

INSTRUCTIONS TO TENDERERS:

1.0 SIGNING OF DOCUMENTS:-

- 1.1 The contract involves Transportation of Bagged Granulated Urea from our Panagarh Plant to various destinations in West Bengal, Jharkhand and Bihar states
- 1.2 The terms and conditions should be signed and stamped on each page of the tender documents by tenderers or their authorized representative and the same should be submitted to MFCL.

The quotations of those tenderers who do not accept these terms and conditions unconditionally will not be considered.

- 1.3 Person or persons signing the terms and conditions shall state in what capacity he or they are signing the tender, e.g. as sole proprietor/partner or a firm, as Secretary/Manager/Director etc. of a private/ public limited company.
- 1.4 In case of partnership firms, the names of all the partners should be disclosed and the terms and conditions should be signed by all the partners or their constituted attorney having authority to bind all the partners in all the matters pertaining to the contract including the arbitration clause.
- 1.5 In case of a private limited company the names of all the directors shall be mentioned and it shall be certified that the person signing the terms and conditions is empowered to do so on behalf of the company.

In case of the Hindu Undivided Family, the names of the family members should be disclosed and the Karta who can bind the firm should sign for the firm and indicate his status below his signature.

- 1.6 The person signing the terms and conditions or any documents forming part thereof on behalf of another or on behalf of a firm shall be responsible to produce a proper power of attorney duly executed in his favor stating that he has authority to bind such other person or the firms as the case may be in all matters pertaining to the contract including the arbitration clause.

2.0 OPENING AND ACCEPTANCE OF QUOTATIONS:-

- 2.1 MFCL reserves the right to accept or reject any or all the quotations in full or in part without assigning any reason. MFCL is not bound to accept the lowest or any other tender and reserves the right to negotiate the rates with any or all the tenderers.
- 2.2 Quotation not conforming to the instructions as per the tender documents is liable to be rejected at the sole discretion of MFCL.
- 2.3 The rates quoted by tenderer shall be valid till finalization of contract by MFCL.

3.0 **TERM / DURATION**

The term of this Agreement shall be for twelve months from Date of Agreement.

In the event either Party desires to extend/ renew this Agreement following the expiration of this Agreement, the desiring Party shall notify to the other Party of its intention at least 60 days prior to the expiration of this Agreement and the Parties shall negotiate the terms and conditions of such renewal. However, the Company will not be under any obligation to accept such request for renewal from the Transporter. The contract may be extended with same / renewed terms & conditions for a period not extending 2 years.

5.0 **SCOPE OF WORK**

- 5.1 The Company appoints the Transporter to transport its material by 24 X 7 (every day/week/month) from the Company's Plant at PANAGARH Industrial Area, Panagarh (W.B.) to different places and districts in the state of West Bengal, Bihar and Jharkhand in India as per annexures 1-3.
- 5.2 The Company shall place an order with the Transporter for a specified no. of trucks from time to time for delivery of its materials to different locations as mentioned in the annexures 1-3. The order may be placed through e-mail by the Company.
- 5.3 The Transporter shall confirm the order and ensure to provide the requisite no. of trucks within a reasonable period of time failing which it shall attract liquidated damages penalty.
- 5.4 At the instructions of the Company the vehicles carrying the material may be diverted to other destinations in case of emergencies, and the Transporter shall be obliged to honour such instructions of the Company.
- 5.5 The Transporter agrees and undertakes to transport all the quantity of material of the Company from the above referred location or other location or such of the quantity as may be decided by the Company to be transported from the said location to different places referred above.

6.0 **Transport Charges:**

- 6.1 ***The transporters will quote single rate for all destinations in a particular block as per annexure 1-3.*** The Company shall pay to the Transporter, transport charges of each truck on Rs. Per MT or Rs. Per MT Per Km.
- 6.2 The rates of transport of material shall be on the basis of net weight of bagged urea, which is 50 Kg / bag. No additional charge shall be payable for the weight of the packing material.
- 6.3 Transport charges payment will be made within 7 (seven) days from the date of submission of bill along with acknowledged receipts confirming receipt of complete consignment in good condition. If the acknowledgements are not submitted within 30

days from the date of dispatch of the material, 3 times of current urea MRP will be debited to the Transporter and transport charges will be paid separately as per this Agreement, after recovery of the said penalty / 3 times of current urea MRP.

- 6.4 Any short delivery of material or rejection due to damaged material will be debited to the Transporter at 3 times of current urea MRP at the time of settlement of bill.
- 6.5 Billing for transportation charges shall be on a 10 days' basis. Bills will be submitted to the Company within 2 days from the end of every such 10-day period, i.e., bill for the period of transportation up to 10th shall be submitted by 12th, up to 20th by 22nd and that up to 30th / 31st by 2nd of the following month. Any claim of transport charges after one month from the date of dispatch will normally be not entertained.
- 6.6 Company shall not pay to the Transporter any extra charges for delivery within a radius of 15 Kms. from the designated place mentioned in the annexure 1-3.
- 6.7 Payment will be made by RTGS / Account Payee Cheques only after making the following: a) Tax deductible at source as provided in the Income Tax Act, 1961. b) Deduction against damages, shortages, loss, deterioration, pilferage and non-delivery of urea etc. including transport charges thereof, if any. c) Penalty and / or liquidated damages if applicable, as provided in the Agreement. d) Any other deductions statutory or otherwise as may be due under the Agreement.
- 6.8 No payment shall be made without material delivery slip duly signed and properly stamped from the consignee.
- 6.9 The rates, as mentioned herein in the schedule, are firm & fixed and no escalation except due to hike in diesel prices will be allowed during the contract period. The freight component will be revised upward/downward with immediate effect from the date of revision in diesel prices. For revision on account of fuel prices, it has been agreed upon to consider $\pm 5\%$. This revision clause shall be applicable beyond the threshold of $\pm 5\%$ change in diesel prices. The existing rate of diesel on the date of signing agreement is Rs.....per liter. The mileage of the Transporter's vehicles is agreed at 4 km/lt.

The formula for determining the amount of escalation/de-escalation will be as follows:

New Price = Existing price +/- (Increase/Decrease in 1 Litre of price rate) x Distance in Kms/16/4)

7.0 Obligations of the Transporter relating to Delivery:

- 7.1 The Transporter agrees and undertakes to make available as many trucks as will be required by the Company to transport urea.
- 7.2 In case of failure in providing the required number of trucks as per the order placed by the Company, the Company will be free to hire trucks from market at prevailing rates. The differential expense incurred, if any, will be debited to the Transporter. The Transporter shall also be liable to pay liquidated damages @ Rs.200/-per truck per day for short-fall in number of trucks supplied by the Transporter against the indented no. to

the Transporter by the Company.

- 7.3 In case the Transporter fails to lift the allocated quantity of material, the Company shall be at liberty to recover a penalty of Rs. 100/MT for the quantity not lifted by the Transporter.
- 7.4 The Transporter shall use his own trucks and/or take such other trucks required on hire from other transporters. Each truck shall have the capacity of carrying at least 15 MT of urea in case of 10 Wheeler trucks and at least 27 MT of urea in case of 18 Wheeler trucks (or any other capacity as may be agreed).
- 7.5 The Transporter shall not overload the trucks beyond their carrying capacity which is fixed 16 MT in case of 10 Wheeler trucks and 27 MT in case of 18 Wheeler trucks comprising of Urea bags of 50 Kg each.
- 7.6 The trucks made available by Transporter shall be road-worthy and in running condition and the drivers thereof shall at all times have valid driving licenses. The Company will be entitled to call for inspection of the truck permits, drivers' licenses, photocopies of the RC book and up-to-date paid vehicle tax receipts along with insurance cover for each truck and whenever required, the Transporter shall arrange to produce the same for inspection to the Company/officer authorized by the Company.
- 7.7 Every truck will be loaded at the Company's plant at Panagarh. The weight / number of bags loaded thereof will be noted in writing in delivery challan-cum-gate pass provided by the Company in four copies. Four copies will be given to the driver of the truck of which one will be retained by Security Guard at exit gate of the Company, one will be given to the consignee at destination, one will be returned to the Company by the Transporter after getting acknowledgement from the consignee and one copy will be retained by the Transporter. All four copies will be signed by the Transporter's agent/driver and will be conclusive evidence of material loaded on the truck.
- 7.8 The Company will direct or give instructions as to the destination where the truck is to be unloaded and the material to be delivered and it will be the responsibility of the Transporter to comply with the same.
- 7.9 The Company reserves the right to depute its representative to accompany the consignment, whenever it is considered necessary. In such cases, Transporter will allow such representative(s) to travel in the truck(s).
- 7.10 The Transporter will carry all necessary documents such as delivery challan, invoice, road permit etc. in desired number of copies and any other documents as per requirement of respective destinations. The Company will not be responsible for any penalty/fine imposed by any authority for not carrying proper documents or non-payment of statutory dues like toll tax, road tax, insurance, etc.
- 7.11 The material has to be delivered within a reasonable period specifically defined in Clause 16.26. The time period as defined in Clause 16.26 is based on the lead distances of the designated destinations mentioned in the annexure 1-3. The delivery shall be made at designated destination or any other specified destination as per instructions of the Company official.

- 7.12 Any wrongful delivery or delivery before the designated destination mentioned in the annexure 1-3, will result in penalty of Rs. 5,00,000/- (Rupees Five Lac Only) in the first instance and the termination of this Agreement for any subsequent instance for wrongful delivery. Additionally, cost of such wrongful delivery, as may be determined by the Company, shall also be recovered by the Company from the Transporter.
- 7.13 For any adulteration in material during the custody of material with the Transporter, the Transporter will be liable for penalty at the rate of 3 times of current MRP of Urea. Any other claims lodged against the Company for such adulteration will be recovered from the Transporter along with legal expenses, if any. The Company will be free to terminate the Agreement without any notice period in such cases.
- 7.14 The Transporter shall be liable to compensate the Company for any damage, shortage, deterioration, loss, pilferage from the point of loading of the Truck to unloading at designated destination and/or non-delivery of urea, at the rate of 3 times of current MRP of urea plus Rs. 2,000/- (Rupees Two Thousand) per tonne of Urea for such of the losses as may be determined by the Company. Besides, no transport charges shall be paid for such quantity of losses. If there is any damage to the bag, the Transporter shall compensate the Company for the cost of bag and the cost of re-bagging in addition to the cost against loss of urea as determined herein above.
- 7.15 In the event that the consignment is required to be transshipped enroute due to any reason such as vehicle breakdown/accident etc., intimation in writing to such effect has to be submitted to the Company within 12 hours of such event stating clearly the reasons for the same.
- 7.16 The Transporter should ensure that NO CHILD LABOUR is put in to the business activities when dealing with the Company.
- 7.17 No detention charges shall be paid for delay at loading and unloading points.
- 7.18 If any amount of loss or damage is agreed to by and between the Transporter and the Company, such amount or if there is no agreement then an estimated amount of loss as fixed by the Company will be deducted from the amount of transport charges payable to Transporter.

8.0 Indemnity:

The Transporter shall defend, indemnify and save the Company and its affiliated entities and/or employees from and against any and all losses, costs, expenses, claims, demands, liabilities, suits or actions arising out of injuries to or death of any person(s), including employees or arising out of loss or damage to the property/goods of the Company to the extent caused by or resulting from the performance of the services by the Transporter or his agents or employees under his control.

9.0 Termination of the Agreement:

- 9.1 During the term of the Agreement, the Company shall have right to terminate this

Agreement at any time by giving 15 days' notice in writing to the Transporter.

- 9.2 The Transporter shall however have the right to terminate this Agreement at any time by giving 30 days' notice in writing to the Company.
- 9.3 In case of breach of any terms of this Agreement by the Transporter, the Company shall have the sole discretion to terminate this Agreement without any prior notice.
- 9.4 On termination or earlier determination of the Agreement, the Transporter and his employees and agents shall forthwith return material of the Company in his custody, if any, to the Company.
- 9.5 The material in transit will be delivered to the Company's authorized officer at the designated place, as per the instruction without any delay and hindrance.
- 9.6 On termination or earlier determination of the Agreement, the Company shall have right to adjust all the outstanding amounts due to the Company by the Transporter from the transportation charges payable and security deposit lying with Company.
- 9.7 After finalising all the accounts of the Transporter, the Company shall make payment and/or refund the balance, if any, of the security deposit amount.

10.0 **Security Deposit**

- 10.1 The Transporter shall always maintain an amount of Rs 10,00,000 Lac as security deposit with the Company.
- 10.2 The Transporter shall deposit an amount of Rs 1,00,000 Lac as cash deposit through RTGS / DD / A/C payee cheque.
- 10.3 Rs 9,00,000 Lac is to be deposited in the form of Bank Guarantee in a proforma which is acceptable to the Company.
- 10.4 The Company shall have absolute right to adjust any of the amounts due from the Transporter against the amount of the security deposit.
- 10.5 Any short fall in such security deposit due to adjustment by the Company shall be immediately paid by the Transporter to the Company. In the event of failure by the Transporter in maintaining security deposit amount, the Company shall be entitled to terminate this Agreement with immediate effect and security deposit amount given by him, will be return after cancellation of agreement.
- 10.6 In case of termination of the Agreement, the Security Deposit in form of cash shall be refunded to the Transporter, along with interest, within a period of 90 days from the date of termination of the Agreement.

11.0 **Force Majeure:**

- 11.1 The Transportation Services Agreement will be issued subject to Force Majeure conditions. Neither Party shall be responsible for any failure or delay in fulfilling any

terms of this Agreement as a result of Force Majeure. The term "Force Majeure" shall mean unavoidable causes reasonably beyond the control and without the fault or negligence of either party including but not restricted to acts of God or sabotage, fires, floods, cyclones, typhoons, earthquakes, wars (declared or undeclared), hostilities, invasion, blockades, riots, epidemics, quarantine restrictions, strikes, lockout, freight embargos, non-availability of utility supplies, civil commotion or any order of Government, local authority having jurisdiction or anybody or person purporting to be or to act for such authority but shall not include commercial reasons for non-performance and non-availability of funds.

- 11.2 If the Agreement is delayed or impeded in execution of work by circumstances of force majeure as herein defined, then the Transporter shall, immediately but not later than 48 hours, give notice in writing to the Company of the existence of circumstances of force majeure together with evidence relied upon and the Company shall grant to the Transporter such postponement of the date of the completion as may, under the circumstances, be considered reasonable.

12.0 Jurisdiction and Arbitration:

- 12.1 If any dispute or difference will arise between the Parties hereto out of this Agreement either due to interpretation or meaning of any provision hereof or as to any claim of one Party against the other, or otherwise howsoever, the same will be referred to arbitration to the single arbitrator nominated by the Company. The decision of the arbitrator shall be final and binding on the Parties. The venue of the arbitration shall be Durgapur (W.B.) and the arbitration will be conducted as per the provisions of Arbitration and Conciliation Act, 1996, as amended from time to time. Any of the Parties may unilaterally refer the dispute for arbitration but on such a reference or during the pendency thereof, the Transporter shall, if so desired by the Company, perform and discharge his obligations and duties under this Agreement.

- 12.2 This Agreement is subject to jurisdiction of Courts of Durgapur (W.B.) and in case of any litigation between the Parties, the Courts/Forums at Durgapur (W.B.) alone shall have the jurisdiction.

13.0 Severability:

In the event that one or more provisions of these Terms and Conditions are deemed wholly or partially invalid or unenforceable under the applicable laws, the remaining provisions shall remain in full force and effect. Any provision that is invalid shall be replaced with a provision that is as similar as possible to and best meets the intended purpose of the invalid provision.

14.0 Amendment and Modification:

The Parties hereto agree that, any variation, revision or amendment of any of the terms or provisions hereof shall not be valid or binding upon the Parties, unless the same is recorded by the Parties hereto in writing.

15.0 Notice:

All notices, requests, consents, or other communications required or permitted to be given under this Agreement shall be in writing and may be sent by registered post/speed post /under Certificate of Posting/electronic mail/facsimile at the addresses mentioned in the recitals of this Agreement. In case of any change in address, the concerned Party shall ensure that the same is communicated in writing to the other Party forthwith, failing which communication sent at the last known address shall be deemed to be a valid service.

16.0 Other Terms and Conditions:

- 16.1 The Transporter fully understands that the Company is neither guaranteeing any minimum daily / monthly or yearly number of trucks and / or work to be done during the contract period nor is it guaranteeing any load or return trips of truck/s.
- 16.2 The Transporter shall follow all the rules of the Company, as may be specified /instructed, at loading and unloading points. The Transporter shall ensure that the truck drivers physically count / weigh the material leaving the Company's plant, so that any excess/shortage is detected immediately after loading. If any excess is detected, strict disciplinary action shall be taken by the Company including penalties as per the rule of the Company.
- 16.3 The Transporter has visited the Plant of the Company at Panagarh and has gone through and obtained all the clarifications required regarding nature of work. No claim shall be made on the ground of want of clarifications required regarding nature of work.
- 16.4 The Transporter shall submit the bills in duplicate along with Delivery Challan / Material dispatch receipt duly acknowledged by the concerned warehouses in-charge / consignee for receipt of material in proof of having delivered the material in safe and sound condition.
- 16.5 The Transporter will make his own arrangement for diesel and other requirements. The Company under no circumstances will take responsibility to issue or arrange diesel or any other requirement of the Transporter.
- 16.6 The Transporter shall employ required number of employees to efficiently carry out the work entrusted under this Agreement. The employees employed by the Transporter shall at all times be the employees of the Transporter and the Company shall have no obligation towards the persons employed by the Transporter and the Transporter shall keep the Company indemnified by acceptance of this Agreement against any claim, loss or damage brought or suffered by the Transporter / his employees on this account.
- 16.7 The Transporter shall comply with all the statutory requirements as are applicable from time to time and shall be solely responsible for fulfillment of legal obligations under various statutes including Contract Labour (Regulation & Abolition) Act, 1970, Payment of Wages Act, 1936, Provident Fund and Miscellaneous Provisions Act, 1952, Employee State Insurance Act, 1948, Payment of Bonus Act, 1956, Payment of Gratuity Act, 1972 etc. The Transporter shall keep the Company indemnified against any dues, compensation or any other liability of any kind whatsoever due to non-fulfillment of any of the statutory provisions under any statute including industrial / labour laws. The

Company shall have full right to claim and recover any liability incurred towards payment of any dues, compensation or cost from the Transporter and deduct it from his outstanding bills and / or recover the same from the security deposits and / or in any other manner as deemed fit.

- 16.8 The Transporter shall take insurance cover for his workmen to cover the risk of accident / death and payment of compensation under the Workmen Compensation Act, 1923 at his own cost and he shall keep the Company indemnified against all claims for compensation of or on behalf of any workmen employed by him.
- 16.9 The Transporter shall take diligent steps to ensure that the material in-transit is not damaged due to weather conditions. Adequate number of tarpaulins in good condition shall be provided by the Transporter for each truck to cover and protect material against weather conditions. The material shall be covered by tarpaulin before leaving the place of loading in all weather conditions.
- 16.10 The Transporter shall hold the material entrusted to him for transport as bailee and shall be accountable thereof to the Company. Any loss caused due to any reason whatsoever shall be made good by the Transporter notwithstanding anything to the contrary in section 151 & 152 of the Indian Contract Act, 1872.
- 16.11 The Transporter shall be required to maintain an office within Industrial Area PANAGARH, at his own cost and shall be required to place a responsible person who shall be capable of coordinating the movement and taking instructions from the Company on day-to-day basis.
- 16.12 The Transporter and his employees shall be required to adhere to all the instructions while moving inside the premises of the Company including traffic and non-smoking instructions. The Transporter shall, on the instructions of officer in-charge of the Company, remove any person employed by him who misbehaves, causes nuisance or commits any breach of instructions of the Company.
- 16.13 The value of any damage to the Company's property by the truck driver or any agent/employee of the Transporter will be debited to the Transporter's account.
- 16.14 Washing of trucks in the factory premises is prohibited. The drivers/cleaners of the Transporter must not enter the factory under the influence of any drugs or alcoholic drinks.
- 16.15 The Transporter shall strictly observe time as informed by the Company from time to time. In view of continuous nature of plant operations, work will continue on public holidays and Sundays. No compensation or extra rate will be admissible for working beyond normal hours including public holidays and Sundays.
- 16.16 The Transporter shall not sublet, transfer or assign the contract or any part thereof to any other party without prior approval of the Company in writing.
- 16.17 The Transporter shall use only truck/s having closed body, even surface, without nails and without any other sharp edges with the arrangement for tarpaulin covering. Top wooden cross bar (Patta) will be required to be opened as and when required by the Company.

- 16.18 The Company shall be at liberty to appoint any number of transporters for transporting urea from its site / nearby godown and the Transporter has understood this right of the Company and shall have no claim/s of whatsoever nature on this account.
- 16.19 All correspondence in connection with this Agreement shall be addressed to Manager (Logistics) / Sr. Officer (Logistics), MATIX FERTILISERS AND CHEMICALS LIMITED: Panagarh Industrial Area, Panagarh, Dist. Burdwan. West Bengal.
- 16.20 In case this Agreement is terminated under Clause 7, the value of work done by the Transporter up to that date will be paid at the rates and as per other terms specified in the Agreement. The Company will not be liable for any business loss or damage suffered by the Transporter as a result of such termination of the Agreement.
- 16.21 The unit rate provided in the contract (rupees per ton per kilometer) is for the actual quantity loaded in a single axle or double axel truck. The Transporter shall be fully responsible for compliance of prevailing rules of the Motor Vehicle Act, 1988 and the Company in no case shall be liable for any non-compliance on the part of the Transporter.
- 16.22 The Transporter shall not deliver the trucks other than at designated destination, unless otherwise directed to do so by Logistics Department of the Company in writing.
- 16.23 The Transporter upon receiving the notice of termination of the Agreement from the owner shall notify within a reasonable time regarding the details of work executed.
- 16.24 At the request of Logistics Department, truck drivers will be bound to re-route / divert the consignment but within a maximum range as may be directed by the Company in writing for which additional transport charges will be payable as per agreed terms. Additional distance shall be verified by logistic department.
- 16.25 Transport charges are payable for the distances covered by loaded trucks from site as per route specified and not for distances on reporting from garage to place of loading or back to garage.
- 16.26 The Transporter undertakes to deliver the goods at the specified destination within 24 Hrs. from the time of dispatch for destinations within 100 Km from the Panagarh Plant of the Company, 48 Hrs. for destinations within 200 Km and 72 Hrs. for destinations beyond 200 Km, failing which he shall be liable to pay damages as may be determined by the Company.