the "PUBLICATION" for Sale of a n Oil Tanker Vessel by EXPORT-IMPORT BANK OF INDIA (EXIM BANK) by way of enforcement of mortgage under the provisions of Merchant Shipping Act, 1958. The said vessel is exclusively mortgaged to EXIM BANK by way of security for a Loan Facility extended to one of its borrowers which has since been classified as Non-Performing Asset (NPA).

EXPORT-IMPORT BANK OF INDIA is a corporation established under the Export-Import Bank of India Act, 1981 and having its Head Office at Centre One Building, Floor 21, World Trade Centre Complex, Cuffe Parade, Mumbai 400 005 (hereinafter "EXIM Bank").

The purpose of this document is to provide information to bidders in respect of the sale of a n Oil Tanker Vessel by EXPORT-IMPORT BANK OF INDIA (EXIM BANK) by way of enforcement of mortgage under the provisions of Merchant Shipping Act, 1958.

It is presumed and understood that, by participating in this process, each of the participating bidders has carried out their own independent due-diligence, investigation and assessment, in respect of any or all matters, information, statements etc. covered / sought to be covered or contained in this PUBLICATION and any documents that may be provided by EXIM Bank during the course of the process pursuant to this PUBLICATION.

Prospective Investors should note that, they must have the capacity and be competent to enter into and conclude the transaction in compliance with all applicable laws.

The Offer and other information pertaining to the sale process would be shared only to eligible participants upon execution of Non-Disclosure Agreement (NDA) with EXIM Bank. This document is for the exclusive use of participating bidders and is not meant for public circulation and is not intended for distribution to any person other than the persons to whom it is addressed, and is not transferable. Recipients are not permitted to replicate this PUBLICATION or to further distribute / share the PUBLICATION.

This PUBLICATION may not contain all the information each bidder may desire or require in reaching decisions concerning their bids. Each bidder should conduct their own due diligence and analysis and should check the accuracy, reliability and completeness of the information in this PUBLICATION. Bidders should form their own views as to whether information provided herein or separately is relevant to any decisions that they take and should make their own independent investigations in relation to any additional information that they may require.

Notwithstanding anything contained in this PUBLICATION, neither EXIM Bank, nor its employees or its advisors accept any responsibility or liability,

whatsoever, in respect of any statements or omissions herein, or the accuracy, completeness or reliability of information, and shall incur no liability, under any law, statute, rules or regulations as to the accuracy, reliability or completeness of this PUBLICATION, even if any loss or damage is caused by any act or omission on the part of EXIM Bank or its employees or its advisors, whether negligent or otherwise.

The information contained in this PUBLICATION or any other information which may be provided to bidders is subject to change without prior notice. EXIM Bank may, in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information contained herein including the envisaged sale process mentioned.

II. Invitation for Participation in Bidding Process under Swiss Challenge Method

EXIM Bank invites bids from all eligible buyers "Bidders" for sale of an Oil Tanker Vessel exclusively mortgaged to Exim Bank by one of its borrower which has since been classified as NPA. The said vessel is being offered for sale on "As is where is and as is what is" & "without recourse" basis under a Swiss Challenge Procedure. The Rule caveat Emptor shall be applicable. Details of offer shall be shared after execution of Non-Disclosure Agreement (NDA) by bidder and submission of Expression of Interest (EOI). However, please note that the sale will be subject to final approval by the Competent Authority of EXIM Bank.

Prospective bidders who would like to participate in the competitive bidding process for the sale of vessel are requested to intimate their willingness to participate by submitting in writing their EOI strictly as per format enclosed at **Annexure 1** along with NDA (To be executed on ₹ 500 stamp paper) strictly as per format enclosed at **Annexure 2** duly signed by the authorized person and sent by hand delivery/email on or before January 21, 2020, 5:00 PM (Indian Standard Time) addressed to:

General Manager
Loan Administration Group
Export-Import Bank of India
Floor 21, Centre One Building
World Trade Centre Complex
Cuffe Parade, Mumbai – 400 005.

Email ID : shailendra@eximbankindia.in; hirva@eximbankindia.in; and

CC : rikesh@eximbankindia.in; manjiri@eximbankindia.in

Contact No: 022 2217 2617 / 2340

Please note that prospective bidders need to submit EOI and NDA strictly as per

the enclosed formats, any change in the said document(s) shall be liable to rejection.

It would be deemed that, by submitting the bid, the Bidder has read, understood and has made a complete and careful examination of all the information given in this PUBLICATION / Data Room pertaining to the vessel proposed to be auctioned & has made their own due diligence in respect of the same and is fully convinced and satisfied with the title and marketability of the vessel involved. Neither EXIM Bank nor its advisors are responsible or liable for any of the consequences arising therein or relating to it.

Kindly feel free to contact us, in case of any further clarification on the sale process.

III. Existing Offer from Original Bidder

EXIM Bank is in receipt of a binding offer for acquisition of an Indian flagged Oil Tanker Vessel from a bidder ("Original Bidder") for a purchase consideration of USD 3.60 Million (United States Dollars Three Million Sixty Thousand Only). Details of offer shall be shared after execution of NDA by bidder and submission of EOI.

IV. Schedule of Sale Process

The schedule for completion of the sale process is given below, which has to be adhered to:

S.No	Particulars	Last date
1.	Newspaper advertisement and Publication uploading on Bank's website	17.01.2020
2.	Submission of Expression of Interest	21.01.2020
3.	Submission of Non-Disclosure Agreement (if not already executed)	21.01.2020
4.	Commencement of Due Diligence Exercise	22.01.2020
5.	Completion of Due Diligence Exercise	24.01.2020
6.	Process of e-bidding and declaration of H1 bidder	27.01.2020
7.	Execution of Memorandum of Agreement (MoA)	27.01.2020

EXIM Bank may at its sole discretion cancel or change or extend any timelines indicated above and it shall be binding on the participating Bidder(s).

V. Important Terms and Conditions

1.
 - i) The sale of the Vessel is on '**As is where is & As is whatever there is**' basis **without recourse to EXIM Bank** following a "Swiss Challenge Procedure".
 - ii) The auction for the vessel under the "Swiss Challenge Procedure" is based on an existing offer in hand from the Original Bidder, who will have the right to match the highest bid.
2. The submission of the bid by a Bidder shall be deemed to constitute unconditional acceptance of all the terms and conditions of this PUBLICATION by the Bidder.
3. Final Bid shall remain valid for a period of 30 days from the date of submission of Bid. However, EXIM Bank may seek extension of the validity for such period as may be determined by the Bank at its discretion. EXIM Bank also reserves the right to reject any Bid without assigning any reason.

4. Bidders are expected to submit their Bid with independent study & assessment in respect of the Vessel and value thereof, before submitting their Bids. By virtue of submission of the Bid, it shall be deemed that, the Bidders have conducted their own independent due diligence at their own costs including verifying various legal proceedings, as well as ascertain the known and unknown liabilities, encumbrances and any other dues from concerned authorities or stakeholders to their satisfaction before submitting the Bid. Any Bid made shall be deemed to have been submitted after complete satisfaction of Bidders thereto and / or all claims there against and hence the participants shall not be entitled to make any representations or raise any query / objection to the Bank as to the title or condition of Vessel or any part thereof or any liabilities / encumbrances / dues/ taxes/ levies irrespective as to whether they are disclosed or undisclosed.
5. The Bid should be made on the basis of the terms of this PUBLICATION without prejudice to EXIM Bank's right to make any amendments.
6. Conditional & Contingent Bids shall be liable to be disqualified by EXIM Bank.
7. Any claim of the obligor after the sale of Vessel shall be dealt with by the successful bidder.
8. The successful bidder shall take such immediate steps as may be necessary to take possession of the vessel and that Exim Bank will not be responsible in that behalf. The successful bidder shall take delivery of the vessel at its own cost.
9. All costs, expenses and liabilities incurred by each Bidder in connection with the transaction, including (without limitation) in connection with due diligence, preparation and / or submission of the Bid, including fees and disbursements of its own advisors, if any, shall be borne and paid by such Bidder, whether its Bid is accepted or rejected for any reason and EXIM Bank does not assume any liability, whatsoever in this connection.
10. Any discussions or any clarifications, information sought or divulged with respect to the Bid will not constitute an invitation or commitment by EXIM BANK to enter into any agreement, undertaking or covenant with the Bidder nor shall EXIM Bank be liable to consummate or deal with any Participant on the basis of such discussion, negotiation, information.
11. The Bidder is required to and must exercise utmost good faith, due care and diligence in preparation and submission of the Bid and must ensure that all information provided therein is accurate and complete.

12. It should however be noted that, EXIM Bank does not make any representation as to the correctness, validity or adequacy, sufficiency or otherwise of any such information pertaining to liabilities, encumbrances and statutory dues of the Vessel. The Bidders should do their own due-diligence to verify the same. EXIM BANK does not undertake responsibility for adequacy or sufficiency of information and documents related to financial asset in respect of the Vessel.

The Bidders should not limit or restrict their due diligence only to the available documents for assessing the complete risk.

13. EXIM BANK may, at its sole discretion, add, amend, vary, modify, delete, any of the conditions of this PUBLICATION as may be deemed necessary in the light of the facts and circumstances and also issue one or more addenda, corrigendum as required without giving any reasons thereto.
14. EXIM Bank may, at any time and for any reason, without giving any reason thereof, cancel the sale process or change/extend the deadlines/time-lines outlined in this PUBLICATION and shall communicate any change/extension/Cancellation individually to each Bidder.
15. The successful Bidder shall be solely and absolutely responsible for completion of all statutory, regulatory and other compliances for the purchase of vessel including incurring of any costs, charges and expenses and payment of fees and duties (including the adjudication, stamp duty and registration fee and other similar levy payable and whether payable in one or more states or jurisdictions), statutory and otherwise.
16. EXIM Bank reserves its right to cancel the Process at any stage before the sale and in that event, in its absolute discretion, to follow a different method for sale/transfer of the vessel which may not be mentioned above. Upon such action, EXIM Bank's decision in this behalf shall be final and binding on all the Bidders.
17. EXIM Bank reserves the right to accept / reject any Bid without assigning any reasons at its discretion. The decision of EXIM Bank in this regard shall be final and conclusive.
18. The Bidder shall not be entitled to withdraw or cancel the bid once it is submitted.
19. In the event of any dispute and /or difference on the point of meaning or definition of any particular word used in this PUBLICATION or, in respect of interpretation of any clause of this PUBLICATION or, this PUBLICATION as a whole or, in respect of sequence of events mentioned therein, decision of the General Manager (Loan Administration Group), EXIM Bank shall be

final and binding on all the parties concerned.

20. Disputes, if any arising between the parties in relation to this PUBLICATION shall be settled by way of mutual discussion and in case an amicable settlement is not reached, shall be subject to jurisdiction of courts situated at Mumbai, and governed in accordance with the laws of India.
21. EXIM Bank has absolute and unimpeachable right with respect to all the matters starting from receiving, considering, accepting the bid or selling the vessel, without limitation, encompasses right to not to receive, not to consider, not to accept the bid and decide not to sell the vessel. EXIM BANK would not entertain any parties in this regard.

In acceptance:

Signature and Seal of the Bidder

**Expression of Interest
On Bidder's Letter Head**

<Draft>

Dated:

General Manager
Loan Administration Group
Export-Import Bank of India
Floor 21, World Trade Centre Complex
Cuffe Parade
Mumbai – 400 005.

Sub: Oil Tanker Vessel Auction – January 2020

We refer to EXIM Bank's PUBLICATION on its website on 17.01.2020 on the auction of an Oil Tanker Vessel. We hereby confirm our intention to proceed with due-diligence in Data Room being set up by you. This is to confirm that:

We are eligible and have the financial capacity to conclude the purchase of Vessel in accordance with the applicable laws and regulations of India.

Subject to our findings and pursuant to the due diligence review, we intend to submit a Bid for the purchase of the vessel being auctioned following a Swiss Challenge Procedure by EXIM BANK.

In undertaking this transaction, we have no conflict of interest with and are not related, directly or indirectly, to EXIM Bank.

Duly executed NDA is enclosed herewith.

Details of the Contact person/Authorised signatory with address, Contact no and Email ID are as under:

We shall be in touch with you to co-ordinate on the Data room.

With regards,

<Authorised Signatory>

NON-DISCLOSURE AGREEMENT

(No changes allowed in this format)

(To be executed on ₹ 500 stamp paper)

This Agreement is made on the _____ day of _____
Between _____, (a _____ incorporated under
the _____) having its office at _____ (hereinafter
referred to as “_____” or the “**Receiving Party**”, which expression unless
repugnant to the context or meaning thereof be deemed to include its successors
and assigns) of the **ONE PART**;

AND

Export-Import Bank of India, a corporation established under the Export-Import
Bank of India Act, 1981 and having its Head Office at Floor 21, Centre One
Building, World Trade Centre Complex, Cuffe Parade, Mumbai 400 005 hereinafter
referred “EXIM” or “**Disclosing Party**”) which expression unless repugnant to the
context or meaning thereof be deemed to include its successors and assigns) of
the **OTHER PART**.

_____ & EXIM are hereinafter collectively referred to as the “**Parties**” and
individually as a “**Party**”.

WHEREAS

The Parties intend to engage in a business relationship which includes
_____. In the course of such business
relationship, it is anticipated that EXIM may disclose or deliver to _____
certain or some of its trade secrets, policies, technical and business information,
pricing, financial analysis, customer names, customer list, customer data or any
other confidential or proprietary information, for the purpose of
_____ (hereinafter referred to as “**the Purpose**”).

**NOW, THEREFORE, THIS AGREEMENT WITNESSETH AND IT IS HEREBY AGREED BY
AND BETWEEN THE PARTIES HERETO AS FOLLOWS:**

1. **Confidential information:** For the purposes of this Agreement, “Confidential Information” means any and all information or data that is proprietary to the Disclosing Party and not generally known to the public, whether in tangible or intangible form, in whatever medium provided by the Disclosing Party to the Receiving Party or its representative(s) in connection with the Purpose and the business transacted/to be transacted between the Parties. Confidential Information shall include any copy, abstract, sample, notes or module thereof.

The Receiving Party shall use the Confidential Information solely for and in connection with the Purpose.

Notwithstanding the foregoing, “Confidential Information” shall not include any information which the Receiving Party can show: (a) is now or subsequently becomes legally and publicly available without breach of this Agreement by the Receiving Party, (b) was rightfully in the possession of the Receiving Party without any obligation of confidentiality prior to receiving it from the Disclosing Party and can be shown by documentary evidence in support thereof, (c) was rightfully obtained by the Receiving Party from a source other than the Disclosing Party without any obligation of confidentiality and can be shown by documentary evidence in support thereof, (d) was developed by or for the Receiving Party independently and without reference to any Confidential Information and such independent development can be shown by documentary evidence, or (e) is disclosed pursuant to an order of a court or governmental agency as so required by such order, provided that the Receiving Party shall endeavour to, unless prohibited by law or regulation, promptly notify the Disclosing Party of such order and afford the Disclosing Party the opportunity to seek appropriate protective order relating to such disclosure.

2. **Non-disclosure:** The Receiving Party shall not commercially use or disclose any Confidential Information to any other person or entity other than persons in the direct employment of the Receiving Party who have a need to have access to and knowledge of the Confidential Information solely for the Purpose authorized above. The Receiving Party may with prior written permission of the

Disclosing Party, disclose the Confidential Information to its affiliates, consultants, advisors and such other persons who have a need to have access to and knowledge of the Confidential Information solely for the Purpose authorized above, subject to their entering into an agreement containing terms and conditions no less restrictive than as set out in this Agreement. The Receiving Party agrees to notify the Disclosing Party immediately if it learns of any use or disclosure of the Disclosing Party's Confidential Information in violation of the terms of this Agreement. The Receiving Party undertakes to take full responsibility for the Confidential Information given to their Consultants, Advisors, Affiliates and other persons referred in above and consequently any breach by such Consultants, Advisors Affiliates and other persons referred in above shall be treated as breach by the Receiving Party and accordingly will be liable to the Disclosing Party.

3. **Publications**: Neither Party shall make news releases, public announcements, give interviews, issue or publish advertisements or publicize in print or electronic media or any other manner whatsoever in connection with this Agreement, the contents/provisions thereof, other information relating to this Agreement, the Purpose, the Confidential Information or other matter of this Agreement, without the prior written approval of the other Party.
4. **Term**: This Agreement shall be effective from the date hereof and shall continue till the earlier to occur of (i) the expiration of 1 (one) year from the date of this Agreement unless renewed by both the parties in writing and (ii) till expiration or termination of this Agreement due to cessation of the business relationship between _____ and EXIM. However, the confidentiality obligations shall survive the termination of this Agreement. Upon expiration or termination as contemplated herein the Receiving Party shall immediately, cease any and all disclosures or uses of the Confidential Information and at the request of the Disclosing Party promptly return or destroy all written, graphic or other tangible forms of the Confidential information and all copies, abstracts, extracts, samples, notes or modules thereof. That portion of the Information which consists of analyses, compilations, studies or other documents or data prepared by the Receiving Party or its representatives, will continue to be held by the Receiving Party and will be treated as confidential.
5. **Title and Proprietary Rights**: Notwithstanding the disclosure of any Confidential

Information by the Disclosing Party to the Receiving Party, the Disclosing Party shall retain title and all intellectual property and proprietary rights in the Confidential Information. No license under any trademark, patent or copyright, or application for same which are now or thereafter may be obtained by such Party is either granted or implied by the conveying of Confidential Information. The Receiving Party shall not conceal, alter, obliterate, mutilate, deface or otherwise interfere with any trademark, trademark notice, copyright notice, confidentiality notice or any notice of any other proprietary right of the Disclosing Party on any copy of the Confidential Information, and shall reproduce any such mark or notice on all copies of such Confidential Information. Likewise, the Receiving Party shall not add or emboss its own or any other any mark, symbol or logo on such Confidential Information.

Return of Confidential Information: Upon written demand of the Disclosing Party, the Receiving party shall

- a. cease using the Confidential Information,
- b. return the Confidential Information and all copies, abstract, extracts, samples, notes or modules thereof to the Disclosing Party within seven (7) days after receipt of notice, and
- c. Upon request of the Disclosing Party, certify in writing that the Receiving Party has complied with the obligations set forth in this agreement.

6. **Remedies:** Both parties acknowledge that the Confidential Information to be disclosed hereunder is of a unique and valuable character, and that the unauthorized dissemination of the Confidential Information would destroy or diminish the value of such information. The Receiving Party acknowledges that if the Receiving Party fails to comply with any of its obligations hereunder, the Disclosing Party may suffer immediate, irreparable harm for which monetary damages may not be adequate. The Receiving Party agrees that, in addition to all other remedies provided at law or in equity, the Disclosing Party shall be entitled to injunctive relief hereunder.

7. **Entire Agreement, Amendment, and Assignment:** This Agreement constitutes the entire agreement between the Parties relating to the matters discussed herein and supersedes any and all prior oral discussions and/or written correspondence or agreements between the Parties. This Agreement may be amended or modified only with the mutual written consent of the Parties.

Neither this Agreement nor any right granted hereunder shall be assignable or otherwise transferable.

8. **Indemnity**: The Receiving Party hereby indemnifies the Disclosing Party, and shall always keep indemnified and hold the Disclosing Party, its employees, personnel, officers, directors, harmless from and against any and all losses, liabilities, claims, actions, costs and expenses (including attorneys' fees) relating to, resulting directly or indirectly from or in any way arising out of any claim, suit or proceeding brought against the Disclosing Party as a result of breach of any of the term of this Agreement or breach of any representation or on account of any false representation or inaccurate statement or assurance or covenant or warranty of the Receiving Party and/or breach of confidentiality obligations of the Receiving Party, or its employees or delegates, contained in this Agreement; and/or negligence or gross misconduct attributable to the Receiving Party its employees/delegates.
9. **Notices**: Any notice or other communication under this Agreement shall be in writing and shall be delivered personally, or sent by pre-paid first class post or recorded delivery or by commercial courier or by electronic mail, to a party at its address as set out below:

Disclosing Party: Export - Import Bank of India
21st Floor, World Trade Centre Complex, Cuffe Parade, Mumbai 400 005.

Receiving Party: _____ *(along with address, name of authorized official and email)*

Or as otherwise specified by a party by notice in writing to the other party.

Any notice or other communication shall be deemed to have been duly received:

- i. If delivered personally, when left at the address and for the contact referred to in this clause; or
- ii. If sent by pre-paid first class post or recorded delivery, at 11.00 am on the fourth business day after posting; or
- iii. If delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or
- iv. If sent by an electronic mail, on the day of receipt, if received before

11.00 a.m. on a business day, or otherwise on the first business day after receipt.

10. **Governing Law and Jurisdiction**: The provisions of this Agreement shall be governed by the laws of India and the parties submit to the jurisdiction of courts/tribunals at Mumbai.

11. **General**: The Receiving Party shall not reverse-engineer, decompile, disassemble or otherwise interfere with any Confidential Information disclosed hereunder.

All Confidential Information is provided on "as is" basis. In no event shall the Disclosing Party be liable for the inaccuracy or incompleteness of the Confidential Information. None of the Confidential Information disclosed by the Parties constitutes any representation, warranty, assurance, guarantee or inducement by either Party to the other with respect to the fitness of such Confidential Information for any particular purpose or infringement of trademarks, patents, copyrights or any right of third persons. Each party agrees to maintain and go by all the extant laws, regulatory guidelines and such other similar regulations.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Date first above written.

By Export-Import Bank of India

By Receiving Parties

Title:

Title:

Name:

Name: