REQUEST FOR BIDDING (RFB) — LONG TERM SALE OF HEAVY AROMATICS (HA)

RFB No: OMPL-MKTG/HA-L Date: 15/05/2019

1.0 Introduction:

1.1 ONGC Mangalore Petrochemicals Limited (OMPL), a subsidiary of Mangalore Refinery and Petrochemicals Limited (MRPL) is promoted by Oil and Natural Gas Corporation Ltd (ONGC) and Mangalore Refinery and Petrochemicals Limited (MRPL). Both ONGC and MRPL hold 49% and 51% stake respectively in OMPL.

1.2 The Aromatic Complex of OMPL, situated in Mangalore Special Economic Zone (MSEZ), Permude, Mangalore is designed to produce 905 KTPA of Para-Xylene (PX) and 273 KTPA of Benzene (BZ). Heavy Aromatics (HA) is one of the by-products of the process. The typical specifications of Heavy Aromatics generated in OMPL are attached at Exhibit-1.

1.3 OMPL intends to enter into Long-term Contract for sale of Heavy Aromatics (HA) to plants which already exist or which are going to be set-up within next 30 months to offtake the product regularly and continuously.

2.0 Eligibility Criteria:

2.1 This tender is invited from eligible bidders having existing units to process Heavy Aromatics or going to set up a unit in India such that the Off-take against the Long-term Contract can commence within 30 months from date of Notification of Award (NOA).

2.2 Bidders should have manufacturing experience of any Petrochemical product/s. Bidders to submit documentary evidence in support of manufactured Petrochemical product/s in their existing unit(s).

2.3 In case a new HA processing unit as above is proposed to be set-up by forming a new company, such new company can form a consortium with its parent company having majority interest by way of equity participation and submit joint consortium bid complying with conditions given below, provided however that the parent company must be the leader of the consortium and must have the experience of processing HA or any Petrochemical products.

2.4 Formal agreement between the consortium members duly signed by Chief executives or any other executive with due Power of Attorney authorizing to sign on behalf of the Consortium members must accompany the bid and clearly define the roles/obligations of each partner/member and clearly define the leader of the consortium. The agreement must also state that all the members of the consortium shall be jointly and severally responsible for discharging the obligations arising out of such agreement on award of this tender. The agreement should be valid till the expiry of the Contract period covered under this tender.

2.5 The joint consortium bid needs to be signed by all members of the consortium. Alternatively, the leader of the consortium may sign the bid. In such a case, the power of Attorney from each member authorizing the leader for signing and submission of Bid on behalf of individual member must accompany the Bid offer. Other members of consortium may participate in techno commercial discussions and sign the minutes of such discussions/ meetings along with the leader .The Term Sheet and the final Agreement with Seller should however be signed by all the members of the Consortium.

2.6 In case of consortium/joint venture bids, the bid bond bank guarantee should be submitted in the joint name of the consortium/joint venture members.

2.7 Documents/details pertaining to qualification of bidder as per proforma of documents attached with the Bidding Documents must be furnished by each partner/member of consortium/joint venture complete in all respects along with the bid offer, clearly bringing out their experience especially in the form of obligations under their scope as per Consortium Agreement.

2.8 Bidders should agree to off-take up to 36 KTPA (2 KT – 4 KT +/- 5 % per month).

2.9 The bidders should meet the following financial criteria (as per the latest audited financial statements not older than 18 months):

(a) **<u>Annual Turnover:</u>** INR 96.00 Cr. or more.

(b) **<u>Net Worth</u> —** The net worth of the bidders should be positive as per the latest audited Annual accounts.

Notes:

I. For the purpose of ascertaining parameter of Turnover of the bidder, bidder should have requisite turnover in at least during one out of the last 3 years. The bidder will provide a copy each of audited annual accounts of previous three financial years for ascertaining their Turnover. The date (i.e. the financial period closing date) of the immediate previous year's audited annual accounts should not be older than eighteen (18) months from the bid closing / unpriced bid opening date.

II. In case the bidder is a newly formed company (i.e. one which has been incorporated in the last 5 years from the date of unpriced bid opening of the tender) / Subsidiary company, who does not qualify financial criteria by himself and the bidder submits his bid based on the strength of his parent or promoter company, then such parent or promoter company should furnish documents in respect of Turnover and Net Worth should be positive. Further, the parent / promoter companies should submit Corporate Guarantee on financial support of the newly formed company (i.e. the bidding company) for executing the project / job in case the same is awarded to them. Also, the bidder shall submit documentary evidence that this company has been newly formed / a subsidiary company.

III. If the bid is from a Consortium, then the Net Worth of all the Consortium partners individually should be positive. Further, the Consortium partners should individually meet the Turnover limit in proportion to the percentage of work to be performed by them respectively in terms of the limit of Turnover specified in the tender. For this purpose, the bidder should indicate in the unpriced bid, the percentage of work to be performed by the respective Consortium members. However, the financial capability of subcontractors will not be taken into consideration.

2.10 The HA off-take against this Long Term Contract shall start not later than 30 months from date of Notification of Award (NOA).

2.11 Pricing Formula:

1. Benchmark pricing: **Gasoil FOB-Singapore (50 ppm Sulphur)**.
2. **M = 'Benchmark' price** = Monthly average of 'Gasoil FOB-Singapore (50 ppm Sulphur)' in **USD/barrel** (to be rounded off to two decimal places) as published in Platts for 'M – 1' month.
3. **C** = Conversion factor for Gasoil from USD/barrel to USD/Mt is **7.62**.
4. BIDDER has to quote single premium (Alpha) for the entire contract period in United States Dollar (USD) per MT.
5. Net Price payable to OMPL = (M*C) + Alpha in United States Dollar (USD) per MT.
6. Gross Price = Net Price + Duties as applicable. All duties as applicable shall be borne by the BIDDER over and above the Net price payable to OMPL.
7. **Bidders shall quote the figure of Alpha in United States Dollar (USD) only**.
8. Alpha will be reviewed every 5 (five) years in joint consultation between the successful bidder and OMPL.
9. The Sales Price charged by Seller for HA is exclusive of any taxes, duties, surcharge, cess and other charges levied by Government of India and State Government on the production, transportation and sale of HA. The Buyer shall pay all these charges over and above the Contract Sales Price of HA.
10. In the event that Platts ceases to publish or fails to publish the Gasoil-FOB Singapore price in any given Month, or the Parties agree that the reporting basis thereof has materially changed, then Seller and Buyer in good faith shall agree on a mutually acceptable substitute publication or information source for determining the price in line with the prevailing industry practice at that time. Until an alternative publication is agreed, the latest available price shall continue to apply and, when an alternative publication is agreed, a price adjustment shall be made retroactively as of the date the original information service was discontinued.

3.0 <u>Instruction to Bidders</u>:

3.1 Bidders to submit the detailed proposal in the prescribed format **(Annexure-A).**

3.2 The pre-bid clarification meeting will be held on date **<u>29th May 2019</u> @ <u>15:00 hrs</u>** at the following address:

ONGC Mangalore Petrochemicals Limited,
Mangalore Special Economic Zone, Permude,
Mangalore — 574 509
Karnataka, India.

All pre-bid queries to reach OMPL three (3) working days prior to date of pre-bid meeting.

3.3 Clarification required, if any, can be addressed to:

Mr P.P. Chainulu,
Chief Operating Officer, OMPL.
Email: PP.Chainulu@omplindia.com
Tel: +91 824-287 2002.
Fax: +91 824-287 2005.

Mr Pramod Kunnath,
Senior Manager – Marketing, OMPL.
Email: pramodk@omplindia.com
Tel: +91 824-287 2008.
Fax: +91 824-287 2005.

3.4 OMPL may, for any reason whether at its own initiative or in response to the clarifications requested by the prospective bidder, issue an amendment in the form of an addendum during the bidding period or subsequent to receipt of the bid. Any addendum thus issued shall become part of the RFB and bidder shall submit the addendum duly signed and stamped in token of their acceptance.

3.5 The bid and all correspondence incidentals to and concerning the bid shall be in the English language. For supporting documents and printed literature submitted in any other language, an equivalent English translation shall also be submitted. Responsibility for correctness in translation shall lie with the bidder. In case of any conflict, for the purpose of interpretation of the bid, English translation shall govern.

3.6 All the terms and conditions shall be as mentioned in the Term Sheet attached as **Annexure-C.**

3.7 The Contract shall be initially for a period of ten (10) years extendable further up to ten (10) years on mutual agreement.

3.8 OMPL requires bidder's compliance to requirement of RFB and Term Sheet **(Annexure-C)** without any deviation and to submit a responsive bid. Any bid accompanied by deviations with respect to RFB/Term sheet may be considered as non-responsive and liable for rejection at the sole discretion of OMPL. No claim from bidder shall be entertained in this regard.

3.9 The bid is required to be submitted in two parts as per Two Bid System as described hereunder. The bids shall be submitted only in the name of Bidder or a Consortium/ Joint venture led by the bidder in whose name the Bidding documents were issued by Company. The tender paper shall be filled completely in all respect and shall be submitted together with requisite information and Annexures.

3.10 The bid complete in all respect, leaving no scope for ambiguity, change or interlineations shall be submitted in two sealed envelopes:

a) Unpriced Techno-Commercial Bid: The unpriced bid (termed as "Unpriced Techno-Commercial Bid") shall be submitted in one sealed envelope marked **Envelope-No.1** with Tender Number, description and date and the words **"Unpriced Techno-Commercial Bid"** duly super-scribed on it. This envelope shall contain Annexure-A and Annexure-C duly filled in with no ambiguity, change or interlineations. The sealed envelope shall also contain the entire tender document including addendum, if any, duly signed and stamped on all pages, as a token of acceptance.

b) Priced Commercial Bid: The biddable parameter **"Alpha"** (As per Annexure-B) shall be submitted in separate sealed envelope marked **Envelope- No.2.** This envelope shall also be marked with tender number, description and date. The words **"Priced Commercial Bid"** shall be clearly super-scribed on Envelope-2.

3.11 Sealing and Marking of Bid

Both the sealed envelope shall be super scribed on as

a) Tender No.: OMPL-MKTG/HA/02/LT

b) Description: "Bid for Long-term sale of Heavy Aromatics (HA)"

c) Due Date and time of submission: **<u>14:00 hrs on 18th June 2019</u>.**

d) From: (Name and address of bidder)

3.12 Date, Time and Place of Bid Submission:

The proposal and other documents as mentioned above shall be received up to **<u>14:00 hrs on 18th June 2019</u>** and will be opened in presence of bidder's representative who wishes to be present at **<u>15:00 hrs</u>** on the same day at the office of:

ONGC Mangalore Petrochemicals Limited,
Mangalore Special Economic Zone, Permude,
Mangalore — 574509, Karnataka.

Bids received after the above mentioned deadline will be rejected summarily.

3.13 OMPL takes no responsibility for delay, loss, or non-receipt of bid sent by post.

3.14 Bids not received on or before the due date and time shall be rejected.

3.15 OMPL shall not be responsible for any expense incurred by bidder in connection with the preparation and delivery of their bids, site visit and other expenses incurred during bidding process.

3.16 The bids of bidders meeting the Qualification Criteria shall only be evaluated for further consideration.

3.17 Successful bidder immediately on Notification of Award (NOA) shall be required to:-

a) Submit Performance Guarantee within 15 days of NOA and sign the Term Sheet as at **Annexure-C.**

b) Shall also give an undertaking that the product covered under the Term Sheet is only for captive use and to the extent of the bidders Plant capacity along with documentary evidences. In case the bidder is also a manufacturer of HA, he should also give a declaration and undertaking that there would be no net export of HA, considering the quantity of HA off-take from OMPL by him. These shall form part of the Term Sheet.

c) Enter into detailed Agreement within 90 days from NOA, on compliance of the Conditions Precedents vide clause 1.13 of the Term Sheet at **Annexure-C.**

3.18 The bidder is required to give the undertakings under Para 3.17 (b) above and produce documentary evidence for the same at the time of submission of bids and on ongoing basis, if successful.

3.19 OMPL reserves the right to accept / reject any or all bids or accept any part bid or annul the bidding process without assigning any reason thereof.

3.20 In case any bidder makes any unsolicited communication in any manner, after bids have been opened (for tenders processed either on single bid or on two bid basis), the bid submitted by the particular bidder shall be summarily rejected, irrespective of the circumstances for such unsolicited communication.

Further, if the tender has to be closed because of such rejection, and the job has to be re-tendered, then the particular bidder, at the option of the Company, shall not be allowed to bid in the re-tender.

The above provisions will not prevent any bidder from making representation in connection with processing of tender directly and only to the Director In-charge of the Company. However, if such representation is found by this Authority to be un-substantiated and/or frivolous and if the tender has to be closed because of the delay/disruptions caused by such representations and the job has to be re-tendered, then such bidder will not be allowed to participate in the re-invited tender.

In case, any bidder while making such representations to the Director In-charge of the Company also involves other officials of the Company and /or solicits/invokes external intervention other than as may be permitted under the law and if the tender has to be closed because of the delays/disruptions caused by such interventions and has to be re-tendered, then the particular bidder will not be allowed to participate in the re-invited tender.

3.21 In case of all disputes relating to the tender and the matters connected with the tender, the bidder shall make representation to the Competent Purchase Authority (CPA) mentioned in the tender document and the decision of the CPA on any or all points raised by the bidder shall be final and binding on the bidder.

3.22 In case any bidder or any other person approaches external judicial bodies like any Court or Forum or Tribunal and if the bidder or any other person loses the case after adjudication for reason whatsoever or on merit or the bidder or any other person opt for not to pursue the matter further and withdraw the matter before decision by such judicial body, the bidder or any other person who initiated legal proceeding shall reimburse all the expenses incurred by the Company in litigation including travelling and associated costs to attend the matter, expenses incurred in obtaining legal counselling, advocate fees to represent the Company in the matter, irrespective of the decision or decree or judgement or order of such judicial bodies with respect to cost.

(To be submitted on Bidder's Letterhead)

UNPRICED TECHNO COMMERCIAL BID FORM (ANNEXURE-A)

To
ONGC Mangalore Petrochemicals Limited, Mangalore Special Economic Zone, Permude Mangalore -574509, Karnataka

ATTN: Chief Executive Officer

SUB: Submission of Unpriced Contractual Bid for sale of Heavy Aromatics (HA) on Long term basis

Ref: Your Request For Bidding No. OMPL-MKTG/HA/02/LT

dated.........

Dear Sir,

With reference to your above mentioned Request For Bidding, we hereby submit our firm bid as detailed below. We confirm that all the technical & contractual clarifications with regard to terms and conditions of the RFB documents have been discussed / settled in pre-bid clarification meeting. The Techno-commercial compliant bid to the RFB document issued with no exceptions / deviations whatsoever is submitted herewith. (In case of joint bid from consortium of firms, the details required as per S. No-1, 2, 3, 4,5,6,7 are to be furnished in respect of each partner of the consortium.)

S.No	Description	Details to be filled by Bidder.
	Name of the Bidder :	
1	**Contact Details :**	
	Address :	
	Contact Person	
	Telephone No	
	Fax No	
	Email address	
2	Ownership and constitution of the Bidder (Share holding pattern, if a Company, full names and address of Partners, if a partnership firm with registration, details, if a consortium full details to be provided) (Annex the details)	

3	Banker Details	
4	Area of current business (please specify manufacturing, trading etc with details)	
5	**Annual Turnover in INR Crores:** (Attach the Audited Financial Statement not older than 18 months): Annual Report Year :	
6	**Net Worth (INR Crores) :** (Attach the latest audited financial statement not older than 18 months) Annual Report Year :	
7	Credentials for investment in new proposed downstream plant: a) Investment proposed in the new unit: b) Debt Equity ratio for the new unit: c) Debt servicing for the new unit: d) Current Debt Equity ratio as per latest audited annual financials: e) Current ratio as per latest audited annual financials: f) Current Debt servicing ratio:	
8	Whether HA is for captive consumption in new processing unit to be set up? If yes, provide details such as capacity of the proposed plant, location etc., (Please attach Project Information Memorandum duly vetted by independent reputed consultant) Confirm that proposed new unit will be set up within 30 months of date of NOA issued by OMPL. Committed Annual Off-take Quantity : Expected date of commercial production and committed HA Receipt Start Date :	Yes / No
9	Details of own processing experience of HA and / or other Petrochemical products.	
10	Power of Attorney in favour of Signatory(s) of the bid to sign the bid document, Term Sheet and detailed Contract agreement.	

NB: Please use additional sheets wherever required.

In confirmation to the above, we attach herewith the following documents:

1. Audited Annual Reports for latest three years.
2. Audited Financial Statement for latest three years (last one not older than l8 months).
3. Project Information Memorandum duly vetted by independent reputed consultant (in case of new plant being set up for captive consumption of HA).
4. Power of Attorney in favor of Signatory(s) of the bid.
5. Certificate from reputed financial consultant assessing the capability of the bidder for raising requisite equity and debt for the proposed new unit.
6. Undertaking that the products covered under the Term Sheet are exclusively for Captive use and to the extent of bidder's plant capacity (documentary evidence to be furnished).
7. Declaration and undertaking that there would be no net export of HA considering the quantity of HA off-take from OMPL.
8. Company Profile.

We note and agree that in case OMPL finds that bidder has taken any deviation / exception to OMPL's RFB documents, the bid will be rejected outright and we shall have no right to make any representation against rejection of our bid.

Signature of Authorized Signatory

(Name):
Seal of the Bidder

(To be submitted on Bidder's Letterhead)

PRICED COMMERCIAL BID FORM (ANNEXURE-B)

To
ONGC Mangalore Petrochemicals Limited, Mangalore Special Economic Zone, Permude, Mangalore -574 509
ATTN: Chief Executive Officer

SUB: Submission of Priced Commercial Bid for Sale of HA on long term basis
Ref: Your Request For Bidding No. OMPL/HA/02/LT dated XX – XX - XXXX and subsequent clarification /amendments issued by OMPL.

Dear Sir,
In compliance to the bidding documents referred to above, submitted herewith:

S.No	Description	Details to be filled Bidder.
1.	Name of the Bidder :	
2.	Benchmark pricing: Gasoil FOB-Singapore (50 ppm Sulphur). **M = 'Benchmark' price** = Monthly average of 'Gasoil FOB-Singapore (50 ppm Sulphur)' in **USD/barrel** (to be rounded off to two decimal places) as published in Platts for 'M – 1' month. **C** = Conversion factor for Gasoil from USD/barrel to USD/Mt is **7.62**. BIDDER has to quote single premium (Alpha) for the entire contract period in USD per MT. Net Price payable to OMPL = (M*C) + **Alpha in USD** per MT. Gross Price = Net Price + Duties as applicable. All duties as applicable shall be borne by the BIDDER over and above the Net price payable to OMPL. **Bidders shall quote the figures for Alpha in United States Dollar (USD) only in USD/MT**.	USD................ ($ .... words)/MT.

I/We note and agree that in case OMPL finds any deviation / exception to above, the bid will be rejected outright and I/we shall have no right to make any representation against rejection of our bid.

Signature of Authorized Signatory

(Name):

Seal of the Bidder

ANNEXURE-C

OMPL HA Long-term Off-take Term Sheet

1	*Commercial Terms*	
1.1	**Seller**	ONGC Mangalore Petrochemicals Limited (OMPL)
1.2	**Buyer**	H1 Bidder
1.3	**Notification of Award (NOA)**	Notification of award dated.................... issued by Seller on acceptance of the bid of Buyer against the invitation of bid No .... forms part of this term sheet.
1.4	**Quality Specification of Heavy Aromatics (HA)**	**--** EXHIBIT-1-
1.5	**Delivery Terms**	Ex-Works (through tanker loading system/pipeline transfer).
1.6	**Annual Contract Quantity (ACQ)**	Annual Contract Quantity (ACQ) is up to 36 KT (2 KT - 4 KT/month ± 5%). For First Contract Year and the Last Contract Year, it will be decided pro-rata based upon the number of days in those years. Quantity variation if any, is applicable on the following grounds for both the Buyer and Seller: 1. Planned Shutdown: To be intimated 30 days in advance by each party. 2. Unplanned shutdown due to the following event:- a. Recognized standard force majeure clause, lasting for more than 72 hours. b. Technical faults at manufacturing location, lasting for more than 72 hours. In all the above cases, each party to furnish documentary evidence to the other party. The bidder hereby gives an undertaking that the products off-take covered under this Term Sheet shall be exclusively for Captive use only. Additional quantity may be offered to the bidder on mutually agreeable basis.
1.7	**Adjustment to Annual Contract Quantity**	There will be a flexibility of ± 5% in ACQ. Buyer and Seller shall agree to the Adjusted ACQ, 60 days prior to the start of each Contract Year. If the Adjusted ACQ is not notified by the deadline, ACQ will hold good for that Contract year.

1.8	**Quarterly Contract Quantity [QCQ]**	After deciding the Adjusted ACQ, both the parties will agree to Quarterly Contract Quantity (QCQ) for four quarters of that Contract year with a flexibility of +/- 5% on either side on Quarterly Contract Quantity (QCQ) as applicable. Buyer & Seller will mutually agree to the quarterly quantity 15 days before the beginning of the quarter.
1.9	**Contract Sales Price**	The Contract price for per MT of HA would be based on the predefined bench mark as per the following formula. 1. Benchmark pricing: Gasoil FOB-Singapore (50 ppm Sulphur). 2. M = 'Benchmark' price = Monthly average of 'Gasoil FOB-Singapore (50 ppm Sulphur)' in USD/barrel (to be rounded off to two decimal places) as published in Platts for 'M – 1' month. 3. C = Conversion factor for Gasoil from USD/barrel to USD/Mt is 7.62. 4. BIDDER has to quote single premium (Alpha) for the entire contract period in United States Dollar (USD) per MT. 5. Net Price payable to OMPL = (M*C) + **Alpha in United States Dollar (USD) per MT**. 6. Gross Price = Net Price + Duties as applicable. All duties as applicable shall be borne by the BIDDER over and above the Net price payable to OMPL. 7. Bidders shall quote the figures in United States Dollar (USD) only. 8. Alpha will be reviewed every 5 (five) years in joint consultation between the successful bidder and OMPL. 9. The Sales Price charged by Seller for HA is exclusive of any taxes, duties, surcharge, cess and other charges levied by Government of India and State Government on the production, transportation and sale of HA. The Buyer shall pay all these charges over and above the Contract Sales Price of HA. 10. In the event that Platts ceases to publish or fails to publish the Gasoil-FOB Singapore price in any given Month, or the Parties agree that the reporting basis thereof has materially changed, then Seller and Buyer in good faith shall agree on a mutually acceptable substitute publication or information source for determining the price in line with the prevailing industry practice at that time. Until an alternative publication is agreed, the latest available price shall continue to apply and, when an alternative publication is agreed, a price adjustment shall be made retroactively as of the date the original information service was discontinued.
1.10	**Delivery Start Date (DSD)**	DSD is the date of first transfer of HA from Seller's complex to the Buyer, not later than 30 months from the date of Notification Of Award (NOA). In any event of Force Majeure (as per clause 3.1 of term-sheet), the initial indent quantity shall stand cancelled and material will be delivered in fresh indent through mutual understanding between Buyer and Seller.
1.11	**Term of Contract**	The Contract will continue for Ten (10) years from **Delivery Start Date** unless it is terminated in terms of clause 1.16. The Contract period can be extended further to a maximum ten (10) years, subject to revision of terms on mutual consent of Seller and Buyer prior to end of 9th Contract year.
1.12	**Agreement**	The detailed agreement to be entered by the Seller with the successful Bidder subject to compliance of clause 1.13.

1.13	**Conditions Precedent for entering into Agreement**	The Buyer shall be required to sign the detailed Agreement for Sale within 90 days from the date of Notification of Award (NOA). The following Conditions Precedent shall be applicable for signing the Agreement as indicated in NOA: Buyer shall provide a legal opinion from its Advocates that the persons signing the agreement on behalf of the Buyer have necessary powers to bind the Buyer and is legally enforceable when executed. Noncompliance to above would result in annulling Term Sheet and forfeiture of **Performance Guarantee** by the Seller.
1.14	**Conditions Precedent (CP) for effectiveness of the Agreement**	The Buyer shall satisfactorily comply with the following conditions within 90 days from the date of the Agreement : (i) Buyer shall obtain all the necessary authorizations, approvals and permissions of the Government of India and any of its political subdivisions or ministries or authority or agency thereof and all management and shareholders' approval required as applicable are obtained. (ii) It shall have achieved financial closure for the financing of the project. (iii) Buyer shall have finalized the Process Design Package of its plant for consumption of HA as feedstock and a certificate to that effect is issued by the party supplying that design.
1.15	**Non- Performance of Off-take Agreement**	Following events will be treated as non-performance of off-take Agreement by the Buyer: (i) Buyer does not off-take the products continuously for three months (ii) Buyer does not pay for the delivered quantity for a period exceeding 30 days. (iii) Buyer does not compensate the Seller as per the "Take or Pay" conditions described in clause 1.21. Following event will be treated as non-performance of off-take agreement by the Seller: • Seller is not able to make the products meeting Quality Specification of HA as per clause 1.4 for a continuous period of three months.
1.16	**Termination of Contract**	Without prejudice to Clause 1.21 and 2.2, either Party will have the right to terminate the Agreement forthwith by written notice as a result of non-performance by the other if the defaulting party has failed to remedy such non-performance within 60 days of receiving notice of nonperformance from the other party unless such non-performance is excused under Force Majeure. Save those clauses that survive the termination, viz 1.17, 1.21, 2.2, 3.5 and 3.7, the Agreement will cease to exist and its terms will not be binding on both the parties if the Agreement is terminated. The right of termination shall be in addition to such rights and remedies as the aggrieved party may otherwise have. Obligations of either party to the other accrued prior to termination or expiration of this Agreement shall survive such termination or expiration.

1.17	**Indemnification**	Buyer will indemnify the losses incurred by Seller if the Agreement is terminated due to non-performance of the Buyer during the agreement period. Similarly, Seller will indemnify the direct losses i.e. losses resulting immediately and proximately from non-performance if it is responsible for non-performance leading to termination during the agreement period.
1.18	**Seller's Facilities**	Seller confirms that it has facilities to produce, store and deliver HA in accordance with the Quality Specification as per clause 1.4.
1.19	**Buyer's Facilities**	Buyer confirms that it has facilities to receive, store and process HA or shall construct facilities to receive, store & process HA.
1.20	**Storage Facilities**	Seller and Buyer shall be able to store HA equivalent to an aggregate of 20 days in case of any exigencies for smooth operation of plants. Hence, both OMPL and Buyer, separately, shall be responsible for the storage of HA in their premises equivalent to at least 10 days.
1.21	**Take or Pay**	After DSD, in the event the actual off take by the Buyer in a Quarter is less than the QCQ/Adjusted QCQ for reasons other than Force Majeure conditions defined herein, the Buyer shall compensate the Seller: a) In the event of shortfall in off take by Buyer is more than 5 % of QCQ/Adjusted QCQ and Seller is able to sell the shortfall quantity in the market, Buyer shall compensate the seller the differential amount for the shortfall quantity as per the average Contract Sales Price for the shortfall period. Buyer shall pay Seller such differential amount calculated as above only when Seller's sales price in the market is lower than the average contracted Sales Price under the Agreement. b) However, in the event that the Seller is unable to sell the balance quantity in the market, Buyer may suggest potential customers to Seller for lifting the balance quantity and Buyer will pay for the shortfall quantity on the basis of the average Contract Sales Price for the shortfall period. c) In case Seller consumes the material internally as fuel, Buyer will compensate Seller to the extent of differential of average contract sales price and value of fuel as declared by Seller. Price of fuel as declared by the Seller is binding on Buyer.
1.22	**Programming of Deliveries**	Delivery schedule will be prepared for 90 days period. Not later than 15th day of the last calendar quarter i.e March, June, September and December, both the parties shall mutually decide a three month forward plan of deliveries.
1.23	**Measurements**	Volumes of HA delivered under the off-take agreement shall be determined by readings taken by the Seller of flow meter mounted on the pipeline transferring HA to the Buyer's facilities or by the weighbridge in case of road tanker movements.
1.24	**Pipeline & Meter / Metering Skid**	Supply, installation, laying and commissioning Pipeline from OMPL battery limit to buyer's premises in case of pipeline transfer will be under the scope of Buyer. Online metering will be located in Seller's premises. Meter to be jointly calibrated at mutually agreed intervals. Incase technical expertise of OEM of meter / metering skid is required for joint calibration / troubleshooting / installation / commissioning, the same is to be arranged by Buyer.

1.25	**Sampling**	Samples of HA will be collected by Seller and analyzed in the presence of an independent surveyor to meet the quality specifications.
1.26	**EMD**	**INR 70 Lacs** (in the form of Demand Draft or Bank Guarantee). Bank Guarantee to be issued in OMPL's format by a scheduled commercial bank in India or any reputed International bank having its banking operations in India. BG Shall be valid for a period of 120 days from the date of Techno-commercial bid opening. EMD/Bid securities of unsuccessful Bidders will be returned/refunded within 10 (ten) days of finalization of tender. However, EMD/Bid securities of the successful Bidder will be returned upon the Bidder's furnishing the Performance Guarantee.
1.27	**Performance Guarantee**	Revolving Letter of Credit (L/C) or Performance Bank Guarantee (PBG) of **INR 8 Crore** in OMPL's format by a scheduled commercial bank in India or any reputed International bank having its banking operations in India to be submitted by the Buyer at the time of execution of the Term sheet and it would be valid for at least one (1) year and thereafter, to be extended every year till the end of contract period.
1.28	**Conditions Precedent for Commencement of Supply**	Commencement of delivery of HA to the Buyer will commence only after satisfactory compliance of following conditions by the Buyer: (i) Revolving Letter of Credit (L/C) equivalent to two months of supply of HA with a validity period of twelve months is opened 15 days prior to DSD. (ii) The above L/C shall be extended from time to time for keeping it valid till 3 months after the Contractual period of off-take. (iii) Completion certificate of Buyer's facilities is submitted by an independent technical consultant.
2	***Payment Terms:***	
2.1	**Invoices & Payment**	Seller will raise invoice daily in United States Dollar (USD) per MT basis for quantity delivered by pipeline/Tanker up to 23:59 hours of the date of invoice. Buyer shall make payment for full invoice value within 15 days after the invoice was raised (date of raising invoice to count as day zero). In case, the due date falls on a Bank Holiday, due date will be considered as on immediate succeeding working day. Supply of HA will be suspended in case of non-payment by the due date. Such suspension of supply by the Seller will not constitute failure to deliver by the Seller. Unpaid amount thereof will bear interest at the rate of State Bank of India MCLR plus 2.0 % per annum.

2.2	**Payment Security**	The Buyer shall open a Revolving Letter of Credit (as per OMPL format and duly accepted by OMPL prior to issuance) in the name of the Seller equivalent to the value of two months of supply (derived from ACQ) of HA on the basis of average sales price for previous six months and with a validity period of twelve months. Such Payment Security amount shall be reviewed annually on financial year basis April to March. The Seller will have the right to encash the Revolving Letter of Credit in the event of failure of the Buyer to make payment by due date or the Buyer fails to renew the Revolving Letter of Credit two months prior to end of the year or in the event the Buyer fails to compensate the Seller under the Take or Pay clause 1.21 due to shortfall in the off-take of the product.
2.3	**Taxes, Duties & Charges**	The Contract price charged by Seller for HA is exclusive of any taxes, duties, surcharge, cess and other charges levied by Government of India and state government on the production, transportation and sale of HA. The Buyer shall pay all these charges over and above the Contract Sale Price of HA.
2.4	**Transfer of Title**	HA sold by Seller shall be delivered to Buyer at the Delivery point at the outlet flange of the product pipeline/loading arm within Aromatics Complex. Delivery of HA will be deemed complete and title as well as risk of loss shall pass on from OMPL to Buyer as HA passes the delivery point/product pipeline/loading arm.
3	***General Terms:***	
3.1	**Force Majeure**	No failure, delay or omission by either party will be deemed as breach of Agreement in the event of Force Majeure. Following events will come under the definition of Force Majeure: i. Fire, flood, lightning, storm or other acts of God; ii. War, riot, insurrection or civil disturbance. iii. Lawful strike, lockout or other industrial disturbance or any other factors affecting supply of raw materials, essential utilities, affecting the Seller's Facility or Buyer's Facility. iv. Loss of or damage to production facilities except occurring due to willful misconduct of supervisory or management personnel of Seller or Buyer. v. Non-discriminatory acts of government or requirement of compliance with such acts, which directly affect such party's ability to perform its obligations. vi. Frustration of contract by actions of State. Written notice of any situation of Force Majeure and so far as possible of its extent and duration as well as of its suspension in full or in part, shall be given by the party so affected to the other party within 48 hours of such occurences.

3.2	**Joint Coordinating Committee**	Each of the parties shall promptly appoint 2 (two) representatives to a joint facilitation, technical and operating committee. The Joint Coordinating Committee shall be responsible for ensuring efficient coordination of all plans relating to construction of facilities in accordance with project timetable. The committee will meet on monthly basis at Mangalore and it will exchange regular information on progress made by both parties on compliance of CP as well as regular monitoring of project progress. After DSD, this committee will ensure smooth and efficient delivery of HA under the off-take agreement.
3.3	**Applicable Law**	This agreement shall be governed and construed in accordance with the laws of India including without limitation, the relevant Central and State acts and the rules, regulations and notifications issued and amended thereunder from time to time. The courts at Mangaluru shall have exclusive jurisdiction including for any petition for interim relief.
3.4	**Planned Maintenance**	Seller may designate up to Thirty (30) days or as mutually agreed for planned Maintenance on Seller's complex during each contract year. Seller shall be entitled to reduce Quarterly Contract Quantity (QCQ) during such period. Similarly, Buyer may designate up to Thirty (30) days or mutually agreed for planned Maintenance on Buyer's complex during each contract year. Buyer shall be entitled to reduce Quarterly Contract Quantity (QCQ) during such period. The Parties shall (i) with respect to the First Contract Year , no later than thirty (30) days after DSD, and (ii) for any other Contract Year , no later than thirty (30) days in advance, deliver to the other party a planned maintenance schedule. The parties shall use reasonable endeavours to synchronise planned maintenance among Buyer's complex and Seller's complex.
3.5	**Arbitration**	**<u>CONFLICT MANAGEMENT PROCESS</u>** In the event of any conflict, dispute or difference in opinion arising between two parties in relation but not limited to supplies and billing <u>I)</u> <u>Executive Level Dispute Resolution</u>. CEO – OMPL and Chief Executive of Buyer or their duly authorized representatives respectively will try to resolve it within 60 days from the date of notification or within such extended period as the parties may agree. <u>II)</u> <u>Expert Referrals</u> In the event of non-resolution of the conflict even after the intervention of Chief Executives, the same unresolved dispute shall be referred to conciliation through Outside Expert Committee (OEC) as per prevailing ONGC OEC policy. **<u>DISPUTE RESOLUTION</u>** In case the parties fail to resolve the dispute through OEC, the party may refer such dispute for Arbitration as under: a) Applicable only to central public sector enterprises "In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract(s) between Central Public Sector Enterprises (CPSEs)/ Port Trusts inter se and also between CPSEs and Government Departments/Organizations (excluding disputes concerning Railways, Income Tax, Customs &Excise Departments), such dispute or difference shall be taken up by either party for resolution through AMRCD as mentioned in DPE OM No.4(1)/2013-DPE(GM)/FTS-1835 dated 22-05-2018". For Others : Any dispute, which could not be resolved through OEC referred above, shall be settled as per the provisions of Arbitration & Conciliation Act of India, 1996. The arbitration shall be a panel of three arbitrators, one to be appointed by each Party. The seat of arbitration shall be Mangaluru.

3.6	**Amendment & Waiver**	The Term sheet / agreement shall not be amended, modified, varied or supplemented except by an instrument in writing executed by both OMPL and Buyer.
3.7	**Confidentiality**	Save as mentioned in Clause 3.8, neither party shall communicate to any third party the contents of the off-take Term Sheet /agreement or other confidential information or documents that may come into the possession of such party in connection with the performance of the off-take / agreement.
3.8	**Assignment**	Neither party shall have the right to assign its rights (in whole or in part) or transfer its obligation under the off-take Term Sheet/agreement without prior written consent of other party. Notwithstanding the foregoing and without the prior written consent of other party, Seller or Buyer may assign its rights under the off-take Term sheet /agreement to its lenders or its lender's agent as security for any bona fide financing. Any party so assigning its rights shall however notify the other in writing.
3.9	**Buyer's obligation**	The total quantity of HA supplied pursuant to this Agreement is exclusively for captive use only. The Buyer shall not sell/divert and/or transfer the HA to any third party for any purpose whatsoever.
3.10	**Consequential Damages**	Notwithstanding either party's fault, neither party shall be liable to the other party in respect of any consequential damages whatsoever. The term "Consequential damages" as used herein shall include without limitation to the meaning, loss of profit, production, business opportunities or use of assets.
3.11	**Integrity pact**	EXHIBIT – II.

EXHIBIT - I

Typical Specification range for Heavy Aromatics

S.NO	Tests	Unit	Method	Limit	Typical Results
1	Density @ 15ºC	g/ml	ASTM D4052	0.9300 – 0.9800	0.9650
2	Flash Point	ºC	ASTM D93	75 Min	83
3	Sulphur	Wtppm	ASTM D5453	1.0 Max	0.6
4	Distillation IBP	ºC	ASTM D86	190. Min	193
	Distillation FBP	ºC	ASTM D86	370 Max	365
5.	Aromatic Content	Vol%	UOP744	99Min	99.5

EXHIBIT – II

(Applicable for Contract / Order Value more than INR 1 Crore)

INTEGRITY PACT

Between

ONGC Mangalore Petrochemicals Ltd (OMPL) hereinafter referred to as "The Principal",

and

M / s____ hereinafter referred to as "The Bidder / Contractor"

Preamble

The Principal intends to award, under laid down organizational procedures, contract/s for procurement of products / services vide Tender No. ___________________ dt._____________ The Principal values full compliance with all relevant laws and regulations, and the principles of economic use of resources, and of fairness and transparency in its relations with its Bidder/s and Contractor/s.

In order to achieve these goals, the Principal cooperates with the renowned international Non-Governmental Organization "Transparency International" (TI). Following TI's national and International experience, the Principal will appoint an external independent Monitor who will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

Section 1 - Commitments of the Principal

(1) The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:-

1. No employee of the Principal, personally or through family members, will in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for him / herself or third person, any material or immaterial benefit which he / she is not legally entitled to.
2. The Principal will, during the tender process treat all Bidders with equity and reason. The principal will in particular, before and during the tender process, provide to all Bidders the same information and will not provide to any Bidder confidential / additional information through which the Bidder could obtain an advantage in relation to the tender process or the contract execution.
3. The Principal will exclude from the process all known prejudiced persons.

(2) If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the relevant Anti-Corruption Laws of India or if there be a substantive suspicion in this regard, the Principal will inform its Vigilance Office and in addition can initiate disciplinary actions.

Section 2 – Commitments of the Bidder/Contractor

(1) The Bidder / Contractor commit itself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.

1. The Bidder / Contractor will not, directly or through any other person or firm, offer, promise or give to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person any material or immaterial benefit which he / she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.

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For "The Principal"	For "The Bidder / Contractor"

2. The Bidder / Contractor will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of Bids or any other actions to restrict competitiveness or to introduce cartellization in the Bidding process.
3. The Bidder / Contractor will not commit any offence under the relevant Anti-corruption Laws of India; further the Bidder / Contractor will not use improperly, for purposes of competition or personal gain, or pass on to others any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
4. The Bidder / Contractor will, when presenting his Bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.

(2) The Bidder / Contractor will not instigate third persons to commit offences outlined above or be an accessory to such offences.

Section 3 - Disqualification from tender process and exclusion from future contracts

If the Bidder, before contract award has committed a transgression through a violation of Section 2 or in any other form such as to put his reliability or credibility as Bidder into question, the Principal is entitled to disqualify the Bidder from the tender process or to terminate the contract, if already signed, for such reason.

(1) If the Bidder / Contractor has committed a transgression through a violation of Section 2 such as to put his reliability or credibility into question, the principal is entitled also to exclude the Bidder / Contractor from future contract award processes. The imposition and duration of the exclusion will be determined by the severity of the transgression. The severity will be determined by the circumstances of the case, in particular the number of transgressions, the position of the transgressors within the company hierarchy of the Bidder and the amount of the damage. The exclusion will be imposed for a minimum of 6 months and maximum of 3 years.

(2) A transgression is considered to have occurred if the Principal after due consideration of the available evidence, concludes that no reasonable doubt is possible.

(3) The Bidder accepts and undertakes to respect and uphold the principal's absolute right to resort to and impose such exclusion and further accepts and undertakes not to challenge or question such

exclusion on any ground, including the lack of any hearing before the decision to resort to such exclusion is taken. This undertaking is given freely and after obtaining independent legal advice.

(4) If the Bidder / Contractor can prove that he has restored / recouped the damage caused by him and has installed a suitable corruption prevention system, the principal may revoke the exclusion prematurely.

Section 4 - Compensation for Damages

(1) If the Principal has disqualified the Bidder from the tender process prior to the award according to Section 3, the Principal is entitled to demand and recover from the Bidder liquidated damages equivalent to Earnest Money Deposit / Bid Security.

(2) If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to Section 3, the Principal shall be entitled to demand and recover from the Contractor liquidated damages equivalent to Security Deposit / Performance Bank Guarantee.

(3) The Bidder agrees and undertakes to pay the said amounts without protest or demur subject only to condition that if the Bidder / Contractor can prove and establish that the exclusion of the Bidder from the tender process or the termination of the contract after the contract award has caused no damage or less damage than the amount of the liquidated damages, the Bidder / Contractor shall compensate the principal only to the extent of the damage in the amount proved.

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For "The Principal"	For "The Bidder / Contractor"

Section 5 - Previous transgression

(1) The Bidder declares that no previous transgressions occurred in the last 3 years with any other Company in any country conforming to the TI approach or with any other Public Sector Enterprise in India that could justify his exclusion from the tender process.

(2) If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

Section 6 - Equal treatment of all Bidders / Contractors / Subcontractors

(1) The Bidder / Contractor undertakes to demand from all subcontractors a commitment in conformity with this Integrity Pact, and to submit it to the Principal before contract signing

(2) The Principal will enter into agreements with identical conditions as this one with all Bidders, Contractors & Subcontractors.

(3) The Principal will disqualify from the tender process all Bidders who do not sign this pact or violate its provisions.

Section 7 - Criminal charges against violating Bidders / Contractors / Subcontractors

If the Principal obtains knowledge of conduct of a Bidder, Contractor or Subcontractor, or of an employee or a representative or an associate of a Bidder, Contractor or Subcontractor which constitutes corruption, or if the Principal has substantive suspicion this regard, the Principal will inform the Vigilance Office.