

# TERMS OF REFERENCE

## **SALE PROGRAM OF CREDIT ASSETS AND SHARES OF TEXMACO GROUP**

August 13<sup>rd</sup>, 2010



*IMPORTANT NOTICE*

THIS *TERMS OF REFERENCE* DOES NOT CONSTITUTE AN OFFER FOR, OR AN INVITATION BY OR ON BEHALF OF PT PERUSAHAAN PENGELOLA ASET (PERSERO) ("PPA") TO PURCHASE, ANY OF THE PORTION OF PPA'S PORTFOLIO OF CREDIT ASSETS AND SHARES REFERRED TO HEREIN.

IF SOLD AT ALL WITHIN THE UNITED STATES OF AMERICA (THE "U.S."), THE OFFERED CREDIT ASSETS AND SHARES WILL ONLY BE SOLD PURSUANT TO AN APPLICABLE EXEMPTION, IF NECESSARY, FROM REGISTRATION REQUIREMENTS OF THE SECURITIES ACT OF 1933 ("SECURITIES ACT"). NO SALES INFORMATION MEMORANDA/TERMS OF REFERENCE WILL BE SENT TO ANY PERSON(S) IN THE U.S., EXCEPT AS PART OF AN OFFERING EXEMPT, IF NECESSARY, FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT. THE OFFERED CREDIT ASSETS AND SHARES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT AND MAY NOT BE OFFERED OR SOLD IN THE U.S. IN THE ABSENCE OF REGISTRATION OR THE APPLICABILITY OF AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS.

THIS TERMS OF REFERENCE IS FOR INFORMATION PURPOSES ONLY AND DOES NOT CONSTITUTE AN INVITATION OR OFFER TO ANY PERSON IN THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA ("HONG KONG") TO ACQUIRE, DISPOSE OF, SUBSCRIBE FOR OR UNDERWRITE THE OFFERED CREDIT ASSETS AND SHARES, TO TAKE PART IN ANY INVESTMENT ARRANGEMENTS COMPRISING THE OFFERED CREDIT ASSETS AND SHARES, OR TO MAKE DEPOSITS OR ENTER INTO ANY AGREEMENTS TO MAKE DEPOSITS WITH THE RELEVANT BORROWERS. A NUMBERED COPY OF THIS TERMS OF REFERENCE MAY BE ISSUED BY OR ON BEHALF OF PPA TO PERSONS WHOSE ORDINARY BUSINESS IS TO BUY OR SELL SHARES OR DEBENTURES, WHETHER AS PRINCIPAL OR AGENT, OR IN CIRCUMSTANCES THAT DO NOT CONSTITUTE AN OFFER TO THE PUBLIC IN HONG KONG WITHIN THE MEANING OF THE COMPANIES ORDINANCE (CHAPTER 32 OF THE LAWS OF HONG KONG).

THIS TERMS OF REFERENCE MAY NOT BE ISSUED OR PASSED ON IN THE UNITED KINGDOM TO ANY PERSON UNLESS THAT PERSON IS OF A KIND DESCRIBED IN ARTICLE 11(3) OF THE FINANCIAL SERVICES ACT (INVESTMENT ADVERTISEMENTS)(EXEMPTIONS) ORDER 1996 AS AMENDED.



## IMPORTANT NOTICE

This Terms of Reference (“TOR”) constitute confidential information regarding PPA and its Assets offered (“Assets”), which are made available to parties who have expressed a preliminary interest in PPA’s sale program on a confidential basis and subjected to provisions. This TOR is not proposed to parties who have conflict of interest as mentioned in this TOR. (See Terms and Conditions: Conflict of Interest)

By accepting this TOR, Potential Investor(s) (“the recipient”) agrees to the signed agreement of *Letter of Compliance* that is related to the Assets, in which the recipient agrees the following:

- (a) The recipient’s Directors, staff, agents, advisors, auditors, affiliates and representatives of Potential Investors (which collectively called “Potential Investor”), auditors, affiliates will use this Terms of Reference and any information that were given either in writing or verbal (the “Confidential Information”) only for evaluation purposes related to the transaction that was offered under the Selling Program of Asset Credits and Equity (“Selling Program”);
- (b) Potential Investor will not distribute this Confidential Agreement to other parties that have no interest including to those who have affiliation / Conflict of Interest;
- (c) Potential Investor will promptly return this Terms of Reference, including all copies, directly to PPA upon request;
- (d) In connection with the selling of the Assets, Potential Investor will not attempt to communicate either in writing or verbal or any other forms of communication with parties that have affiliation / Conflict of Interest.

Any Information contained in this Terms of Reference, or any other information given or provided either in writing or verbal to the Potential Investor have and to use for access are not verified independently by PPA, which includes its advisors or consultants that were appointed by PPA. Any occurrence of forecast, projection, and estimation contained in this Terms Of Reference or in any other related information is not prepared by PPA’s staff and its management, appointed advisors and consultants; in which the conclusion of any of the occurrence entails significant element of subjective judgement for interested parties). Therefore, the probable occurrence of forecast, projection, and estimation could provide many analysis interpretations which may be correct or incorrect.

This Terms of Reference does not purport to contain all of the information that may be required to evaluate the proposed transaction and any recipient hereof should conduct its own independent analysis of the Assets Sale Program and the data contained or referred to herein or therein. Neither PPA and its employees, nor its advisors and consultants should be held responsible to update or otherwise revise this Terms of Reference or other related writing or verbal information.

No information set out in this Terms of Reference will form the basis of any contract. Potential investor will be required to acknowledge in the Sales and Purchase contract that it has not relied on, or been induced to enter into such agreement by, any representation or warranty or by any other information that may have been provided by PPA, its employees, and/or their respective advisors and consultants, save as expressly set out in such agreement.

This Terms of Reference does not constitute an offer or invitation for the sale or purchase of the Assets described herein. PPA reserves the rights, at its sole and absolute discretion,



without prior notice, to change the procedure of sale or to terminate any deliverance of information at any time before the Document of Transaction is signed.

In connection with the Assets, PPA's advisors or its consultants are solely acting for PPA itself and not for the recipient of this Terms of Reference. The acceptance of this Terms of Reference by the recipient is not to be taken as investment advice given by any of PPA's aforementioned advisors, as individual nor as collective entity.

By accepting this Terms of Reference, the recipient hereby acknowledges, represents and agrees that:

- (a) The recipient is an experienced institution which is generally in the business of making loans and/or purchasing or investing or taking financial or legal interests in, administering and managing, and disposing of or otherwise resolving corporate loans or other similar assets of the type represented by the Assets.
- (b) The recipient has full capacity to perform independent evaluation without relying on any information that may have been provided to the recipient by PPA and by their respective advisors and consultants. Therefore the recipient is fully aware of any merits and risks of owning and servicing the Assets, assuming its full risks and obligations as the purchaser.
- (c) The recipient will be responsible for conducting its own independent investigation and analysis which it deems necessary and appropriate, and that any decision to submit bids for and/or purchase any or all of the Assets will be based solely upon such independent investigation and analysis. The recipient represents that in evaluating the Assets, it has sought all necessary independent financial, legal, tax and technical advice of its own.
- (d) None of PPA, its employees, its management, its advisors and its consultants guarantees and makes any clear or hidden representation as to the accuracy or completeness of the information contained in this Terms of Reference and/or any other information contained in any document produced and supplied by PPA and its aforementioned representatives in relation to the Assets. Therefore PPA and its aforementioned representatives will not be held responsible in relation to the above matter. Furthermore, PPA and its aforementioned representatives do not responsible and shall not be held liable to any of the information in this Terms of Reference as to the accuracy or completeness of such information.
- (e) The recipient acknowledges that this Terms of Reference is to be read in conjunction with all documents which are deemed to be incorporated herein by reference and the Terms of Reference shall be read and construed on the basis that such documents are incorporated in and form part of this Terms of Reference.

**August 13<sup>rd</sup>, 2010**



## Background

PT. Perusahaan Pengelola Asset (persero) (“PPA”) is a state-owned company for Assets Management in which PPA is acting as the proxy of and on behalf of the Minister of Finance to manage distressed assets, which was formerly managed by Badan Pengelolaan Perbankan Nasional (BPPN) and currently owned by the State, that are not in dispute to any legal issue. The management of these assets mentioned is based on Agreement of Assets Management dated March 24<sup>th</sup>, 2004, June 12<sup>th</sup>, 2009 and May 11<sup>th</sup>, 2010 between Minister of Finance of Republic Indonesia and PPA.

PPA is acting as the proxy of and on behalf of the Minister of Finance, pursuant to Government Regulation of the Republic of Indonesia No.10 of 2004, regarding the Establishment of Limited Liability Company (Persero) in Asset Management, which was ruled out by the Government Regulation No. 61 in 2008 regarding the Change of Government Regulation No. 10 year 2004, juncto Decree of the Minister of Finance of the Republic of Indonesia No.92/PMK.06/2009 regarding the management of State Assets derived from IBRA as changed by the Minister of Finance Regulation No. 178/PMK.01/2009, intends to sell the credit assets and shares of Texmaco Group in 1 (one) package, consist of receivables to BPP, JPE, PT Texmaco Jaya Tbk., PT Wastra Indah and PT Polysindo Eka Perkasa Tbk., and 70% of shares in BPP.

The activity of Sale Program of Texmaco’s Credit Assets and Shares is in accordance with the approval of the House of Representatives of the Republic Indonesia by its letter No. PW.001/6934/DPR RI/2005 (“**DPR RI Letter 11/10/2005**”) dated October 11th, 2005 and No. PW.001/5781/DPR RI/2006 (“**DPR RI Letter 17/06/2006**”) dated July 17th, 2006. Moreover DPR RI Letter 11/10/2005 and DPR RI Letter 17/06/2006 are called **DPR RI Approval**.

Credit Assets and Shares of Texmaco Group managed by PPA is consisting of share assets and some of credit assets accounted per December 7<sup>th</sup>, 2009, in which they are as follows:

Debitor	Instrument	Currency	Premium	Interest	Total
PT Jaya Perkasa Engineering	Exchangeable Bonds	IDR	5,717,472,088,355	3,348,469,292,279	9,065,941,380,634
		USD	1,472,183,134	289,934,200	1,762,117,334
PT Bina Prima Perdana	Exchangeable Bonds	IDR	5,280,948,791,732	1,830,831,599,583	7,111,780,391,315
		USD	284,829,995	89,757,051	374,587,046
	Shars	IDR	14,000,000	-	14,000,000
PT Texmaco Jaya Tbk.	Receivables L/C	IDR	30,601,012,777	-	30,601,012,777
		USD	203,814	-	203,814
PT Wastra Indah	Receivables L/C	IDR	878,417,642	-	878,417,642
PT Asia Pacific Fibers Tbk (formerly PT Polysindo Eka Perkasa Tbk.)	Receivables L/C	IDR	38,468,048,072	-	38,468,048,072
		USD	80,366,458	-	80,366,458
Total		IDR	11,068,382,358,578	5,179,300,891,862	16,247,683,250,440
		USD	1,837,583,401	379,691,252	2,217,274,652

Pursuant to Texmaco Group’s Sale Program Of Credit Assets and Shares, PPA viewed the importance to perform re-evaluation of Credit Assets and Shares, to review the final results of financial due diligence, as well as to perform verification of all Texmaco Group’s outstanding debts to all third parties, namely: tax bills, electricity bills (state company, PT Perusahaan Listrik Negara), gas bills (state company, PT Perusahaan Gas Negara). These tasks have been performed by independent consultant, KJPP Doli Siregar and Partners (formerly known as PT. Satyatama Graha Tara).



Currently, PPA intends to sell the Texmaco Group's assets under management of PPA, consisting of receivables and shares of Texmaco Group. (See *General Terms Applied: Assets*)

The terms and condition and/or the schedule as outlined in this Terms of Reference/TOR are fixed and non-negotiable.

### General Terms Applied

Affiliates	Means affiliated parties as outlined in <i>Terms and Conditions</i> .
Aggregate Outstanding Balance ("AOB")	Means Aggregate Outstanding Balance (AOB) applied as the base for the bid is the total amount of liabilities of Borrowers of Credit Assets as of December 23 <sup>rd</sup> , 2010, amount of which will be informed by PPA to Potential Investors three days at the latest before the Bidding Date.
Assets Documents	Means documents related to the Assets, consisting of legal and security documents.
Assets Receivables / Credits	Means assets receivables / credits governed by the Minister of Finance in which managed by PPA with details as outlined in Terms and Conditions: Credit Assets
Bid Letter	Means the final, binding and unconditional bid letter proposed by Qualified Bidder(s) on the Bidding Date
Bid Price	Means bid price for the packet or partial prices as proposed by Qualified Bidder(s) in the Bid Letter.
Bidding Consortium/ Consortium	Means a group or partnership of investors/ bidders, which they register and submit a single Bid Letter.
Bidding Date	Means December 1 <sup>st</sup> , 2010, no later than 12.00 PM (Jakarta Time)
Bidding Document	Means bidding documents submitted by registered investors(s) regarding its offer on Texmaco's Assets
Borrowers of Credit Assets	Means PT Bina Prima Perdana, PT Jaya Perkasa Engineering, PT Texmaco Jaya Tbk., PT Wastra Indah, and PT Polysindo Eka Perkasa Tbk (currently PT Asia Pacific Fibers Tbk).
Borrowers to PPA	Means all borrowers under the management of PPA
BPP	Means PT Bina Prima Perdana.
Business Days	Means days within weeks when banks are in normal operation, except for Saturday, Sunday and National Holiday in Indonesia.
Closing Transaction	Means the closing of transaction, when the Assets Documents are handed over by PPA to the Winning Bidder.
Conflict of Interest	Means Conflict of Interest as outlined on <i>Terms and Conditions: Conflict of Interest</i> .



Consortium Coordinator	Means one of the Consortium members acting as a coordinator, which has been appointed and authorized by all members of the Consortium.
Composition Plan	Means an agreement of payment on Unsecured Debt portion PEP
Credit Assets	Means receivables owned by Minister of Finance, and under the management of PPA, as detailed on <i>Terms and Conditions: Credit Assets</i> .
DPR RI	Means House of Representatives of the Republic Indonesia
Due Diligence Documents	Means documents related to the Assets, consisting of working files, Legal and security documents, in the electronic and physical form, provided to Registered Bidders during the Due Diligence Period in PPA office building
Due Diligence Period	Means August 16 <sup>th</sup> , 2010 until November 30 <sup>th</sup> , 2010.
Employees	Means all current and former Texmaco's employees in which related to labour disputes and possesses <i>in-kracht van gewisjde</i>
First Payment	Means the first payment following the purchase of Assets, which amounting to 40% of the Sale Price.
First Payment Date	Means between December 8 <sup>th</sup> to December 13 <sup>th</sup> , 2010
Floor Price Package	Means floor price for full-packaged Assets in which determined by Minister of Finance for the Assets, as the minimum price for sale.
Floor Price Partial	Means floor price for partial Assets in which determined by Minister of Finance for the Assets, as the minimum price for sale.
Force Majeure	Means any occurrence and events beyond control of PPA to solve, prevent and avoid, including but not limited to fire, earthquake, flood, storm, tsunami, landslide, decease, climate change, government actions regarding the implementation of laws, war (declared or not), invasion, enemy action from other country, riot, revolution, terrorism, sabotage, criminal action result, nuke explosion, radioactive or chemistry contamination, labor protest or strike, embargo, problem in raw material supply, energy supply or other energy.
Guarantor	Means parties acting as guarantor(s) to the liabilities of Borrowers of Credit Assets and Borrowers of PPA
JPE	Means PT Jaya Perkasa Engineering.
Letter of Commitment on Settlement of Obligations to Labor	Means commitment letter signed by authorized signatory of Bidder, on the settlement of Texmaco Group's obligations to its labors including severance pay and pension benefits, format of which is provided by PPA in Attachment A.3. Letter of Compliance.
Letter of Compliance	Means Letter of Compliance along with its attachments, format of which is provided by PPA in addition to this Terms of Reference, to be completed and signed by Potential Investors and submitted to PPA during the registration.
NIP	Means Bid ID Number ( <i>Nomor Identitas Penawaran</i> ), which will be provided during registration period by PPA to each investor/ bidder



that has completed and fulfilled the Letter of Compliance.

Potential Bidder(s)	Means registered investor(s) who submitted Bid Letter at the Biding Date
Potential Investor(s)	Means potential investor(s) who are interested to participate in the Sale Program, including directors, staff, agent, advisors, auditor, affiliates and representatives of the potential investor(s)
Registered Investor(s)	Means Potential Investor(s) who have completed registration requirements as outlined on the section "Qualification of Bidders".
Re-Bidding Price	Means Bid Price proposed by Qualified Bidder on Re-Bid Date.
Open Auction	Means an auction mechanism applied as the offering and sale mechanism of the Sale Program, which is publicly announced and is open for any interested and eligible parties, yet not trough Public Offering.
Operating Companies	Means all subsidiaries under BPP and JPE.
Payments	Means all payments made by the Winning Bidder to PPA following the purchase of Assets, which includes First Payment and Second Payment.
PEP	Means PT Polysindo Eka Perkasa Tbk (currently PT Asia Fibers Fibers Tbk)
PPA	Means PT Perusahaan Pengelola Aset (Persero)
PPA's Equity Participation Company	Means parties, shares of which is under the management of PPA, with shareholding of 20% or more, and/or equity participation as a result of debt to equity conversion following restructuring scheme of its debts.
Re-Bid	Means re-bid in the event that all bidding price submitted are under floor price, or there are more than two equal highest Bids (packet and/or partial total), with the value of at or above the Floor Price.
Re-Bidding Date (if applicable)	Means December 3 <sup>rd</sup> , 2010 no later than 12.00 PM (Jakarta Time)
Re-Bidding Date Right To Match (if applicable)	Means December 3 <sup>rd</sup> , 2010 no later than 12.00 PM (Jakarta Time)
Registration Period	Means August 16 <sup>th</sup> , 2010 until November 30 <sup>th</sup> , 2010.
RFDD	Means Review Financial Due Diligence prepared by Appraisal Public Firm (KJPP) of Doli Siregar and Partenrs (formerly known PT. Satyatama Graha Tara) as Financial Consultant appointed by PPA.
Right To Match for Partial (if needed)	Means December 6 <sup>th</sup> , 2010 with a limit date at the latest at 12 PM (Jakarta Time)
Sale Price	Means Bid Price or Re-Bid Price submitted by the Qualified Bidder who has been declared as Winning Bidder by PPA
Sale Program	Means the Sale Program of Credit Assets and Shares of Texmaco Group by PPA



Second Payment	Means the second payment following the purchase of Assets, amounting to 60% of the Sale Price (Security Deposit can be applied to this portion)
Second Payment Date or Final Payment	Means December 17 <sup>th</sup> , 2010 to December 22 <sup>nd</sup> , 2010
Settlement of Obligation to Labor	Means all payments made by Winning Bidder to Texmaco Group's labor as the Settlement on Obligations to Labor, which includes severance pay and pension benefits, as governed in terms and conditions in Letter of Commitment on Settlement of Obligation to Labor. This mandatory payment should be settled between the First and Second Payment Date.
Shares	Means 70% (seventy percent) ownership in PT Bina Prima Perdana shares, owned by Minister of Finance and transferred under management of PPA with nominal value of IDR14,000,000.00 (fourteen million Indonesian Rupiah).
Transaction Document	Means document of transferring Exchangeable Bonds, Credits Sales Agreement, and Cessie on Credit Assets along with Deed of Sale Of Shares Agreement
Winning Bidders	Means Qualified Bidder who submits the highest Bid Price at or above the Floor Price determined by Minister of Finance as the winner.
Winning Bidder Notification Date	Means December 2 <sup>nd</sup> , 2010 (if there was no re-bid or Right to match occurred). The notification will be on December 6 <sup>th</sup> , 2010 if Right to Match occurred Or December 8 <sup>th</sup> , 2010 if Right to Match for Partial occurred.

## Objectives

Principal objectives of PPA in undertaking the Sales Program of Credit Assets and Shares are as follows:

1. to expedite Assets disposal program of PPA for state revenue contribution;
2. to maximize the proceeds of PPA's Assets disposals through selling mechanisms based on the principles of transparency, competitiveness and fairness;
3. to implement Indonesian government's decision to perform the Assets disposal as governed in the Approval of House of Representatives of the Republic Indonesia
4. Implementation of Working Plan Assets Management Agreement between Republic of Indonesia's Minister of Finance with PPA.

## Main Principles of Asset Sale Program

1. The Sale Program shall be conducted through the mechanism of outright sales without including clawback and/or put option mechanism.
2. The sale program will be conducted based on **As is** Basis



which means that the Potential Investors acknowledge and agree:

- a. That the Assets delivered to the Winning Bidders may include discrepancies and deficiencies. Such discrepancies and deficiencies may include, although not limited to the following:
  - (i) the offered Credit Assets may have originated from credit facilities granted to debtors by the originating bank(s) without the benefit of signed credit/facility agreements, and/or
  - (ii) the offered Credit Assets may have not been completely following terms as stipulated under Company Law No. 40 tahun 2007 regarding Limited Liability company (LLC) or Perusahaan Terbatas (PT)
  - (iii) notwithstanding that the offered Credit Assets may have originated from credit facilities granted to debtors by the originating bank(s) incorporated in signed credit/facility agreements and their collateral agreements, the credit/facility agreements, collateral agreements and/or other relevant documents may not have been delivered to PPA, or may be incomplete or missing, and/or
  - (iv) The amount of receivables owed to PPA may not be acknowledged or accepted by debtors in the future, and/or
  - (v) the offered Credit Assets originated from credit facilities containing certain irregularities at the time of granting those credit facilities, whereby the originating bank(s) in giving those credit facilities may have violated prevailing laws and regulations, and/or
  - (vi) the credit/facility agreements may not have been effective, and/or
  - (vii) certain or all conditions precedent may not have been fulfilled and/or met, and/or
  - (viii) certain or all conditions subsequent may not have been performed, and/or
  - (ix) certain or all security documentation may not have been perfected, and/or
  - (x) certain debtors may have committed negligence (among others: the debtors have side streamed the fund utilisation, which was not in line with the original purpose of granting the facility) or be in default,
  - (xi) the debtor may be unable or unwilling to pay or fully repay its debts or may be unwilling to cooperate with the Winning Bidder, and/or
  - (xii) certain credit facilities may have cross-collateral agreements with other facilities, have been repaid in full, or have been settled in cash or other assets, which could not be identified at the time of offering and, therefore, PPA has the rights to cancel the sale of such assets or require the Winning Bidder to fulfil certain conditions or obligations in connection therewith.
- b. Pursuant to the Letter No. Prog – 224/Ex-BBPN/0204 dated February 26<sup>th</sup>, 2004, BBPN have viewed that BPPN and/or JPE and/or Marimutu Sinivasan (Texmaco Group) have fulfilled all of the conditions to be in *default*, after following three consecutive warning letters sent by BPPN
- c. During the offering of the Assets by PPA, there are several issues on labour which have already obtained Final Verdict (*in kracht van gewijsde*) in favour of the



labour's lawsuit and therefore the related companies carry the obligations to settle severance pay and pension benefits.

- d. In addition to the Final Verdict of Employees' Dispute of Texmaco Group, Employees Dispute that have been in-kracht, other on-going labor cases may exist
- e. Information on the amount of settlement of obligations to Labor which is provided by PPA is sourced from data gathered by PPA from Texmaco Group and, therefore for certainty, accuracy and correctness of the data, Potential Investors should, separately and independently, verify the amount above.
- f. That there are guaranteed assets that have been executed, in which they are by the Court of District of Subang, Karawang, Semarang. The execution of assets takeover by way of auction in Subang was done through Office of Debt and Receivable Service and Auction Country of Bekasi.
- g. that during the offering of the Assets by PPA, there are several outstanding third party liabilities of Texmaco Group, inter alia tax liabilities, liabilities to PT Perusahaan Gas Negara Tbk. (Persero) and liabilities to PT Perusahaan Listrik Negara (Persero)\
- h. that during the offering of the Assets by PPA, the value of obligation in which PEP must perform to BPP have not considered the Composition Plan results in which these results have been validated by the Court of Sales.
- i. That during the activity process of Sale Program of Credit Assets and Shares, there are Texmaco Group's land assets that have been allowed to be used on other projects of Cikopo-Palimanan free way road development.

These land assets are some of the assets in which Texmaco Group own and are guaranteed as payment to the Government, while the payment on those land mentioned are rightfully owned by the Government if the payment were paid prior or after the signing of Deed of Sale and Purchase (Akta Jual Beli) and *Cessie*. Documents of Assets of Land above are not included in the documents of assets that will be handed to the Investor Winner.

AOB will be deducted from the total payment on land. Addendum will be executed when the payment is made after the date of signing *Deed of Sale and Purchase* and *Cessie*.

- j. That BPP is a limited liability company duly established in Indonesia and was not incorporated as local investment company or foreign investment company. Therefore any changes in ownership held by foreign investor should be followed by actions in accordance with prevailing regulations, including the possibility of the change of BPP status into limited liability company in the form of foreign investment company, and therefore approval from Board of Capital Investment Coordinator (BKPM) is required.
3. Parties prohibited to participate in the Sale Program include:
- a. Affiliates of Texmaco Group (*See Terms & Conditions: Affiliates*).
  - b. Parties under the management of PPA, for and on behalf of Minister of Finance of Republic of Indonesia, either in the form of receivables (credit assets, bonds, promissory notes, and other debt instruments, further referred to as "Borrowers of



PPA”) or in the form of equity participation (with shareholding equal or greater to 20% and/ or equity participation as a result of debt to equity conversion following restructuring scheme of its debts.

- c. Parties who have Conflict of Interest with PPA (*See Terms & Conditions: Conflict of Interest*).

### **Investor Criteria**

1. For Indonesian Potential Investors, they are a legally incorporated institution in Indonesia with license to operate as a bank, non bank financial institution, or other legal institution, permitted by Indonesian laws to acquire and service assets identical or similar to those being offered for sale; and has been incorporated for a minimum of 3 (three) years; or
2. Have no Conflict of Interest as explained in the stipulation and requirement: Conflict of Interest
3. For foreign Potential Investors, they are legally incorporated entities with a valid corporate charter and, which according to the laws of their country of domicile and the laws of Indonesia, may acquire and service assets identical or similar to those being offered for sale in the Republic of Indonesia; and has been incorporated for a minimum of 3 (three) years;
4. Capable to deliver Legal Opinion issued by independent party, which incorporates, among others, the legality and authorization of the Bidder, including its endorsement to acquire and service assets identical or similar to those being offered for sale;
5. All Potential Investors must have the financial capacity and the committed funds to purchase at the bid prices all of the Assets on schedule, if deemed to be a winner by PPA, and must commit to fulfil all administrative requirements set by PPA;
6. Potential Investors must warrant and represent that they will not breach any Indonesian laws and regulations as well as those of its country of domicile, including but not limited to regulation as outlined in Law No. 15 Year 2002 on prohibition of monopoly practices, anti-trust laws of its country of domicile, as well as prevailing laws and regulations on money laundering, in relation to their purchase of the Assets.

In the event of Investor perform bidding under a consortium, all requirements mentioned above are also valid for all member of consortium.

### **Qualification of Potential Investors**

Potential Investors are declared as Registered Investors when the following administrative requirements have been entirely fulfilled:

- a. Signed and returned to PPA the Letter of Compliance and all its attachment including Letter of Commitment on Settlement of Obligations to Labor in the format as attached in Letter of Compliance.
- b. Paid the Security Deposit, which has been effectively received by PPA.



- c. Registered Investors are obligated to show proof of fund with amount which will be informed later at one (1) working day prior to bidding date at the latest, requirements as follows:
- a) Registered investors shall provide the original (or at least a copy pertaining to the original ones) print out bank statement that is already signed with bank's authorization and a statement letter by the registered investors attached to it. The statement letter shall states that the fund that are stated in the bank statement will only be used to settle Payments Obligations for Labour Disputes
  - b) Registered investors shall provide a statement letter from the bank stating that the registered investors have Stand By Letter of Credit (SBLC) facilities in which will only be used to settle Payments Obligations for Labour Disputes with the following conditions:
    - a) SBLC will be published by a bank with a minimum standard *A rating*, by the Standard and Poor (S&P)'s latest version at the time this Terms of reference is published, or by any local bank that ranks in the top ten by total assets worth.
    - b) The SLCB documents published must follow unconditional and irrevocable conditions.

(from now will be called as "**Financial Proof Abilities**")

### Sale Mechanism

1. Open Auction  
To the extent that the offering and sale of Assets are conducted through an open auction and published in a public announcement, the sale does not entail a public offering as defined in Law No. 8/ 1995 on Capital Market. All interested parties are permitted to participate, providing all requirements as stipulated in the Terms of Reference are fulfilled.
2. Interested parties are permitted to form a Consortium and submit a bid as a Consortium, on condition that all terms and conditions as stipulated in the Terms of Reference are fulfilled. (*See Terms & Conditions: Bidding Consortium*).

The sale mechanism of the assets is done via two options, which are:

- a. *Whole packet sale* for both Textile Group and Engineering Group, OR
- b. *Partial sale* (Holding Company level), which is either Textile Group or engineering group only.

PPA will undergo the Partial Sale (option b above), only if all of the following conditions apply:

- There have been offer made for both groups (Textile and engineering), AND
- Bid price for both groups are above the floor price (or basic price set by PPA), AND
- If there was no offer made by the investor bidder on either group, then it will be considered as it is, AND
- Splitting of Cross Collateral of both Textile Group and Engineering Group that will be made by the Winner Investor.



3. One Step Bidding  
Bid assessments are done based on the Bidding Price submitted by Qualified Bidders. In principle, Qualified Bidders with the highest bid exceeding the Floor Price will be determined as the Winning Bidder.
4. The Assets Sale Program incorporates an inseparable obligation for the Winning Bidder to settle Texmaco Group's obligations to its labor, including the payments of severance pay and pension benefits. Written Commitment on the settlement will be stipulated in Letter of Commitment on Settlement of Obligations to Labor which is an inseparable element of Letter of Compliance. The Winning Bidder is obliged to pay the Settlement of Obligations to Labor.

## Stages of Sale Program

### 1. Announcement

The announcement constitutes the process of socialization and publication to Potential Investors, which will be performed starting August 13<sup>rd</sup>, 2010. The announcement and socialization are carried out through:

- Mass Media /News paper
- Website of PPA
- Information desk or call centre

### 2. Registration

In order to participate in the Sale Program, Potential Investors are required to register to PPA during the **Registration Period of August 16<sup>th</sup>, 2010 until November 30<sup>th</sup>, 2010**. Potential Investors should register promptly due to limited time of registration and due diligence, the subsequent stage following registration phase.

#### 2.1. Registration Documents

At no charge, Potential Investors may obtain the registration documents and information package, either at PPA website or at registration counter at the following address:

**PT PERUSAHAAN PENGELOLA ASET (PERSERO)**  
**SAMPOERNA STRATEGIC SQUARE, NORTH TOWER 9<sup>TH</sup> FLOOR**  
**JL. JEND. SUDIRMAN KAV. 45-46**  
**JAKARTA 12930**  
**TELP. +62-21-5798 2555, +62-21-5798 2556, +62-21-5798 2557**  
**FAX. +62-21-5798 2558**  
**Email: [ppahts.texmaco@ptppa.com](mailto:ppahts.texmaco@ptppa.com)**

The registration documents and information package will include the following:

- 1) Information package, consisting of:
  - a. Terms of Reference/ TOR
  - b. Teaser
  - c. Due diligence Protocol



- 2) Format of Letter of Compliance to be completed and submitted to PPA, consisting of, inter alia:
- a. Letter of Compliance
  - b. General undertaking
  - c. Confidentiality undertaking
  - d. Letter of Commitment on Settlement of Obligations to Labor
  - e. Statement of Liabilities to Third Parties

Notes:

- Each document and each attachment of the Letter of Compliance should be signed by authorized signatory or its power of attorney. (*See Terms and Conditions: Power of Attorney*)
- A Complete and signed Letter of Compliance should be submitted on November 30<sup>th</sup>, 2010 at the latest, at the registration counter at the above address.
- Should Potential Investors opt to participate in the Sale Program as a Consortium, each member of the Consortium must duly complete and submit the Letter of Compliance and other required documents with PPA (*See Terms and Conditions: Bidding Consortium*).
- Potential Investors which have completed and submitted the Letter of Compliance to PPA will obtain an ID Number (“Nomor Identitas Penawaran” or “NIP”), to be specified in the transfer confirmation slip of the Security Deposit. NIP will only be provided to Potential Investors which have submitted all registration requirements. NIP obtained by Potential Investors will only be effective when the Potential Investors have duly executed the Letter of Compliance and other required documents with PPA, as well as paid the Security Deposit that has been effective in the account of PPA. Each effective NIP entitles the holder to follow the due diligence phase and submit a bid. The holder of an effective NIP will be declared as Registered Investor.

## 2.2. Security Deposit

Potential Investors are obliged to pay a Security Deposit in cash. Security Deposit is due and payable prior to performing Due Diligence and at the very latest, on **November 30<sup>th</sup>, 2010** (*See Terms & Conditions: Payment Information*), in which the security deposit is categorized under the following:

1. For the Whole Packet, the total Security Deposit is IDR 50,000,000,000 (fifty billion Indonesian Rupiah) or USD 5,500,000 (Five and a half million US Dollars), AND
2. For the Partial Packet for **each** Holding Company (Textile or Engineering only), the total security deposit is IDR 25,000,000,000 (twenty five billion Indonesian Rupiah) or USD 2,750,000 (Two million and seven hundred fifty thousand US Dollars).

Letter of Compliance submitted by Potential Investors and the payment of Security Deposit to PPA’s account will be verified by PPA. Subsequently, PPA will send written notification to Potential Investors regarding the completion of Letter of Compliance and the entire registration requirements, the effective status of NIP, and the confirmation of Potential Investors as Registered Investors. Consequently, the Registered Investors are allowed to perform Due Diligence as governed in the Terms of Reference.



PPA reserves the rights to retain or claim the Security Deposit as such payment has been made, in the event that the following occurs:

1. Qualified Bidders withdraw from the Sale Program for whatever reason, after submitting a bid; and/or
2. Winning Bidder withdraws from the Sale Program for whatever reason, and/or fails to complete or fulfil its obligations under the Sale Program including but not limited the failure to sign the Transaction Documents and/ or make Payments on the purchase of Assets and payments on the Settlement of the Obligations to Labor based on previously specified schedule; and/or
3. PPA detects the existence of Conflict of Interest; and/or
4. Qualified Bidders fail to fulfil PPA's requirements as governed in this Terms of Reference.

Registered Investors who have paid the Security Deposit yet decide not to submit a Bid are entitled for Security Deposit refund (in full amount, without interest and in Rupiah, as placed beforehand).

The refund of Security Deposit as subject to the terms and conditions of this Terms of Reference, will be executed within 14 (fourteen) Business Days following the Winning Bidder Notification Date.

**Note for Winning Bidder: Security Deposit can be applied to the Second Payment by the Winning Bidder.**

PPA, at its sole discretion, has the rights to eliminate the participation of any Potential Investor in the Sale Program. As deemed necessary, PPA may request additional information to Potential Investors.

### **3. Due Diligence**

Due Diligence Period will be held on **August 16<sup>th</sup> – November 30<sup>th</sup>, 2010**, with the following conditions:

- Only Registered Investors, who have completed the administrative requirements and paid the Security Deposit which has been received by PPA, are eligible for performing Due Diligence.
- Due Diligence Documents will be provided in the form of:
  - Electronic documents. Registered Investors will receive data on Compact Disc/disk, and a PC will be available on Due Diligence site in PPA Custodian Building to access the same electronic documents.
  - Physical documents or hard copies will be available upon request after registering to check the Electronic documents as mentioned above on PPA's Custodian Buildings (on site due diligence).
- Due Diligence Documents will consist of working file as well as legal and security documents
- The terms and conditions of the Due Diligence are outlined in detail in Due Diligence Protocol, distributed along with this Terms of Reference.
- If any data or information discrepancy exists on Due Diligence Documents, Due Diligence Documents on PPA database shall prevail.

Site visit will be performed within the second two (2) weeks of Due Diligence Period (subject to confirmation from Texmaco Group). Onsite location for Site Visit will be determined by PPA and/or upon Potential Investor's request. Registered Investors



interested to participate should submit their site visit request at the latest 3 (three) Business Days prior to Due Diligence Period as mentioned above.

Prior to Due Diligence Period (subject to confirmation from Texmaco Group), the management of Texmaco Group will hold a presentation on the business state and future plan of the companies to the Potential Investor(s).

PPA has any rights to decide which Due Diligence Documents are necessary in order to facilitate Registered Investors in evaluating the Assets and determining the bid price. During Due Diligence Period, Registered Investors will be informed regarding legal and security documents, which will be transferred on the Closing Transaction. The Registered Investors, which did not perform Due Diligence, are assumed to agree to bear any risk which may have occurred, as a result of not performing Due Diligence.

Within Due Diligence Period, Registered Investors will receive the format of Transaction Documents before the Bidding Date, terms and conditions of which are final and non-negotiable.

PPA, at its sole discretion, has any rights to modify Transaction Documents as deemed necessary by PPA. Transaction Documents is in Bahasa Indonesia and governed by prevailing laws and regulations in Indonesia.

## 4. Bidding

### 4.1. Bid Submission

Registered Investors decided to submit the Bid (hereinafter referred to as "Qualified Bidders") should do so in a sealed envelope containing the Bid Letter, format of which is enclosed in Attachment A.6 of Letter of Compliance (Standard Form of Bid Letter). The Bid should be submitted on the Bidding Date: **December 1<sup>st</sup>, 2010 at the latest at 12.00 PM (Jakarta time), with a time stamp from PPA, in the format as mentioned in the attachment A6: Bid Letter Basic Format.**

Qualified Bidders should submit a Bid Letter that is final, binding and unconditional to all of financial claim instruments of each two options available in the Assets. Furthermore, PPA on its own discretion has the right to accept or to decline any offer or to consider any offer.

### 4.2. Offering Procedure

The holders of NIP who have paid the Security Deposit are eligible to submit a bid for the Assets.

The offer must comply with the following conditions:

1. **The bids must be formed for the total value of Assets, and stated as a percentage of the total value of Assets, using three decimals.** In the event that only two decimals applied in the proposed percentage, the third decimal will be assumed nil.
2. The bids must be final, binding and unconditional and, hence, each Qualified Bidder must have the capacity to purchase the offered Assets if its bid is determined by PPA as the winning bid;
3. All bids must remain valid for a period of 30 (thirty) Business Days after the Bidding Date, or earlier in the event Re-Bid occurs;
4. The Sale Program is an outright sale with two periodical cash payments; therefore no loss sharing will be applied.
5. Complete acceptance of and agreement with the terms and conditions as outlined in the



format of Transaction Documents.

The AOB of the Credit Assets and the nominal value of Assets Shares used as the base for the bid are the total amount of liabilities of Borrowers of Credit Assets as of **December 23th, 2010**, amount of which will be informed by PPA to Potential Investors before the Bidding Date. In the AOB, PPA (i) calculate accrued interest on Exchangeable Bonds since **December 8<sup>th</sup> 2005** to **December 23<sup>rd</sup>, 2010** (ii) does not calculate accrued interest on L/C BNI receivables.

AOB per **December 7th 2009** based on Minutes on Documents Handover from Minister of Finance to PPA is as detailed on the *Terms and Condition: Credit Assets*. Shares Nominal Value is IDR14.000.000 (fourteen million Rupiah), which is accounted for 70% (seventy percent) of ownership in PT Bina Prima Perdana (BPP) held by Minister of Finance and under the management of PPA.

AOB Credit Assets and Share Nominal Value shall be determined by PPA before the Bidding Date is final. However, PPA at its sole discretion has any rights to revise AOB Credit Assets and Share Nominal Value.

**Deadline for Bid Submission.** Qualified Bidders must submit the original and copy of Bid Letter, signed by authorized signatory (*see Terms and Reference: Power of Attorney*), in a sealed envelope. On the upper right-hand side should be marked "**Bid Price**". **The Bid Letter must be delivered on the Bidding Date, December 1<sup>st</sup>, 2010, at no later than 12.00 PM (Jakarta time)** to the following address:

**PT PERUSAHAAN PENGELOLA ASET (PERSERO)**  
**SAMPOERNA STRATEGIC SQUARE, NORTH TOWER, 9th FLOOR**  
**Attn. : MR. ANDI SADDAWERO – DIRECTOR**  
**TELP. +62-21-5798 2555, +62-21-5798 2556, +62-21-5798 2557**  
**FAX. +62-21-5798 2558**

## **5. Bid Assessment and Notification to Winning Bidder**

### **Bid Assessment Procedure**

Bid Letters received by PPA will be evaluated by the following procedures:

- 1) Bid Letter Envelopes will only be opened providing that Qualified Bidders have fulfilled and completed Letter of Compliance and other requirements as governed by this Terms of Reference.
- 2) Qualified Bidder with the highest Bid Price above or equal the Floor Price set by PPA will be determined as the Winning Bidder.
- 3) Re-bid will be performed in the event of bid price for both packet and partial prices are below the respective floor prices, in which all qualified bidders will allow to submit their Re-bid in a sealed envelope. The re-bid price must be higher than the previous bid-price. Invitation to re-bid will be sent by PPA on **December 2<sup>nd</sup>, 2010**. Re-Bid Letter must be submitted to PPA by **December 3<sup>rd</sup>, 2010** at 12.00 WIB (Jakarta time). After Re-Bid is performed, and if all bid prices for both partial and packet were still below their floor prices respectively, then PPA has the right to refrain from selling the assets.
- 4) In the event that the Winning Bidder fails to complete or fulfil its obligations within the timeframe set by PPA, PPA at its sole discretion may refrain from selling the Assets or to grant the rights to the Qualified Bidder with the next highest bid (that is above or equal to the Floor Price) to match its Bid to the highest Bid submitted by the unsuccessful Winning Bidder ("Right to Match"). Invitation letter will be sent to the next



highest bid to submit the Re-Bid Letter on **December 13<sup>th</sup>, 2010**. The Re-bid letter must be submitted to PPA by **December 14<sup>th</sup>, 2010** at 16.00 WIB (Jakarta time).

5) Winning assessment for Qualified Bidder

- a) In the event of total bid prices are above the floor price for both packet and partial, therefore potential investor with the highest bid will be notified as the winner.
- b) In the event of total bid prices are equally the same and are both above the floor price for packet and partial assets, therefore potential investor with bid price on the packet will be notified the winner.
- c) Bidding on the partial assets will only be put into consideration if there were bid offers on both Holding Companies, whereas in the event of only one holding company gets the bid offer therefore the partial bid will ceased.
- d) In the event of total partial bid price is higher than the packet bid price and both bid prices are above the floor price respectively, only to have one of the partial bid price to be below the floor price, therefore the following rules will apply:

- The Qualified Bidder who submitted bid on the packet assets will then be given Right to Match to raise the packet bid to equal to total bid price of the partial assets. In the event that the Qualified Bidder agrees to use its Right to Match that was offered, then will be notified as the winner.

PPA will send out an invitation to Qualified Bidder for Packet bid to perform packet bid right to match on **December 2<sup>nd</sup> 2010**. The delivery of Bid Price of Right to Match packet to PPA will be made at the latest on **December 3<sup>rd</sup>, 2010** with a **time stamp** approved by PPA at 12 PM (Jakarta time).

- In the event that the Qualified Bidder resisted its Right to Match then the other Qualified Bidder whose partial bid is below the floor price will then be given Right to Match to raise the partial bid price to equal to the other Qualified Investor whose bid price is above the floor price.

Invitation to Right to Match will be sent by PPA on **December 3<sup>rd</sup>, 2010**. The Right to Match letter must be submitted to PPA by **December 6<sup>th</sup>, 2010** with a **time stamp from PPA** at 12.00 PM (Jakarta time).

- In the event that the Qualified Bidder for Partial bid resisted its Right to Match, therefore the winner will be decided by Minister of Finance.

### Winning Bidder Notification

PPA will notify the Qualified Bidder determined by PPA as Winning Bidder in the following format:

- December 2<sup>nd</sup>, 2010, if there was no rebid or Right to Match,
- December 6<sup>th</sup>, 2010, if there is a rebid or Right to Match,
- December 8<sup>th</sup>, 2010, if there is Right to Match partial by Qualified Partial bidder

During this process, the Winning Bidder will be notified to settle the transaction according to the timeframe outlined below.

Qualified Bidder, which has been declared as the Winning Bidder, is obliged to submit original Legal Opinion issued by independent Law Firm in a country of domicile of the Winning Bidder to PPA, at the latest 1 (one) Business Day before the Second Payment Date. The format of the Legal Opinion must comply with the attachment A.5. Letter of Compliance.



## 6. Closing Transaction Procedure

### 6.1. Payments

#### Payments on Purchase of Assets

Payments on Purchase of Assets should be made in cash, as follows:

- First Payment, amounting to 40% of Sale Price, should be received in PPA's bank account within **T + 3 (3 Business Days after Winning Bidder Notification Date)**,
- Second Payment, amounting to 60% of Sale Price, should be received in PPA's bank account within **T + 10 (10 Business Days after Winning Bidder Notification Date)**. Security Deposit can be applied to this portion, for the component of Assets of Rupiah currency.

**All payments should be made in the currency of each component of Assets, as specified in the details of AOB value and Shares nominal value.**

### 6.2. Signing of Transaction Documents

The following events should occur on the Signing Date of Transaction Documents:

- The Winning Bidder is obliged to submit payment documents on the First Payment and Second Payment (after applying Security Deposit to this portion);
- Signing of Transaction Documents will be held at **December 23<sup>rd</sup>, 2010**, or other date as determined by PPA, provided that the Winning Bidder has made all required Payments to PPA.

### 6.3. Assets Documents Handover

Assets Documents Handover will be held on **December 27<sup>th</sup>, 2010**, until **December 31<sup>st</sup>, 2010** or other date as determined by PPA. PPA will only handover legal and security documents, which has been previously informed to Registered Investor during the Due Diligence. Transaction Documents signed by all parties will be delivered directly to all parties by the Notary.

All documents on Operating Companies, included but not limited to corporate documents, credit facilities documents as well as security documents will be submitted to security agents appointed by EB-1 and EB-2 holder(s) through Majority Bondholder decision mechanism as governed in Security Sharing Agreement Deed No. 89. dated July 2nd 2002, made before DR. H. Teddy Anwar, SH, SpN, Notary in Jakarta and Amended and Restated Exchangeable Bond Subscription Deed No. 50 and 51, both made before DR. H. Tedy Anwar, SH, SpN, Notary in Jakarta, dated 16th August 2002. Winning Bidder must deliver confirmation in writing on the appointment of the security agent.



### Schedule of Sale Program

No	Description	Scheduled Date
1	Announcement	August 13 <sup>th</sup> , 2010
2	Registration	August 16 <sup>th</sup> 2010 – November 30 <sup>th</sup> , 2010
3	Due Diligence	August 16 <sup>th</sup> 2010 – November 30 <sup>th</sup> , 2010
4	Acceptance period of Bid Letter, evaluation, and winner assessment:	December 1 <sup>st</sup> , 2010
	• Not necessary for Rebid or Right to Match on Packet Bid	December 1 <sup>st</sup> , 2010
	• If Rebid or Right to Match is necessary on Packet Bid	December 3 <sup>rd</sup> , 2010
	• If Right to Match is necessary on Partial Bid	December 6 <sup>th</sup> , 2010
5	Notification to Winner:	
	• Not necessary for Rebid or Right to Match on Packet Bid	December 2 <sup>nd</sup> , 2010
	• If Rebid or Right to Match is necessary on Packet Bid	December 6 <sup>th</sup> , 2010
	• If Right to Match is necessary on Partial Bid	December 8 <sup>th</sup> , 2010
6	First Payment	December 8 <sup>th</sup> , 2010 – December 13 <sup>th</sup> , 2010
7	Second Payment (final payment)	December 17 <sup>th</sup> , 2010 – December 22 <sup>nd</sup> , 2010
8	Signing of Transaction and Transfer of Documents	December 23 <sup>rd</sup> , 2010 – December 31 <sup>st</sup> , 2010

### Terms and Conditions

**Offered Assets** by PPA consisting Shares and Credits (Letter of Credit and exchangeable Bond), which they are as follows:

Packet	Group	Company	Instrument
A	Textile	• PT Bina Prima Perdana	• Share • <i>Exchangeable Bond credit</i>
		• PT Wastra Indah	• L/C credit
		• PT Texmaco Jaya	• L/C credit
		• PT Polysindo Eka Perkasa Tbk. (sekarang bernama PT Asia Pacific Fibers Tbk.)	• L/C credit
B	<i>Engineering</i>	• PT Jaya Perkasa Engineering	• <i>Exchangeable Bond credit</i>

PPA is offering the following:

1. Total Packet (whole): consisting Packet A + Packet B (Group Textile + Group *Engineering*), or
2. Partial Packet: consisting Packet A (Group Textile) or Packet B (*Group Engineering*)



**Credit Assets.** The Outstanding (AOB) of Credit Assets per December 7<sup>th</sup>, 2009 is as follows:

Borrowers of Credit Assets	Instrument	Currency	Principal	Interest / Coupon	Total Balance
PT Jaya Perkasa Engineering	Exchangeable Bonds	IDR	5,717,472,088,355	3,348,469,292,279	9,065,941,380,634
		USD	1,472,183,134	289,934,200	1,762,117,334
PT Bina Prima Perdana	Exchangeable Bonds	IDR	5,280,948,791,732	1,830,831,599,583	7,111,780,391,315
		USD	284,829,995	89,757,051	374,587,046
	Shares	IDR	14,000,0000	-	14,000,000
PT Texmaco Jaya Tbk.	Hak Tagih eks-L/C	IDR	30,601,012,777	-	30,601,012,777
		USD	203,814	-	203,814
PT Wastra Indah	Hak Tagih eks-L/C	IDR	878,417,642	-	878,417,642
PT Asia Pacific Fibers Tbk (formerly PT Polysindo Eka Perkasa Tbk.)	Hak Tagih eks-L/C	IDR	38,468,048,072	-	38,468,048,072
		USD	80,366,458	-	80,366,458
<b>Total</b>		<b>IDR</b>	<b>11,068,382,358,578</b>	<b>5,179,300,891,862</b>	<b>16,247,683,250,440</b>
		<b>USD</b>	<b>1,837,583,401</b>	<b>379,691,252</b>	<b>2,217,274,652</b>

Value of AOB from the Credit Assets and the nominal value of Share Assets which offered to be used as the basis of Bidding Price is the obligation sum of Borrowers of Credit Assets per November 10<sup>th</sup>, 2010 which will be determined by PPA and informed to the Potential Investors before the Bidding Date.

**Shares. Series A** Shares in BPP owned by the Minister of Finance Republic of Indonesia and transferred under the management of PPA, consisting of 140 shares with total nominal value of IDR14,000,000.00 (fourteen million Indonesian Rupiah), composing 70% of BPP's paid up capital.

**Reserve Rights.** PPA reserves the rights to accept or reject requests or waive any formalities or technicalities with respect to submissions received. PPA, at its sole discretion, reserves the rights to cancel, withdraw, replace, add or change the composition of the Assets. In the event that PPA decides to cancel, withdraw or replace the Assets and a Registered Investor that has given a Security Deposit decides not to bid for the Assets, PPA will refund or return said Registered Investor's Security Deposit without interest in accordance with a predetermined schedule. Potential Investors opting to participate in the Sale Program with the terms and conditions as outlined herein do so without recourse against PPA, its employees, advisors or consultants for any reason whatsoever. Potential Investors acknowledge and agree to bear all the risks arising from bidding and/or purchasing the Assets. PPA offers no commitment in any form, either before or after PPA's term of office elapses.

**Decision of PPA.** Each and every single decision made by PPA in each and/or all part(s) in the Sale Program is absolute, final, binding and unconditional, without the need to provide any reason thereof, and incontestable.

**Taxes and Expenses.** All costs, expenses and taxes consequences incurred in connection with Sale Program as outlined herein, including but not limited to legal (including notary fees), re-registration, and due diligence expenses (including site visit expenses) as well as other transfer expenses, are not reimbursable and will be borne solely by Potential Investors/ Registered Investors/ Qualified Bidders/ Winning Bidder. The Winning Bidder shall appoint a public notary from PPA's list of approved notaries.



**Application of Evaluation Criteria.** PPA, at its sole discretion, reserves the rights to modify its internal evaluation criteria (without any notification) as deemed appropriate, without the need to provide any reason thereof. Every decision of PPA is absolute, final, binding and unconditional, and incontestable.

**Bidding Consortium.** A Bid may be submitted by a Consortium, provided that all consortium members have duly executed the Letter of Compliance and have fulfilled the qualification requirements and documents. After being registered as a Consortium, the composition of the said Consortium may not be amended. Each consortium are obliged to place one Security Deposit and shall be provided one NIP which will entitle the Consortium to submit one Bid once it becomes effective. No Potential investors will be permitted to participate in more than one Consortium. The names of each member in the Consortium must be disclosed in the Bid Letter. The Bid Letter and Transaction Documents should be signed by all members of the Consortium. For correspondence matters, PPA will liaise only with the Consortium Coordinator, which has been appointed and therefore authorized, by all members of the Consortium.

**Conflict of Interest.** Parties classified having Conflict of Interest include the following:

- 1) Borrowers to PPA;
- 2) Parties, shares of which is under the management of PPA, with shareholding of 20% or more, and/or equity participation as a result of debt to equity conversion following restructuring scheme of its debts ("PPA's Equity Participation Company");
- 3) Affiliates/ subsidiaries of Borrowers of Credit Assets as defined in this Terms of Reference (*see Terms & Conditions: Affiliates*);
- 4) The guarantors to the debts of Borrowers of Credit Assets and Borrowers to PPA (the Guarantors);
- 5) Acquiring the Assets in connection with or on behalf of the (i) Borrowers of Credit Assets; and/ or (ii) Borrowers to PPA; and/ or (iii) PPA's Equity Participation Company; and/ or (iv) Guarantors and/ or (v) Affiliates; and/or (vi) ex shareholders of Recapitalization Bank as described in Government Regulation No.17 Year 1999 on Indonesian Bank Restructuring Agency, who have yet to settle their liabilities to the Republic of Indonesia;
- 6) Acquiring the Assets and sell the Assets or cause to be sold to the: (i) Borrowers of Credit Assets; and/ or (ii) Borrowers to PPA; and/ or (iii) PPA's Equity Participation Company; and/ or (iv) Guarantors and/ or (v) Affiliates; and/or (vi) ex shareholders of Recapitalization Bank as described in Government Regulation No.17 Year 1999 on Indonesian Bank Restructuring Agency, who have yet to settle their liabilities to the State;
- 7) Any officer, director/commissioner of PPA (including spouse and children thereof);
- 8) Consultants of PPA including their officers, involved in the process of Sale Program;
- 9) Notary/ Substitute Notary appointed to support the Sale Program;

**Affiliates.** Potential Investors (including their shareholders, management, officers, or proxies) are prohibited to affiliate with the Borrowers of Credit Assets (including their shareholders, management, officers, or proxies) in the form of:

- 1). Family Relationship caused by:
  - (i) Marriage, consisting of:
    - husband or wife;



- vertical I degree → parents (bloodline/step/foster) from husband or wife and husband or wife from child (bloodline/ step/foster);
  - vertical II degree → grandfather and grandmother (bloodline/step/foster) from husband or wife and husband or wife from grandchild (bloodline/step/foster);
  - horizontal I degree → brother or sister (bloodline/step/foster) from husband or wife including husband or wife from the respective brother or sister;
  - horizontal II degree → husband or wife from the brother or sister of the respective person.
- (ii) Descendant, consisting of:
- vertical I degree → parent (bloodline/step/foster) and child (bloodline/step/foster);
  - vertical II degree → grandfather and grandmother (bloodline/step/foster) including grandchild (bloodline/step/foster);
  - brother or sister (bloodline/step/foster) from the respective person.
- 2). Relationship caused by employment: a party has employees working to the other party, in which the other party has the rights to control and direct the said employees to work, as being paid of regular salary or wages.
  - 3). Relationship caused by having one or more the same member of directors and/or board of commissioner.
  - 4). Relationship where a party, directly or indirectly, controlling or being controlled by the other party or has the ability to determine, directly or indirectly, in any way the operational policy, management, and/or any other party's policy, and the rights or ability to agree or appoint the other's management.
  - 5). Relationship between 2 (two) parties controlled, directly or indirectly, by the same party.
  - 6). Relationship caused by the ownership of shares: a party, directly or indirectly, has shares/voting rights from the total shares with voting rights which are issued by the other party, and/or both parties have shares in the same company, and/or both parties have shares which are controlled collectively or through the third party acting for and on behalf of both parties/nominee shares.
  - 7). Cooperation relationship, with or without written agreement, to take actions in order to achieve a purpose of collective interest.
  - 8). Relationship caused by financial interdependence.

**Sanction if Conflict of Interest exists and/or purchase of Assets is motivated by certain factors violating the prevailing laws and regulations, or causing violation against the prevailing laws and regulations.** Should there be legal evidence of Conflict of Interest and/or the purchase of Assets is motivated by certain factors violating the prevailing laws and regulations, or causing violation against the prevailing laws and regulations, including not to create a monopoly in the related industries (i.e. not violating Law No. 5 / 1999 on Prohibition of Monopoly & Unfair Competition and any prevailing anti-trust laws in the investor's country of origin); PPA at its sole discretion, reserves the rights to take the following actions:

1. To discard the participation of the Registered Investors/ Qualified Bidders in the Sale Program
2. To cancel the confirmation of the said bidder as Winning Bidder (In the event that the



said bidder has been announced as Winning Bidder) and retain the Security Deposit as placed by the bidder, and/or

3. To cancel the sale and purchase of the Assets (in the event that sale and purchase as well as signing of the Transaction Documents have been executed) including the termination of Transaction Documents, and retain the Security Deposit as well as all Payments received by PPA with regards to the Sale Program. In the event that hand over of the legal and security documents, and/or Transaction Documents has taken place, the Winning Bidder is obliged to return to PPA all of the above mentioned documents handed over to Winning Bidder. All costs and expenses arising from the cancellation of the sale and purchase of Assets and the termination of the Transaction Documents will be borne by Winning Bidder.

The cancellation and termination of the transaction, as well as the execution of Security Deposit and any Payments by PPA is absolute, final, binding and unconditional, without the need to provide any reason thereof, and/or without the need to obtain any court decision therefore.

**Power of Attorney.** In the event that the signatory of the documents related to the Assets is an attorney of the investor/ bidder, the investor/ bidder must deliver to PPA an original irrevocable Power of Attorney (made before or legalised by a Notary), which is valid and legally binding under the relevant laws and authorises the person(s) to sign the documents related to the Assets and to take any other actions related to the bidding process, including but not limited to actions during registration and closing of the transaction. In the event that the Power of Attorney is issued outside Indonesia, the Power of Attorney should be legalised by a Notary Public who has jurisdiction in that country, and the same shall also be consularised by the Indonesian Embassy or Consulate therein.

**Confidentiality Agreement.** The Potential Investors are prohibited to disclose each and every data and information related to the Sale Program to either the Borrowers of Credit Assets, the Guarantors, the Affiliated Parties, the press, or any other non-relevant parties (and as further agreed in the Letter of Compliance signed by each bidder) unless permitted by PPA. PPA reserves the rights to disqualify from the Sale Program, and retain or claim against the refundable Security Deposit as placed by any bidder who violates this requirement. Any interaction with the Borrowers of Credit Assets will only be possible, if pre-arranged by PPA.

**Source of Fund.** Potential Investors are obliged to represent and warrant that the source of fund utilized to purchase the Assets is neither directly nor indirectly:

- a. Originated from:
  - i. Result of wrongful act and/or criminal act (including criminal act as outlined in Law No. 15 Year 2002 on Money Laundering, corruption as outlined in Law No. 31 Year 1999 on eradication of corruption) or any other sources illegal according to prevailing laws and regulations; and/or
  - ii. Parties which have Conflict of Interest as outlined in the Terms and Conditions; and/or
- b. In dispute or may cause any dispute either in civil and/or criminal claims.

**Sanction if Source of Fund violates the terms and conditions outlined in this Terms of Reference.** Should there be legal evidence that source of fund utilized to purchase the Assets originated from a result of wrongful act, so that the fund is executed by authorized parties, PPA at its sole discretion, reserves the rights to take the following actions:

1. To discard the participation of the Registered Investors/ Qualified Bidders in the Sale Program
2. To cancel the confirmation of the said bidder as Winning Bidder (in the event that the



- said bidder has been announced as Winning Bidder), and/or
3. To cancel the sale and purchase of the Assets (in the event that sale and purchase of Assets as well as signing of the Transaction Documents have been executed) including the termination of Transaction Documents. In the event that hand over of the legal and security documents, and/or Transaction Documents has taken place, the Winning Bidder is obliged to return to PPA all of the above mentioned documents handed over to Winning Bidder, and restore the legal status of the Assets to the former status before signing of Transaction Documents. All costs and expenses arising from the cancellation of the sale and purchase of Assets and the termination of the Transaction Documents will be borne by Winning Bidder.
  4. Security deposit will not be returned and shall be retained by PPA

The cancellation and termination of the transaction, is absolute, final, binding and unconditional, without the need to provide any reason thereof, and/or without the need to obtain any court decision therefore.

***Sanction if representations and warranties undertaken by Registered Investors in Letter of Compliance, including its attachments, are incorrect or misleading***

Should there be evidence that representations and warranties undertaken by Registered Investors in Letter of Compliance, including its attachments, are incorrect or misleading, PPA at its sole discretion, reserves the rights to retain and claim the Security Deposit as well as all Payments delivered previously and received by PPA.

***Termination of the Sale Program in the event of Force Majeure.*** PPA reserves the rights at its sole discretion to delay or terminate the sales process, or any and all Bids, including the winning bid in the event that the Force Majeure occurs. When such termination occurs PPA will return the Security Deposit and any Payments previously received by PPA, to the Registered Investors/ Winning Bidder.

***Payment Information.*** All payments relating to the Sale Program (Security Deposit and Payments on the purchase of the Assets) must be made in cash (by wire transfer). Payments for assets denominated in IDR must be paid in IDR. Payments for the Assets should be denominated in the currency as determined by PPA and governed in this Terms of Reference. All electronic bank transfers should be made to the following account:

#### Payment of Security Deposit

Designated Bank	:	PT Bank Mandiri Tbk Cab. Mid Plaza Jakarta
Account Name/ Beneficiary	:	PT PPA/ Hasil Peng Aset
Account Number	:	122-0004161017
Currency	:	Rupiah
Description	:	Security Deposit payment of Sale Program [Potential Investor Name] NIP No.

**Payment of Security Deposit**

Designated Bank : PT Bank Mandiri Tbk Cab. Mid Plaza Jakarta  
Account Name/ Beneficiary : PT PPA/ Hasil Peng Aset  
Account Number : 122-0004161066  
Currency : Dollar  
Description : Security Deposit payment of Sale Program  
[Potential Investor Name]  
NIP No.

**First Payment (Rupiah)**

Designated Bank : PT Bank Mandiri Tbk Cab. Mid Plaza Jakarta  
Account Name/ Beneficiary : PT PPA/ Hasil Peng Aset  
Account Number : 122-0004161017  
Currency : Rupiah  
Description : First Payment of Sale Program (Rupiah)

**First Payment (USD)**

Designated Bank : PT Bank Mandiri Tbk Cab. Mid Plaza Jakarta  
Account Name/ Beneficiary : PT PPA/ Hasil Peng Aset  
Account Number : 122-0004161066  
Currency : USD  
Description : First Payment of Sale Program (USD)

**Second Payment (Rupiah)**

Designated Bank : PT Bank Mandiri Tbk Cab. Mid Plaza Jakarta  
Account Name/ Beneficiary : PT PPA/ Hasil Peng Aset  
Account Number : 122-0004161017  
Currency : Rupiah  
Description : Second Payment of Sale Program (Rupiah)

**Second Payment (USD)**

Designated Bank : PT Bank Mandiri Tbk Cab. Mid Plaza Jakarta  
Account Name/ Beneficiary : PT PPA/ Hasil Peng Aset  
Account Number : 122-0004161066  
Currency : USD  
Description : Second Payment or the final payment of Sale Program (USD)



Qualified Bidders fail to win the Bid will receive their placed Security Deposit with no interest.

In the event that the Winning Bidder fails to make Payments and close the transaction on the predetermined schedule, PPA reserves the rights to refrain from selling the Assets or to apply certain procedure and mechanism further determined by PPA, in order to establish the subsequent Winning Bidder.

In the event that the PPA receives any payments on a later date than the predetermined schedule, PPA shall charge penalty of 24% (twenty four percent) p.a. from the related payments, calculated on daily basis after the due date of the related payments.

**Refund of Security Deposit.** Registered Investors/ Qualified Bidders are requested to provide a standing order/ instruction for the return of the Security Deposits as placed by the investors/ bidders, at the latest 10 (ten) days after the Winning Bidder Notification Date, in the event that their bids are unsuccessful, or if they withdraw from the auction prior to submitting their bids. The Security Deposit will be refunded or returned in full, in the original denomination, within 14 (fourteen) Business Days after the Winning Bidder Notification Date, provided that such written instruction has been received by PPA. There will be no interest paid on Security Deposits held by PPA.

**Governing Law.** It is each investor's/ bidder's responsibility to be fully acquainted with the laws and regulations of Indonesia as they pertain to the Sale Program. The governing laws of the Transaction Documents will be those of Indonesia and will be in Bahasa Indonesia. This Terms of Reference is issued in English and Bahasa Indonesia. The Bahasa Indonesia version shall prevail in the event of any conflict and/or misinterpretation between the Bahasa Indonesia and the English version. .

**Dispute Settlement.** Any disputes arising from the Sale Program will be settled through arbitration and will be conducted at the Jakarta office of the Badan Arbitrase Nasional Indonesia (BANI), with governing laws of Indonesian law.

**Additional Queries.** Should you have questions in relation to the Sale Program, please contact the following:

**PT PERUSAHAAN PENGELOLA ASET (PERSERO)  
SAMPOERNA STRATEGIC SQUARE, NORTH TOWER – 9<sup>TH</sup> FLOOR  
ATTN. : BASYA G. HIMAWAN  
TELP. +62-21-5798 2555, +62-21-5798 2556, +62-21-5798 2557  
FAX. +62-21-5798 2558  
Email: [ppahts.texmaco@ptppa.com](mailto:ppahts.texmaco@ptppa.com)**