

**Amendment –I Dated 01.08.2017 to NIT No. PNMM/PC-009/E-4001 For  
Coal Gasification Plant for Generating Ammonia Syn. Gas and Carbon Dioxide Gas at  
Talcher, Odisha (India)**

- A. Entire Clause 8.0 (PQC) OF “Instructions To Bidders” is deleted and replaced by the following:

**8.0 PRE-QUALIFICATION CRITERIA (PQC)**

Bids are hereby invited from competent agencies with sound technical and financial capability meeting the respective pre-qualification requirement stated hereunder.

Evaluation of Techno-Commercial offers shall be carried out for only those Bidders who shall meet the Pre-qualification Criteria.

**8.1 PQ Criteria for a Single Bidder**

**8.1.1 Technology Criteria**

**8.1.1.1 Coal Gasification Technology:**

M/s Shell Global Solutions International B.V. (Shell), Netherland is the Process Licensor from whom the Bidder has to arrange Process License and Basic Design Package of proven performance for Coal Gasifiers for gasifying blend of high ash Coal (ranging from 40% to 47% ash) and petcoke (25% maximum in the feed blend) on commercial basis, for supplying Ammonia Synthesis Gas (ASG) and Carbon Dioxide Gas.

M/s Shell shall be the Process Integrator for Coal Gasification Plant including Gas Purification, SRU, ASU etc. to ensure the overall integration & optimization of all other Licensor's unit within the LSTK Contractor Battery Limit.

The bidder has to submit Letter of Support/MOU from the Process Licensor for technology tie up for the proposed Coal Gasification Technology and Process Integration for the complete plant under LSTK Contractor Battery Limit.

Bidder shall submit the draft copy of License Agreement for OWNER's review and approval along with the Bid.

TFL will provide Shell's Basic Technical Package for bidding purpose free of cost. However, a token deposit of Rs 5 lakh (for domestic bidder) and US\$ 8000 (for foreign bidder) to be submitted as detailed below along with signing of Non-Disclosure Agreement (NDA) as per prescribed format (**Annexure 1.28 attached with this amendment**).

**Mode of Remittance-** The token deposit of Rs 5 lakh (for domestic bidder) and US\$ 8000 (for foreign bidder) can be submitted either through Demand Draft/ Bankers Cheque or irrevocable Bank Guarantee or Electronic Transfer. In case the deposit is submitted in the form of DD/Bankers Cheque, then the same should be in favour of M/s Talcher Fertilizers Limited Payable at Bhubneshwar. In case the deposit is submitted in the form of irrevocable BG, the same should be as per prescribed format (**Annexure 1.29 attached with this amendment**) and issued by any bank appearing in Annexure 1.20 of NIT and shall be valid for a period of atleast twelve months from bid due date or as per the requirement of TFL to be notified time to time. In case, the deposit is submitted by wire transfer, the remittance should be made as per following bank details:

TALCHER FERTILIZERS LIMITED  
STATE BANK OF INDIA  
A/C No- 35425281988  
Branch - Lewis Road ( 05093) Bhubaneswar  
IFSC Code -SBIN0005093  
SWIFT CODE - SBININBB270  
BRANCH CODE - 05093

It must be ensured that a **net** amount of Rs 5 lakh (for domestic bidders) and US\$ 8000 (for foreign bidders) should be deposited in TFL account after adding the bank charges (i.e. bank charges shall be paid extra by the prospective bidder so that net amount of Rs 5 lakh/USD 8000 is deposited in TFL account).

**Interest-** The above deposit shall not carry any interest.

**Forfeiture-**In case, prospective bidder who has remitted the above deposit does not submit their bid, then the deposit shall be forfeited. In case, the deposit was made through BG, then either the BG will be encashed or the BG will be returned on submission of DD of Rs 5 lakh / USD 8000.

**Refund-**The above deposit/ BG shall be refunded/ Returned by TFL to all the unsuccessful bidders after award of contract. In case the tender is closed for any reason, the above deposit shall be refunded/returned by TFL to all the bidders.

In case of award of contract, the successful bidder shall pay to Shell, the Shell's technical package fee amounting to USD 0.55 million excluding the applicable taxes through DD or wire transfer. Upon confirmation from Shell w.r.t. receipt of above amount in their account, the deposit of Rs 5 lakh (for domestic bidders) and US\$ 8000 (for foreign bidders) shall be refunded/returned.

The Shell's technical package shall be handed over only after receipt of the above deposit and signed NDA.

#### 8.1.1.2 Gas Cleaning & Purification for generation of Ammonia Synthesis Gas ( $N_2+3H_2$ ):

The Bidder either on his own or with the support from Process Licensor should be capable of providing Process License and Basic Design Package for the proposed Gas cleaning, Purification & Ammonia Synthesis Gas ( $N_2+3H_2$ ) Generation along with  $CO_2$ .

The Gas Cleaning, Purification & Ammonia Synthesis Gas ( $N_2+3H_2$ ) (ASG) Generation technology proposed by Bidder shall have reference of at least One single stream plant processing gas from the Coal gasifier and generating minimum 150,000  $Nm^3/Hr$  of Ammonia Synthesis gas with matching Carbon dioxide Gas production.

For establishing that the Technology to be adopted by the Bidder is a proven one, the Bidder shall provide details of at least one commercial plant which has operated successfully for at least six months in the last two years reckoned from the last day of the preceding month in which the bids are opened. Bidder shall submit documentary proof for Licensor's plant, issued by plant owner / technology licensor's certificate regarding the same.

Bidder shall, along with the bid, also submit MOU/ Letter of Undertaking from process licensor for technology tie up for the proposed Gas cleaning, Purification & Ammonia Synthesis Gas ( $N_2+3H_2$ ) Generation unit along with  $CO_2$  generation.

## 8.1.2 Experience Criteria

- 8.1.2.1 The Bidder should possess experience of having successfully executed Process Plants on LSTK (Lump sum Turnkey) basis in any one of the field of Coal gasification, Oil, Gas, Refinery, Hydrocarbon, Petrochemicals or Fertilizer and should have been in satisfactory commercial operation for a minimum period of last one year reckoned from the last day of the preceding month in which the bids are opened , with scope of work comprising of Detailed Engineering, Procurement, Supply, Construction and Erection , Testing, Pre-commissioning, Commissioning.

The reference plants should be operating either in India or outside the country of Origin of Bidder for consideration of this criteria.

Documentary proof consisting of detailed work order indicating scope of work, along with Completion/Acceptance Certificate and one year successful operation certificate issued by the Owner will have to be submitted by the Bidder in support of fulfilling this criteria. The Completion/Acceptance Certificate shall clearly indicate the LOA/Work Order no., 'Name of Work', 'Contract Value', Scope of Work, 'Contract period' and actual date of completion

- 8.1.2.2 The Bidder, meeting the requirements as per Clause 8.1.2.1 above, must have executed Process Plants in any of the field of Coal gasification, Oil & Gas, Refinery, Hydrocarbon, Petrochemicals or Fertilizer industries during the last Ten (10) years reckoned from bid due date any one of the following:

One Completed work costing not less than INR 32 billion or US \$ 497 million.

Or

Two Completed works each costing not less than INR 20 billion or US \$ 310 million,

Or

Three Completed works each costing not less than INR 16 billion or US \$ 248 million,

To meet the criteria (8.1.2.2) above, Bidder shall submit documentary proof such as Copy of Work Order / relevant Extract of Work Order and Completion/Acceptance Certificate. The Completion/Acceptance Certificate shall clearly indicate the LOA/Work Order no., 'Name of Work', 'Contract Value', Scope of Work, 'Contract period' and actual date of completion.

For clause 8.1.2.1 and 8.1.2.2, a Job executed by a Bidder for its own plant/ project cannot be considered as experience for the purpose of meeting PQC of the tender. However, jobs executed for Subsidiary/Fellow subsidiary / Holding company will be considered as experience for the purpose of meeting PQC subject to submission of tax paid invoice (s) duly certified by Statutory Auditor of the Bidder towards payments of statutory tax in support of the job executed for Subsidiary/Fellow subsidiary/ Holding company. Such Bidders to submit these documents in addition to the documents specified to meet PQC.

## 8.1.3 Financial Criteria

- a) The Average Annual financial turnover of the Bidder during the last three (3) preceding financial years i.e. 2016-17, 2015-2016, and 2014-2015 or calendar years 2016, 2015 and 2014 of the bidder , should be at least INR 12 billion or US \$ 186 Million.
- b) Net Worth of the company should be positive for financial year as on 31 March 2017 or calendar year 31 December 2016 as applicable.
- c) The Bidder will submit Solvency certificate not more than six months old from the date of issue of NIT from their Banker for a value not less than INR 16 billion or US\$ 248 million

or minimum credit ratings of "A" from ICRA/CRISIL etc OR equivalent reputed institutions, OR financing/credit limits from bank of value not less than INR 16 billion or US\$ 248 million valid as on date of issue of NIT.

To meet the criteria (a & b) above, Bidder shall submit Audited Annual Statements (Balance Sheet and Profit & Loss account) of the company for the last three (3) financial years i.e. 2016-17, 2015-2016, and 2014-2015 or calendar years 2016,2015, and 2014.

**NOTE:**

- i. For PQ criteria in respect of Order value/Turn Over/ Net worth, in case PQ Criteria indicated by the bidders is in foreign currency other than US\$, the exchange rate (as per RBI reference rate) for the relevant period shall be used for conversion to INR.
- ii. In case a bidder does not satisfy the financial criteria w.r.t. Annual Turnover & Net worth as above, on its own, then the Holding Company would be required to meet the stipulated turnover requirements, provided that the net worth of such holding company as on the last day of the preceding financial year is at least equal to or more than the paid-up share capital of the Holding Company. In such an event, the bidder would be required to furnish along with its bid, a letter of undertaking from the Holding Company, supported by Board Resolution, as per the prescribed format (**Annexure 1.30 attached with this amendment**), pledging unconditional and irrevocable financial support for the execution of the Contract by the bidder in case of award.

**8.2 PQ Criteria for a Consortium Bidder.**

(The number of consortium members including the lead Bidder shall not exceed three)

**8.2.1 Technology Criteria**

**8.2.1.1 Coal Gasification Technology:**

M/s Shell Global Solutions International B.V. Netherland is the Process Licensor from whom the Bidder has to arrange Process License and Basic Design Package of proven performance for Coal Gasifiers for gasifying blend of high ash Coal (ranging from 40% to 47% ash) and petcoke (25% maximum in the feed blend) on commercial basis, for supplying Ammonia Synthesis Gas (ASG) and Carbon Dioxide Gas.

M/s Shell shall be the Process Integrator for Coal Gasification Plant including Gas Purification, SRU, ASU etc. to ensure the overall integration & optimization of all other Licensor's unit within the LSTK Contractor Battery Limit.

The bidder has to submit Letter of Support/MOU from the Process Licensor for technology tie up for the proposed Coal Gasification Technology and Process Integration for the complete plant under LSTK Contractor Battery Limit.

Bidder shall submit the draft copy of License Agreement for OWNER's review and approval along with the Bid.

TFL will provide Shell's Basic Technical Package for bidding purpose free of cost. However, a token deposit of Rs 5 lakh (for domestic bidder) and US\$ 8000 (for foreign bidder) to be submitted as detailed below along with signing of Non-Disclosure Agreement (NDA) as per prescribed format (**Annexure 1.28 attached with this amendment**).

**Mode of Remittance-** The token deposit of Rs 5 lakh (for domestic bidder) and US\$ 8000 (for foreign bidder) can be submitted by any member of the consortium either through Demand Draft/ Bankers Cheque or irrevocable Bank Guarantee or Electronic Transfer. In case the deposit is submitted in the form of DD/Bankers Cheque, then the same should be in favour of

M/s Talcher Fertilizers Limited Payable at Bhubneshwar. In case the deposit is submitted in the form of irrevocable BG, the same should be as per prescribed format (**Annexure 1.29 attached with this amendment**).and issued by any bank appearing in Annexure 1.20 of NIT and shall be valid for a period of atleast twelve months from bid due date or as per the requirement of TFL to be notified time to time. In case, the deposit is submitted by wire transfer, the remittance should be made as per following bank details:

TALCHER FERTILIZERS LIMITED  
STATE BANK OF INDIA  
A/C No- 35425281988  
Branch - Lewis Road ( 05093) Bhubaneswar  
IFSC Code -SBIN0005093  
SWIFT CODE - SBININBB270  
BRANCH CODE - 05093

It must be ensured that a **net** amount of Rs 5 lakh (for domestic bidders) and US\$ 8000 (for foreign bidders) should be deposited in TFL account after adding the bank charges (i.e. bank charges shall be paid extra by the prospective bidder so that net amount of Rs 5 lakh/USD 8000 is deposited in TFL account).

**Interest-** The above deposit shall not carry any interest.

**Forfeiture-**In case, prospective bidder who has remitted the above deposit does not submit their bid, then the deposit shall be forfeited. In case, the deposit was made through BG, then either the BG will be encashed or the BG will be returned on submission of DD of Rs 5 lakh / USD 8000.

**Refund-**The above deposit/ BG shall be refunded/ Returned by TFL to all the unsuccessful bidders after award of contract. In case the tender is closed for any reason, the above deposit shall be refunded/returned by TFL to all the bidders.

In case of award of contract, the successful bidder shall pay to Shell, the Shell's technical package fee amounting to USD 0.55 million excluding the applicable taxes through DD or wire transfer. Upon confirmation from Shell w.r.t. receipt of above amount in their account, the deposit of Rs 5 lakh (for domestic bidders) and US\$ 8000 (for foreign bidders) shall be refunded/returned.

The Shell's technical package shall be handed over only after receipt of the above deposit and signed NDA.

#### 8.2.1.2 Gas Cleaning & Purification for generation of Ammonia Synthesis Gas ( $N_2+3H_2$ ):

Leader of the Consortium either on his own or with the support from a reputed Process Licensor should be capable of providing/arranging Process License and Basic Design Package for the proposed Gas cleaning, Purification & Ammonia Synthesis Gas ( $N_2+3H_2$ ) Generation.

The Gas Cleaning, Purification & Ammonia Synthesis Gas ( $N_2+3H_2$ ) Generation technology proposed by Bidder shall have reference of at least one single stream plant processing gas from the Coal gasifier and generating minimum 150,000 Nm<sup>3</sup>/Hr of Ammonia Synthesis gas with matching Carbon dioxide Gas production in single stream.

For establishing that the Technology to be adopted by the Consortium is a proven one, the Consortium shall provide details of at least one commercial plant which has operated successfully for at least six months in the last two years reckoned from the last day of the preceding month in which the bids are opened. Bidder shall submit documentary proof for Licensor's plant issued by plant owner technology licensor's certificate regarding the same.

The Consortium shall, along with the bid, also submit MOU/ Letter of Undertaking from process licensor for technology tie up for the proposed Gas Cleaning, Purification & Ammonia Synthesis Gas (N<sub>2</sub>+3H<sub>2</sub>) Generation unit along with CO<sub>2</sub> generation.

## 8.2.2 Experience Criteria (Consortium)

8.2.2.1 Leader of the Consortium should possess experience of having successfully executed Process Plants on LSTK (Lumpsum Turnkey) basis in any of the fields of Coal gasification, Coal based Thermal Power Plants\*, Oil, Gas, Refinery, Hydrocarbon, Petrochemicals or Fertilizer and should have been in satisfactory commercial operation for a minimum period of last one year reckoned from the last day of the preceding month in which the bids are opened. with scope of work comprising of Detailed Engineering, Procurement, Supply, Construction and Erection, Testing, Pre-commissioning, Commissioning.

The reference plants should be operating either in India or outside the country of Origin of Bidder for Consideration of this criteria.

Documentary proof consisting of detailed work order indicating scope of work, along with Completion/Acceptance Certificate and one year successful operation certificate issued by the Owner will have to be submitted by the Bidder in support of fulfilling this criteria. The Completion/Acceptance Certificate shall clearly indicate the LOA/Work Order no., 'Name of Work', 'Contract Value', Scope of Work, 'Contract period' and actual date of completion

8.2.2.2 Other Consortium members should possess experience of work in any Process plant in the field of Coal gasification, Coal based Thermal Power Plants\*, Oil, Gas, Refinery, Hydrocarbon, Petrochemicals or Fertilizer and should have been in satisfactory commercial operation for a minimum period of one year reckoned from bid due date with scope of work comprising of Supply of Process License/Detailed Engineering/ / Construction and Erection Works.

Documentary proof consisting of detailed work order indicating scope of work, along with Completion/Acceptance Certificate and one year successful operation certificate issued by the Owner will have to be submitted by the Bidder in support of fulfilling this criteria. The Completion/Acceptance Certificate shall clearly indicate the LOA/Work Order no., 'Name of Work', 'Contract Value', Scope of Work, 'Contract period' and actual date of completion.

(\*) In case of Consortium Bids, either the leader of Consortium or at least one member of the Consortium should necessarily possess experience of work in any Process plant in the field of Coal gasification, Oil, Gas, Refinery, Hydrocarbon, Petrochemicals or Fertilizer industry (i.e. not all members of the Consortium will be allowed to submit credentials of Coal Based Thermal Power Plants). Other details under the respective PQC shall be as specified under clauses 8.2.2.1 and 8.2.2.2 above.

8.2.2.3 The Leader of the Consortium, meeting the requirements as per Clause 8.2.2.1 above, must have executed Process Plants in any of the field of Coal gasification, Coal based Thermal Power Plants, Oil & Gas, Refinery, Hydrocarbon, Petrochemicals or Fertilizer industries during last Ten (10) years reckoned from bid due date, should be either of the following

One completed work costing not less than INR 32 billion or US \$ 497 million.

Or

Two completed works each costing not less than INR 20 billion or US \$ 310 million

Or

Three completed works each costing not less than INR 16 billion or US \$ 248 million.

To meet the criteria 8.2.2.3 above, Bidder shall submit documentary proof such as Copy of Work Order / relevant Extract of Work Order and Completion/Acceptance Certificate. The Completion/Acceptance Certificate shall clearly indicate the LOA/Work Order no., 'Name of Work', 'Contract Value', Scope of Work, 'Contract period' and actual date of completion.

For clause 8.2.2.1 and 8.2.2.2, a Job executed by Leader of the Consortium/ Other Consortium member for its own plant/ project cannot be considered as experience for the purpose of meeting PQC of the tender. However, jobs executed for Subsidiary/Fellow subsidiary / Holding company will be considered as experience for the purpose of meeting PQC subject to submission of tax paid invoice (s) duly certified by Statutory Auditor of the Bidder towards payments of statutory tax in support of the job executed for Subsidiary/Fellow subsidiary/ Holding company. Such Bidders (Leader of the Consortium/ Other Consortium member) to submit these documents in addition to the documents specified to meet PQC.

### 8.2.3 Financial Criteria (Consortium):

- a) The Average Annual financial turnover of the Leader of the Consortium during the last three (3) preceding financial years i.e. 2016-17, 2015-2016, and 2014-2015 or calendar years 2016,2015, and 2014 of the bidder , should be at least INR 12 billion or US \$ 186 million.

Average Annual financial turnover of each of the other Consortium members, during the last three (3) preceding financial years i.e. 2016-17, 2015-2016, and 2014-2015 or calendar years 2016,2015, and 2014 of the bidder, should be at least INR 6 billion Or US \$ 93 million.

- b) Net Worth of each of the Consortium member should be positive for financial year as on 31 March 2017 or calendar year 31 December 2016 as applicable.
- c) The Consortium members will submit solvency certificate not more than six months old from the date of issue of NIT from their bankers whose value collectively shall not be less than INR 16 billion or US\$ 248 million or minimum credit ratings of "A" from ICRA/CRISIL etc OR equivalent reputed institutions, OR financing/credit limits from bank of value not less than INR 16 billion or US\$ 248 million valid as on date of issue of NIT.

To meet the criteria (a & b) above, each Consortium member shall submit Audited Annual Statements (Balance Sheet and Profit & Loss account) of the company for the last three (3) years i.e 2016-17, 2015-2016, and 2014-2015 or calendar years 2016,2015, and 2014.

#### **NOTE:**

- i. For PQ criteria in respect of Order value/Turn Over/ Net worth, in case PQ Criteria indicated by the bidders is in foreign currency other than US\$, the exchange rate (as per RBI reference rate) for the relevant period shall be used for conversion to INR.
- ii. In case a Consortium member does not satisfy the financial criteria w.r.t. Annual Turnover & Net worth as above, on its own, then the Holding Company of such member would be required to meet the stipulated turnover requirements, provided that the net worth of such holding company as on the last day of the preceding financial year is at least equal to or more than the paid-up share capital of the Holding Company. In such an event, the member would be required to furnish along with its bid, a letter of undertaking from the Holding Company, supported by Board Resolution, as per the prescribed format (**Annexure 1.30 attached with this amendment**), pledging unconditional and irrevocable financial support for the execution of the Contract by the member in case of award to the Consortium.

#### 8.2.4 Consortium & distribution of work

The number of consortium members including the Leader shall not exceed three. The Leader of the Consortium and other Consortium Members shall be responsible for execution of the contract and all the activities of the Project for the entire contract period.

The identification of the Lead Bidder of the Consortium and the distribution of work, roles & responsibilities amongst the Consortium members will be clearly indicated in the form of Consortium Agreement (as per Annexure 1.24) duly signed by all the members of the Consortium and set forth in the Techno-Commercial Bid.

The leader of the Consortium shall be authorized to incur liabilities and receive instructions for and on behalf of any and all member(s) of the Consortium. Notwithstanding anything contrary in the Consortium Agreement, the leader of the Consortium shall have coordination responsibility for execution of the contract and will have to carry single point responsibility of the submitted bid and implementation of the project for the entire contract period. The leader of Consortium shall submit undertaking signed by all the Consortium members to this effect in the Techno-Commercial Bid.

All the members of the Consortium shall be liable jointly and severally for the performance of the contract and discharge of the contractor's obligations and liabilities under the Contract. An Apostille / notarized Authenticated Declaration to this effect shall be included in the bid and a similar statement shall be specifically included in the Form of contract (in case the bid is successful), which shall also be signed by the Consortium members in confirmation.

A consortium once established at the time of submitting the Bid shall not be allowed to be altered with respect to constituting members of the Consortium or their respective roles/ scope of work, except if and when required in writing by owner. If during the evaluation of bids, a consortium/JV proposes any alteration/ changes in the orientation of consortium or replacements or inclusions or exclusions of any partner(s)/ member(s) which had originally submitted the bid, bid from such a consortium shall be liable for rejection

Any member of the consortium shall not be eligible either in an individual capacity or be a part of any other consortium to participate in this tender. Further, no member of the consortium shall be put on 'Holiday'/'Negative list' by GAIL/CIL/RCF/FCIL or Public Sector Project Management Consultant (like EIL, Mecon, PDIL only due to "poor performance" or "corrupt and fraudulent practices") or banned/blacklisted by Government department/ Public Sector on due date of submission of bid. Offer submitted by such consortium shall not be considered for opening/ evaluation/Award.



### 8.3 Authentication of all documents submitted against PQC

All documents in support of Technology and Experience criteria of PQC to be furnished by the bidders shall necessarily be:

(a)	Indian Bidder	Duly certified / attested by Chartered Engineer and notary public with legible stamp
(b)	Foreign Bidder	<p>Duly certified / attested by Chartered Engineer / Licensed Professional Engineer / EurEta Registered Engineer / Eur Ing or Equivalent Registered Engineer of bidder's country with legible stamp.</p> <p>Further, supporting documents pertaining to Technology and Experience criteria of PQC should also be certified true copies, duly signed, dated and stamped by an official, authorized for this purpose in Indian Embassy / High Commission in bidder's country. However, member countries of Hague Convection 1961, supporting documents pertaining to Technology and Experience criteria of PQC certified by "Apostille affixed by Competent authorities designated by the government of bidder's country" shall also be acceptable.</p>

In support of Financial criteria of PQC, bidder is required to submit following:

(a)	Indian Bidder	<p>Shall submit "Details of Financial capability of bidder" in prescribed format (<b>Annexure 1.31 attached with this amendment</b>), duly signed &amp; stamped by a chartered accountant.</p> <p>Further, a copy of Audited Annual Financial Statements submitted in bid shall be duly certified / attested by notary public with legible stamp.</p>
(b)	Foreign Bidder	<p>Shall submit "Details of Financial capability of bidder" in prescribed format (<b>Annexure 1.31 attached with this amendment</b>), duly signed &amp; stamped by a chartered accountant.</p> <p>Further, a copy of Audited Annual Financial Statements submitted in bid shall be duly certified true copies, duly signed, dated and stamped by an official, authorized for this purpose in Indian Embassy / High Commission in bidder's country. However, member countries of Hague Convection 1961, supporting documents pertaining to financial PQC certified "Apostille affixed by Competent authorities designated by the government of bidder's country" shall also be acceptable.</p>

- B. **Clause no 5.8 of LIB:** EMD amount revised to INR 404 Million (for Indian bidder) and USD 6.2 million (for foreign bidder). For details refer Clause 10.0 of "Instruction to Bidders".

## Confidentiality Agreement

**THIS CONFIDENTIALITY AGREEMENT** is made on this -----

BETWEEN

- (1) ----- a company incorporated under the laws of -----, having its registered office at ----- (“-----”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors and permitted assigns) ; and

**Talcher Fertilizers Limited (TFL)**, a company incorporated under the laws of India, having its registered office at Plot 2/H, Kalpana Area, BJB Nagar, Khordha, Bhubneswar, Odisha -751014, India (“**TFL**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors and permitted assigns)

----- or **TFL** individually may be referred to as a “Party” and together as the “Parties”.

**WHEREAS**

**1. Purpose / Objective (to be mentioned):**

Parties are intended to exchange information regarding Shell’s technical document

- 2.** Parties having agreed to exchange the information as required for the purpose.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND UNDERTAKINGS HEREUNDER, IT IS AGREED AS FOLLOWS:

**1. OBLIGATIONS OF CONFIDENTIALITY**

- 1.1 The Parties undertake in relation to the Confidential Information to (i) keep the “Confidential Information” secure and confidential; and (ii) use the “Confidential Information” exclusively for the Purpose.
- 1.2 A Party who receives Confidential Information ( a “Receiving Party”) from the other Party who discloses Confidential Information ( a “Disclosing Party”), or from any persons for or on behalf of the Disclosing Party, shall:

- (a) not, without the prior written consent of the Disclosing Party, disclose the Confidential Information to anyone other than to such directors, officers and employees of who require access to the Confidential Information for the Purpose and the Receiving Party shall make all such persons aware of the confidential nature of the Information and shall be liable for the disclosures by any such person where any disclosure would constitute a breach of this Agreement and shall take all necessary steps to prevent disclosure by such persons; and
- (b) apply to the Information no lesser security measures and degree of care than those which the Receiving Party applies to its own confidential information and which the Receiving Party warrants as providing adequate protection from unauthorized disclosure, copying or use.

( C ) Confidential information mean and include any and all information, whether transmitted orally or in writing by “Disclosing Party” to the “Receiving party”, pertaining to Shells Basic Technical document , which disclosing party considers proprietary or confidential whether before or after the date of this Agreement and any information derived from such information for the purpose.

( D) Confidential Information shall be subject to this Agreement, if it is in tangible form, only if clearly marked as proprietary or confidential as the case may be, when disclosed to the receiving party or, if not in tangible form, its proprietary nature must first be announced, and it must be reduced to writing and furnished to the receiving party within thirty(30) days of the initial disclosure.

## **2. EXCEPTED INFORMATION**

2.1 The undertakings contained in clause 1.1 shall not apply to any Information

- (a) was, is or has become available to general public domain otherwise than through breach of this Agreement; or
- (b) was previously known to the Receiving Party; or
- (c) was disclosed to the Receiving Party by a third party who did not receive the Information directly or indirectly from the Disclosing Party; or
- (d) to have independently developed without using the Information provided by the Disclosing Party

2.2 If the Receiving Party is required to disclose, all or part of the Information,

- a. under law , rules or regulation
- b. in compliance of any order, judgment, regulation passed by a judicial, quasi-judicial, administrative or regulatory body, provided that, so far as is practicable to

do so the receiving Party shall consult with the other Party prior to such disclosure with a view to agreeing its timing and content  
c. under direction of government which has jurisdiction over the parties pursuant to any Statutory or Judicial requirement of the government which has jurisdiction over the Parties.

## **DURATION OF THE AGREEMENT**

This Agreement is effective from ----- and shall be valid **till 15 Years unless** extended by mutual consent of both Parties or by any definitive agreement between the Parties.

## **4. DISCLAIMER AND WARRANTY**

- 4.1 The Disclosing Party reserves all rights in the Information and no rights or obligations other than those expressly granted are to be implied from this Agreement. In particular, no licence is granted directly or indirectly under any patent, invention, discovery, copyright or other industrial property right now or in the future held, made or obtained by the Disclosing Party prior to or after the date of this Agreement whether or not contained in the Information.
- 4.1.1 Nothing in this Agreement of its operation shall constitute an obligation on either Party to enter into the business relationship contemplated by the Purpose.

## **5. REMEDIES**

The Parties acknowledge and agree that: the Disclosing Party shall be entitled to the remedies of injunction and specific performance for any breach of the provisions of this Agreement

## **6. WAIVER & REMEDIES**

- 6.1 No delay or failure in exercising any rights or making any claims under this Agreement shall operate or be construed as a waiver in respect of any such rights or claims.
- 6.2 The rights, powers and remedies provided in this Agreement are cumulative and not exclusive of any rights, powers or remedies provided by law.
- 6.3 The Information shall remain the property of the Disclosing Party, and the Disclosing Party may demand in writing the return thereof in writing and the Receiving Party shall return all Information and any copies thereof within 30 days of such demand.

**7. GOVERNING LAW**

7.1 This Agreement shall be governed in all respects by Indian law

To the extent consistent with an election to arbitrate under the Arbitration and Conciliation Act 1996, the courts of Delhi shall have the exclusive right to exercise court jurisdiction in respect of this Agreement

7.2 Any dispute, controversy, claim or counter claim arising out of or related to this agreement including any question regarding its existence, validity, interpretation or termination shall be referred to and finally resolved by Sole Arbitrator The appointment of Sole Arbitrator and the proceedings shall be in accordance with Arbitration and Conciliation Act 1996 and shall be binding and final between the parties. The venue for arbitration shall be New Delhi and the proceedings shall be held in English Language.

**8. WAIVER OF IMMUNITY**

The Parties hereby waive any right to immunity from suit, action or other proceedings in connection with this Agreement.

**IN WITNESS WHEREOF** this Agreement has been executed by the duly authorised representatives of the parties the day and year first above written.

Signed for and on behalf of

***Witness:***

By\_\_\_\_\_

Signed for and on behalf of  
**Talcher Fertilizers Limited**

***Witness:***

By\_\_\_\_\_

**PROFORMA OF BANK GUARANTEE FOR "TOKEN DEPOSIT TOWARDS  
BASIC TECHNICAL PACKAGE"**

(To be stamped in accordance with the Stamp Act)

**Ref.....**

**Bank Guarantee No.....**

**Date.....**

To,

M/s TALCHER FERTILIZERS LIMITED  
INFOHUB BUILDING,  
B-35 & 36, SECTOR 1,  
NOIDA,  
UTTAR PRADESH  
INDIA

SUB:

TENDER NO: PNMM/PC-009/E-4001 Dated 26.05.2017

**Dear Sir(s),**

In accordance with Tender Document under your reference No \_\_\_\_\_ M/s. \_\_\_\_\_ having their Registered / Head Office at \_\_\_\_\_ (hereinafter called the Tenderer/Bidder), wish to participate in the said tender for

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As an irrevocable Bank Guarantee against Token Deposit towards Basic Technical package, an amount of \_\_\_\_\_ is required to be submitted by the bidder, which amount is liable to be forfeited on the happening of any contingencies mentioned in the Tender Document/Amendment to tender.

We, \_\_\_\_\_ the \_\_\_\_\_ Bank at \_\_\_\_\_ having our Head Office \_\_\_\_\_ (Local Address)

\_\_\_\_\_ guarantee and undertake to pay immediately on demand without any recourse to the Bidder by TALCHER FERTILIZERS LIMITED the amount \_\_\_\_\_ without any reservation, protest, demur and recourse. Any such demand made by TALCHER FERTILIZERS LIMITED, shall be conclusive and binding on us irrespective of any dispute or difference raised by the Bidder.

This guarantee shall be irrevocable and shall remain valid up to \_\_\_\_\_ [this date should be 12 months beyond the bid due date]. If any further extension of this guarantee is required, the same shall be extended to such required period on receiving instructions from Bidder M/s. \_\_\_\_\_ on whose behalf this guarantee is issued.

In witness whereof the Bank, through its authorized officer, has set its hand and stamp on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ at \_\_\_\_\_.

WITNESS:

(SIGNATURE)  
(NAME)

(SIGNATURE)  
(NAME)  
Designation with Bank Stamp

(OFFICIAL ADDRESS)

Attorney as per  
Power of Attorney No. \_\_\_\_\_  
Date: \_\_\_\_\_

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**INSTRUCTIONS FOR FURNISHING BANK GUARANTEE FOR "TOKEN DEPOSIT TOWARDS BASIC TECHNICAL PACKAGE"**

1. The Bank Guarantee by Bidders will be given on non-judicial stamp paper as per "Stamp Duty" applicable. The non-judicial stamp paper should be in the name of the issuing Bank. In case of foreign Bank, the said Bank's Guarantee to be issued by its correspondent Bank in India on requisite non-judicial stamp paper
2. The Bank Guarantee by bidders will be given from Bank as specified in Annexure 1.20
3. A letter from the issuing Bank of the requisite Bank Guarantee confirming that said Bank Guarantee / all future communication relating to the Bank Guarantee shall be forwarded to the Purchaser at its address as mentioned at "ITB".
4. Bidder must indicate the full postal address of the Bank along with the Bank's E-mail / Fax / Phone from where the Bank Guarantee has been issued.

**Format for Financial Details of Holding Company****(Details pertaining to Financial Criteria as per Clause Nos. 8.1.3/8.2.3 of ITB)**

Since we do not satisfy the Financial Criteria stipulated at **Clause No. 8.1.3/8.2.3 of ITB** on our own, we give below the following details of our Holding Company in terms of **clause no. Note ii of 8.1.3/8.2.3 of ITB** who meet the stipulated turnover requirements of INR.....USD..... and whose Net Worth as on the last day of the preceding financial years is at least equal to or more than the paid up share capital of the Holding Company.

1. Name and Address of the Holding Company: M/s .....
2. Annual Turnover of the Holding Company with following details:

**ANNUAL TURNOVER OF LAST 3 FINANCIAL YEARS OF THE HOLDING COMPANY:**

Year	Amount (Currency)
Year 1 (FY 2016-17 or Calendar year 2016)	
Year 2 (FY 2015-16 or Calendar year 2015)	
Year 3 (FY 2014-15 or Calendar year 2014)	
Average Annual Turnover of the Holding Company for the preceding three (3) Financial Years as on date of Techno-Commercial Bid Opening	
We have enclosed Audited Balance sheet and Profit and Loss Account (financial statements) for the last Three (3) financial years	Yes*/No*

Note: Other income shall not be considered for arriving at annual turnover.

(\*) Bidder to strike-off whichever is not applicable

**NET WORTH DETAILS OF THE HOLDING COMPANY :**

Sl. No.	Description	As on last day of the preceding financial year
1.	Paid-up Share Capital	
2.	Net Worth of the Holding Company	
3.	%age of Net worth to Paid-up Share Capital of the Holding Company	
4.	Documentary evidence like Annual Report/Audited Balance sheet and Profit and Loss Account (financial statements) for the last preceding financial year	
5.	A Letter of Undertaking from the Holding Company, supported by Board Resolution, pledging unconditional and irrevocable financial support for execution of the Contract by the bidder in case of award is enclosed as per the format at Appendix- A & B to this Attachment. A Power of Attorney of the person signing on behalf of Holding Company shall also be enclosed.	

**Note:**

Net worth means the sum total of the paid up share capital and free reserves. Free reserve means all reserves credited out of the profits and share premium account but does not include reserves credited out of the revaluation of the assets, write back of depreciation provision and amalgamation. Further any debit balance of



Profit and Loss account and miscellaneous expenses to the extent not adjusted or written off, if any, shall be reduced from reserves and surplus.

We further confirm that notwithstanding anything stated above, the Employer reserves the right to assess the capabilities and capacity of the Bidder/subsidiaries/group companies/Holding company to perform the contract, should the circumstances warrant such assessment in the overall interest of the Employer.

[Signature of Authorized Signatory]

Name:

Designation:

Seal:

Date:

Place:

**PROFORMA OF CERTIFICATE FROM THE CEO/CFO OF THE HOLDING COMPANY  
IN ACCORDANCE WITH CLAUSE NO. .... OF ITB**

**(To be submitted by Bidder alongwith the Techno-Commercial Bid)**

Ref. :

Date :

To,

To,

M/s Projects & Development India Ltd.  
PDIL Bhawan, A-14, Sector-1,  
Noida, U.P.  
India

Ref: Tender no. ....

Dear Sir,

- 1)** I, M/s ..... (CEO of the company / CFO of the company) declare that  
M/s ..... (Name of the Holding Company) is the  
Holding Company of M/s ..... (Name of the Bidder)
- 2)** I hereby confirm and undertake that the unaudited unconsolidated  
financial statements (Balance sheet and Profit & Loss Account) submitted in  
respect of the bidder as part of the Bid Reference No... .. dated... ..  
have been considered for the purposes of the finalisation of Consolidated  
financial statements of the Holding Company (Balance sheet and Profit & Loss  
Account) as part of the Annual Reports.
- 3)** I further, certify that the figures in the unaudited unconsolidated financial  
statements (Balance sheet and Profit & Loss Account) are true and correct and  
same have been duly reflected in the audited consolidated financial statements  
and/or Annual Report of the Holding Company.

Yours faithfully,

(Signature)

(Name & Designation)

(Name of the Holding Company)

(Seal of Holding Company)

**PROFORMA OF LETTER OF UNDERTAKING  
(TO BE FURNISHED ON NON-JUDICIAL STAMP PAPER OF APPROPRIATE VALUE)**

**[To be executed by the Holding Company Supported by Board Resolution and submitted by the Bidder alongwith the Techno-Commercial Bid, in case financial support is being extended by the Holding Company to the Bidder for meeting the stipulated Financial Qualifying Requirement as per Clause No. 8.1.3/8.2.3 of ITB]**

Ref. :

Date:

To,

M/s Projects & Development India Ltd.  
PDIL Bhawan, A-14, Sector-1,  
Noida, U.P.  
India

Dear Sir,

- 1) We, M/s ..... (Name of the Holding Company) declare that we are the Holding Company of M/s..... (Name of the Bidder) and have controlling interest therein.

M/s..... (Name of the Bidder) proposes to submit the bid for the package ..... (Name of the package) for TFL under bid reference no... .. dated ..... and have sought financial strength and support from us for meeting the stipulated Financial Qualifying Requirement as per **Clause 8.1.3/8.2.3 of ITB.**

- 2) We hereby undertake & pledge our unconditional & irrevocable financial support for the execution of Contract for the said package to M/s. .... (Name of the Bidder), in case they are awarded the Contract for the said package, at the end of the bidding process. We further agree that this undertaking shall be without prejudice to the various liabilities that M/s ..... (Name of Bidder) would be required to undertake in terms of the Contract including the Performance Security as well as other obligations of the Bidder/Contractor
- 3) This undertaking is irrevocable and unconditional, and shall remain in force till the successful execution and performance of the entire Contract and/or till it is discharged by RGPPL.
- 4) We are herewith **enclosing a copy of the Board Resolution** in support of this undertaking.

Yours faithfully,

(Signature of Authorised Signatory)  
on behalf of the Holding Company)  
(Name & Designation)  
(Name of the Holding Company)  
(Seal of Holding Company)

Witness :

- (1)
- (2)

**FORMAT FOR CHARTERED ACCOUNTANT CERTIFICATE FOR  
FINANCIAL CAPABILITY OF THE BIDDER**

We have verified the Annual Accounts and other relevant records of M/s..... (Name of the bidder) and certify the following

**A. ANNUAL TURNOVER OF LAST 3 YEARS:**

Year	Amount (Currency)
Year 1:	
Year 2:	
Year 3:	

**B. FINANCIAL DATA FOR LAST AUDITED FINANCIAL YEAR :**

Description	Year _____
	Amount (Currency)
1. Current Assets	
2. Current Liabilities	
3. Working Capital (Current Assets-Current liabilities)	
4. Net Worth (Paid up share capital and Free Reserves & Surplus)	

Name of Audit Firm: [Signature of Authorized Signatory]  
Chartered Accountant Name:  
Date: Designation:  
Seal:  
Membership no.

**Instructions:**

1. The financial year would be the same as one normally followed by the bidder for its Annual Report.
2. The bidder shall provide the audited annual financial statements as required for this Tender document. Failure to do so would result in the Proposal being considered as non responsive.
3. This certificate is to be submitted on the letter head of Chartered Accountant.