

Any money received by the OWNER under any policy or policies of insurance shall be held by the OWNER for proportionate payment to the CONTRACTOR in respect of any appropriate repairs undertaken and/ or replacement(s) made by the CONTRACTOR. Should the CONTRACTOR fail to undertake in whole or part such repairs and/or replacement(s) and other works necessary consequent upon the occurrence of any contingency covered by such insurance, OWNER shall be entitled to get the work done in whole or parts for such repair/ replacement through any other agency, without prejudice to any other rights or remedies available to the OWNER, at the sole risk & cost of the CONTRACTOR.

6.4. DIGITAL PAYMENTS

In order to encourage and facilitate card / digital payments, in line with Office Memorandum of Ministry of Finance, Govt of India (F. No.-01/02/2015-Cy.II-Vol-V dtd 29th Feb, 2016) Vendor / contractor has to ensure all payments to Workmen, Subcontractors and Suppliers of Materials & Services are made in the form of e-Payment only, as per due dates, where ever applicable.

The Contractor has to ensure payment of wages through e payment only within stipulated time i.e. on or before 7th of following month of the wage period.

7.0 PAYMENTS OF CONTRACTOR'S BILL

7.1. TERMS OF PAYMENT

Payments shall be made to the CONTRACTOR as per the "Terms of Payment" as defined in **Annexure-II to SCC**.

7.2. "In the partial modification of clause 7. of GTC works, following shall be applicable

7.2.1. Progress payment shall be made to the Contractor against running bills as per Order while withholding retention money (Where PBG has not been provided) as per the General Terms & Conditions of Work Contract.

Note:

(i) All payments except final bill can be released in 2 (two) stages as follows :

75% of bill amount duly recommended by HPCL shall be paid in 7 days of receipt of certified bill at HPCL disbursement section. Balance 25% to be paid after verification / certification within 15 days of receipt of certified bill at HPCL disbursement section.

Final bill shall be paid within 30 days of receipt of certified bill at HPCL disbursement section, complete in all respects as per tender.

(ii) Wherever possible payment shall be tendered to Contractor in electronic mode (e payment) through any of the designated banks. The Contractor will comply by furnishing the particulars of Bank account (mandate — as per Proforma attached in tender document) to which payment will be routed. Owner reserves the right to make payment in any alternate mode also. The Contractor shall provide accurate particulars of PAN number as required to enable issuance of TDS certificate.

(iii) No Interest charges for delay in payments, if any, shall be payable by the Owner.

- (iv) Security Deposit / Performance Bank Guarantee shall be provided as per the provisions contained in General Terms and Conditions of Contract.

Bidder to also note that applicable CPBG/Retention money shall be applicable @3% (instead of 10% as mentioned in GTC). The CPBG/Retention amount shall be calculated at 3% on total order value (defined in tender)

- (v) Bidders to note that Advance Payment is not permissible in the contract.

7.3 Contractor shall prepare the Bills/ Invoices State & Station wise.

7.4 Documents to be submitted along with Running Account (RA) Bill.

A. Bill Specific

- i. Invoice in quadruplicate. Every invoice of the vendor shall contain invoice number, date, GSTIN number and HSN/SAC code (Harmonized system of Nomenclature/service accounting code) for the items being supplied or services being provided along with tax rate. GST shall be paid against receipt of Tax invoice and proof of payment of GST to Government. In case of non-receipt of tax invoice or non-payment of GST by the Contractor, HPCL shall withhold the payment of GST.
The Vendor shall mention their registration status (Registered / Composition / Unregistered) on the bill/invoice.
- ii. Measurement sheet duly signed by contractor and certified by HPCL.
- iii. Abstract of measurement sheet and work done till previous bill, the running and cumulative quantity certified by HPCL.
- iv. Documentary evidence towards payment of ESI, EPF etc. as per statute.
- v. Wage sheets for the labour engaged.
- vi. Undertaking that Contractor has complied with all statutory requirements including updating of QA/QC, CTE and other Registers as required under the Order during the period for which the progress payment has been claimed.
- vii. MTC, IRN for supply items.
- viii. Details / statement of Payments made to all approved sub-vendors along with relevant acquaintances pertaining to the payments

B. General

- i. Copy of valid Contractor's "All Risk Policy"(if applicable)
- ii. Copy of Indemnity Bond for Free Issue Material (if FIM applicable)
- iii. Copy of valid Employee Insurance Policy.
- iv. Copy of valid Workman Compensation Insurance Policy.
- v. Power of Attorney in the name of person signing the bill & person signing the Indemnity bond.
- vi. Any other document as required by HPCL.

7.4.1 Documents to be submitted along with Final Bill.

- i) Invoice in quadruplicate. Invoice of the vendor shall contain invoice number, date, GSTIN number and HSN/SAC code (Harmonized system of Nomenclature/service accounting code) for the items being supplied or services being provided along with tax rate. GST shall be paid against receipt of Tax invoice and proof of payment of GST to Government. In case of non-receipt of tax invoice or non-payment of GST by the Contractor, HPCL shall withhold the payment of GST.
The Vendor shall mention their registration status (Registered / Composition / Unregistered) on the bill/invoice.
- ii) Measurement Sheet duly signed by contractor and certified by HPCL
- iii) Abstract of measurement sheet with cumulative quantity certified by HPCL.

- iv) No-Claim Certificate declaring that there are no balances or pending Claims from HPCL towards the subject Order.
- v) No-Due declaration indicating that there are no balance dues to his sub-vendor / subcontractors along with the Final Bill.
- vi) Copies of statutory documents as required by HPCL.
- vii) Reconciliation statement of HPCL supplied material
- viii) Site clearance including dismantling of temporary store/office as instructed by HPCL.
- ix) All required technical documents stated elsewhere in the tender document.

7.5 DELETED

8 CONFIDENTIALITY

Neither OWNER nor CONTRACTOR nor their personnel, agents nor any sub-CONTRACTOR shall divulge to any one (other than persons designated by the party disclosing the information) any information designated in writing as confidential and obtained from the disclosing party during the course of execution of the works so long as and to the extent that the information has not become part of the public domain. This obligation does not apply to information furnished or made known to the recipient of the information without restriction as to its use by third parties or which was in recipient's possession at the time of disclosure by the disclosing party. Upon completion of the works or in the event of termination pursuant to the provisions of the contract, CONTRACTOR shall immediately return to OWNER all drawings, plans, specifications and other documents supplied to the CONTRACTOR by or on behalf of OWNER or prepared by the CONTRACTOR solely for the purpose of the performance of the works, including all copies made thereof by the CONTRACTOR.

9 PATENTS, INFRINGEMENT & INDEMNITY:

- 9.1 Seller shall protect and fully indemnify Purchaser from any claims for infringement of patents, copyright, trade mark or the like.
- 9.2 Seller shall also protect and fully indemnify Purchaser from any claims from Seller's workmen/employees, their heirs, dependents, representatives etc. Or from any other persons/persons or bodies/companies etc. for any act of commission or omission while executing this Order.
- 9.3 Seller shall be responsible for compliance with requirements under the laws and shall protect and indemnify completely Purchaser from any claims/penalties arising out of any infringements.

10 CHANGE ORDERS:

- 10.1 A change order will be initiated in case:
 - i. The Owner directs the Contractor to include any addition to the scope of work not covered under this contract or deletes any part of the scope of the work under the contract.
 - ii. Contractor requests to delete any part of the work which will not adversely affect the operational capabilities of the project and if agreed by the Owner and for which cost and time benefits shall be passed on to the Owner.

- 10.2 Any changes required by the Owner before giving their approval to detailed procedure or any other document relating to material procurement, layout plans etc for complying with the requirements of bidding document shall not be construed to be a change in the scope of work under the contract.
- 10.3 Any change order as above comprising an alteration which involves a change in the cost of the works (which sort of alteration is hereinafter called a "Variation") shall be the subject of an amendment to the contract by way of an increase or decrease in the contract price and adjustment of the Construction Schedule if any.
- 10.4 If the contract provides applicable rates for the valuation of the variation in question the contract price shall be increased or decreased in accordance with those rates. If the parties agree that the contract does not contain applicable rates then the parties shall negotiate a revision of the contract price which shall represent the change in cost of the works caused by the variations. Any change order must be duly approved by the Owner in writing.
- 10.5 If there is a difference of opinion between Contractor and Owner whether a particular work constitutes a change order or not, the matter shall be handled in accordance with the procedures set forth in Para 18.7 below.
- 10.6 Within 10(Ten) working days of receiving the comments from the Owner on the documents submitted by the Contractor for approval, the Contractor's response in writing stating which item(s) is/are potential change (s), if applicable, will be submitted to the Owner.

Procedure

- 10.7 During execution of work if the Contractor observes that any new requirements which is not specific or intended in the bidding document has been indicated by Owner, they shall discuss the matter with Owner's representatives.
- 10.8 In case such requirement arises from the side of the Contractor they would also discuss the matter with Owner's Representative.
- 10.9 In either of the two cases above, the representatives of both the parties shall discuss the project requirement and mutually decide whether the project requirement constitutes a change order.
- 10.10 If it is mutually agreed that the project requirement/Inquiry constitutes a "Change Order" then a joint memorandum will be prepared to confirm a "Change Order" and basic ideas of necessary agreed modifications.
- 10.11 Contractor will study the work required in accordance with the Joint memorandum and assess subsequent schedule and cost effect if any.
- 10.12 The results of this study would be discussed mutually to enable Owner to give a final decision whether Contractor should proceed with the Change Order or not, in the best interest of the Project.
- 10.13 If Owner's representative accepts the change order in writing then Contractor shall proceed with the work stipulated in the Change order. Time worked by all workmen employed and a statement showing the description and quantity of all materials and plant utilised for extra work shall be submitted to Owner. The Owner's representative shall sign and return to the

Contractor the statement, as agreed. At the end of each month the Contractor shall deliver to the Owner's representative a priced statement of the labour, materials and plant used. Whenever any dispute arises as to cost allocation between the Contractor and the Owner, the voucher shall nevertheless be signed by the Owner as a record of time worked and materials used. List and vouchers so signed will be the subject of negotiations between the Owner and the Contractor regarding their costs allocation.

- 10.14 In case, mutual agreement as above that is whether Project Requirement constitutes a Change order or not, is not reached, then Contractor, in the interest of the project, shall take up the implementation of the work, if advised in writing to do so by Owner's representative pending settlement between the two parties to the effect whether the Project Requirement constitutes a change order or not as per the terms and conditions of Contract Documents.
- 10.15 The time and cost effect in such a case shall be mutually verified for the purpose of record. Should it be established that the said work constitutes a Change Order, the same shall be compensated taking into account the records kept and in accordance with the contract.
- 10.16 Should the amount of extra work/ change order, if any, which the Contractor may be required to perform under instructions from the Owner, fairly entitle the Contractor to extensions of time beyond the scheduled completion date for completion of either the whole of the works or for such extra work only, the Owner and the Contractor shall mutually discuss and decide the extension of time, if any to be granted to the Contractor.

11 GOVERNMENT OF INDIA NOT LIABLE

It is expressly understood and agreed by and between the CONTRACTOR and the OWNER that the OWNER is entering into this agreement solely on its own behalf and not on behalf of any other person or entity. In particular, it is expressly understood and agreed that the Government of India is not a party to this agreement and has no liabilities, obligations or rights there under. It is expressly understood and agreed that the OWNER is an independent legal entity with power and authority to enter into contract, solely in its own behalf under the applicable laws of India and general principal of Contract Law. The CONTRACTOR expressly agrees, acknowledges and understands that the OWNER is not an agent, representative or delegate of Govt. of India. It is further understood and agreed that the Govt. of India is not and shall not be liable for any acts, omissions, commissions, breaches or other wrongs arising out of the contract. Accordingly, CONTRACTOR hereby expressly waives, releases and foregoes any and all actions or claims, including cross claims, impleader claims or counter claims against the Govt. of India arising out of this contract and covenants not to sue to Govt. of India as to any manner, claim, cause of action or thing whatsoever arising of or under this agreement.

12 JURISDICTION

The CONTRACT shall be governed by and constructed according to the laws in force in India. The CONTRACTOR hereby submits to the jurisdiction of the Courts situated at Mumbai for the purposes of disputes, actions and proceedings arising out of the CONTRACT, the courts at Mumbai only will have the jurisdiction to hear and decide such disputed, actions and proceedings.

13 ARBITRATION

Clause 14 of GTC works stands replaced by the following:

- a) All disputes and differences of whatsoever nature, whether existing or which shall at any time arise between the parties hereto touching or concerning the contract, meaning, operation or effect thereof or to the rights and liabilities of the parties or arising out of or in relation thereto whether during or after completion of the contract or whether before after determination, foreclosure, termination or breach of the contract (other than those in respect of which the decision of any person is, by the contract, expressed to be final and binding) shall, after written notice by either party to the contract to the other of them and to the Appointing Authority hereinafter mentioned, be referred for adjudication to the Sole Arbitrator to be appointed as hereinafter provided.
- b) The appointing authority shall nominate an officer/ retired officer of Hindustan Petroleum Corporation Limited (referred to as owner or HPCL) or a retired officer of any other Government Company in the Oil Sector of the rank of Chief Manager & above or any retired officer of the Central Government not below the rank of a Director to the Govt. of India, to act as the Sole Arbitrator to adjudicate the disputes and differences between the parties. The contractor/vendor shall not be entitled to raise any objection to the appointment of such person as the Sole Arbitrator on the ground that the said person is/was an officer (employee) and/or shareholder of the owner, another Govt. Company or the Central Government or that he/she has to deal or had dealt with the matter to which the contract relates.
- c) In the event of the Arbitrator to whom the matter is referred to, does not accept the appointment, or is unable or unwilling to act or resigns or vacates his office for any reasons whatsoever, the Appointing Authority, shall nominate another person as aforesaid, to act as the Sole Arbitrator.
- d) Such another person nominated as the Sole Arbitrator shall be entitled to proceed with the arbitration from the stage at which it was left by his predecessor.
- e) It is expressly agreed between the parties that no person other than the Appointing Authority or a person nominated by the Appointing Authority as aforesaid, shall act as an Arbitrator. The failure on the part of the Appointing Authority to make an appointment on time shall only give rise to a right to a Contractor to get such an appointment made and not to have any other person appointed as the Sole Arbitrator.
- f) The Award of the Sole Arbitrator shall be final and binding on the parties to the contract. The work under the Contract shall however, unless suspended by the Owner, continue during the Arbitration proceedings and no payment due or payable to the concerned party shall be withheld (except to the extent disputed) on account of initiation, commencement or pendency of such proceedings.
- g) The Arbitrator may give a composite or separate Award(s) in respect of each dispute or difference referred to him and may also make interim award(s) if necessary.
- h) The fees of the Arbitrator and expenses of arbitration, if any, shall be borne equally by the parties unless the Sole Arbitrator otherwise directs in his award with reasons. The lumpsum fees of the Arbitrator shall be Rs 70,000/- per case for transportation contracts and Rs 1,00,000/- for engineering contracts. Reasonable actual expenses for stenographer, etc. will be reimbursed. Fees shall be paid stage wise i.e. 25% on acceptance, 25% on completion of pleadings/documentation, and balance 50% on completion of arguments and receipt of award by the parties.

- i) Subject to the aforesaid, the provisions of the Arbitration and Conciliation Act, 1996 or any statutory modification or re-enactment thereof and the rules made thereunder, shall apply to the Arbitration proceedings under this Clause.
- j) The Contract shall be governed by and constructed according to the laws in force in India. The parties hereby submit to the exclusive jurisdiction of the Courts situated at Mumbai for all purposes. The Arbitration shall be held at a place convenient to both parties and failing an agreement, the Arbitrator shall decide the venue. The Arbitration shall be conducted in English language.
- k) The Appointing Authority is the Director-Marketing of Hindustan Petroleum Corporation Limited.

ARBITRATION: PUBLIC SECTOR VS GOVERNMENT DEPT. VICE VERSA

In case of contracts/agreement to be executed between Public Sector Enterprises / Government Departments, following clause is applicable:

"In the event of any dispute or difference between the parties hereto, such dispute or difference shall be resolved amicably by mutual consultation or through the good offices of empowered agencies of the Government. If such resolution is not possible, then, the unresolved dispute or difference shall be referred to arbitration of an arbitrator to be nominated by Secretary, Department of Legal Affairs ("Law Secretary"). The Arbitration & Conciliation Act, 1996 shall not be applicable to the Arbitration under this clause. The award of the arbitrator shall be binding upon the parties to the dispute, provided, however, that any party aggrieved by such award may appeal for setting aside or revision of the award to Law Secretary whose decision shall bind the parties finally and conclusively. The said appeal should be filed within the period specified in the award of the arbitrator."

It is essential that, to avoid delay in nomination of arbitrator or initiation of arbitration proceeding, the Arbitration Clause or Agreement, as the case may be, is forwarded without fail at the time of making request for reference to the Law Secretary or Department of Legal Affairs.

Arbitration clause for other CPSE's, Central Government/Departments and State Governments/ Departments/ Organizations except agreements with Railways, Income Tax, Customs and Excise Departments shall be as follows:

In the event of any dispute or difference relating to the interpretation and application of the provisions of this contract between the Parties, all such disputes or differences shall be taken up by either party for resolution through AMRCD as mentioned in DPE OM No.: 4(1)2013-DPE(GM)/FTS-1835 dated 22/05/2018 and any clarifications/amendments/ revisions made by the DPE in this regard.

14 ISSUE OF OWNER SUPPLIED MATERIAL

- 14.1 The conditions for issue of material shall apply for materials explicitly mentioned under owner scope of supply only and reconciliation shall be as per provisions of document wherever applicable.
- 14.2 The reconciliation of material shall be applicable only for the material issued by Owner as free issue to Contractor and monthly reconciliation statement will be submitted along with monthly RA bill.

14.3 Indemnity bond will be submitted for the value of free issue of material valid till completion of Work.

15 MOBILIZATION ADVANCE (NOT APPLICABLE) :

15.1 Contractor, if requested, shall be paid recoverable interest bearing Mobilization Advance up to a maximum of 10% (Ten Percent) of Total Value of Work Part Only. The mobilization advance will attract an interest rate as SBI's PLR rate (prevailing at the time of payment) Plus 1% to be compounded quarterly.

Mobilization Advance shall be paid to the Contractor in two installments after signing the contract agreement and submission of performance bank guarantee for 110% of total mobilization advance amount, in the following manner:

15.1.1 FIRST INSTALLMENT

- i. 5% (Five percent) of total Contract Value shall be payable as the first installment of mobilization advance after fulfilling the following formalities by the Contractor:
 - a. Duly accepted & signed copy of purchase order by the Contractor.
 - b. Submission of a separate bank guarantee towards Contract Performance from any Scheduled Bank in India other than Co-operative Bank in the proforma approved by Employer towards due performance of contract equivalent to 10% of awarded contract value which shall be kept valid till up to 3 Months after expiry of defect liability period.
 - c. Submission of a separate Bank Guarantee towards advance payment by any Scheduled Bank in India other than Co-operative Bank in the proforma approved by Employer equivalent to 110% of mobilization advance which shall be kept valid till scheduled completion of the work.
 - d. The Bank Guarantee submitted against mobilization advance shall be released after recovery of full mobilization advance along with interest thereon.

15.1.2 SECOND INSTALLMENT

- i. Balance 5% Mobilization Advance shall be payable to the Contractor after Contractor has constructed site Office, storage shed, fabrication yard etc. and has physically mobilized equipments as specified in tender document and is ready to start the work to the entire satisfaction of Engineer -in-Charge and commencement of work at site. This installment shall be paid to the contractor after completion of initial mobilization. **The contractor shall also submit Utilization Certificate of advance received by him earlier.**

15.2 RECOVERY OF MOBILISATION ADVANCE

15.2.1 The Mobilization Advance together with the interest accrued, shall be recovered from each running account bill @ 12.5% of gross amount of Monthly R.A. Bill in such a manner that the total advance and interest accrued is recovered when approximate 80% of the contract value gets paid. Balance amount, if any, shall be paid by the contractor through Demand Draft when approximate 80% of the contract value gets paid otherwise it will be recovered from any Bank Guarantee available with HPCL. However, in case of foreclosure or termination, full balance amount including interest as accrued shall be paid by the contractor through Demand Draft within 30 days of issue of such letter failing which same shall be recovered from any Bank Guarantee available with HPCL.

16 FRAUDULENT PRACTICES

- 16.1 The OWNER requires that Bidders/Vendors/CONTRACTORS observe the highest standard of ethics during the award/execution of Contract. "Fraudulent Practice" means a misrepresentation of facts in order to influence the award of a Contract to the detriment of the OWNER, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the OWNER of the benefits of free and open competition.
- 16.2 The OWNER will reject a bid for award if it determines that the bidder recommended for award has engaged in fraudulent practices in competing for the Contract in question.
- 16.3 Bidder is required to furnish the complete and correct information/ documents required for evaluation of their bids, if the information/ documents forming basis of evaluation is found to be false/ forged, the same shall be considered adequate ground for rejection of bids and forfeiture of Earnest Money Deposit.
- 16.4 In case, the information/ document furnished by the Bidder/vendor/CONTRACTOR forming basis of evaluation of his bid is found to be false/ forged after the award of the contract, OWNER shall have full right to terminate the contract and get the remaining job executed at the risk & cost of such Bidder/Vendor/ CONTRACTOR without any prejudice to other rights available to OWNER under the contract such as forfeiture of CPBG/Security Deposit, withholding of payment etc.
- 16.5 In case, this issue of submission of false document comes to the notice after execution of work, OWNER shall have full right to forfeit any amount due to the Bidder/Vendor/CONTRACTOR along with forfeiture of CPBG/Security Deposit furnished by the Bidder/Vendor/CONTRACTOR.
- 16.6 Further, such Bidder/Vendor/ CONTRACTOR shall be put on Blacklist/ Holiday/Negative List of OWNER debarring them from future business with OWNER for a time period, as per the prevailing policy of OWNER.

17 GRIEVANCE REDRESSAL MECHANISM

There is a grievance redressal mechanism in HPCL for vendors participating in the tender, the details of which are available on HPCL's website www.hindustanpetroleum.com.

"For Grievance Redressal Mechanism, the Name Designation and Address of GRC members coordinator is as follows:

Deputy General Manager – Purchase,
Procurement, HB

HINDUSTAN PETROLEUM CORP. LTD.
HINDUSTAN BHAWAN (1st FLOOR)
8, S V MARG

BALLARD ESTATE, MUMBAI – 400001, 022-22637156, 022-22750080

18 REGISTRATION OF THE CONTRACT WITH STATUTORY AUTHORITIES

- 18.1 Before submission of their first invoice for Running payment, the Contractor shall register

themselves and the contract at their own cost with the Reserve Bank of India, Income Tax, Sales Tax and such other statutory authorities, as may be required under the governing rules and regulations in India. The Contract Price shall be deemed to include all costs towards the same. The copies of all the related documents to all such registrations shall be submitted by the Contractor to Owner for their records and reference when-ever required during the tenure of the contract period.

19 AUDITS OF CONTRACT

- 19.1 The project is subject to inspection by various audit/vigilance agencies of government of India/Hindustan Petroleum Corporation Ltd., if any inspection of works is carried by such agencies, CONTRACTOR shall extend his full cooperation to these agencies in examining records, works etc. On inspection by such agencies, if it is pointed out that CONTRACTOR has not carried out work according to guidelines laid down in the tender document, immediate rectifications shall be taken up at no extra cost; and also if any recoveries against some items are pointed out therein, the same shall be recovered from CONTRACTOR's RA bills/final bill. The items under dispute shall not be paid in full till the job is completed to satisfaction of the inspection agency.

20 SUBSEQUENT LEGISLATION

- 20.1 All duties, taxes (on works Order/ trade tax/ turnover tax/etc. as applicable), fees, charges, expenses, etc. (except where otherwise expressly provided in the Order) as may be levied/ imposed in consequence of execution of the works or in relation there to or in connection therewith as per the Acts, Laws, Rules, Regulations in force shall be to contractor's account.

21 ROYALTY

- 21.1 All royalties etc., as may be required for any entry permits, including right of way etc., to be arranged by Contractor shall be deemed to have been included in the quoted prices. Owner will not be able to obtain exemption from payment of royalty charges.
- 29.1. Bidder's quoted rates shall include the royalty on different applicable items as per the prevailing State Government rates. Any increase in prevailing rate of royalty shall be borne by the Contractor at no extra cost to Owner.
- 29.2. Documentary evidence to be furnished by Contractor along with the bills.

22 BREACH OF CONTRACT

- 22.1 In case of separate orders issued for various Parts or locations / Schedule(s) of the works, the Contractor shall be responsible for execution of all orders to the entire satisfaction of the Owner and breach in one order shall constitute as breach in the other order and accordingly appropriate action shall be taken as per stipulations of the order.

23 WITHHOLDING, ACCOUNTING AND TAX REQUIREMENTS

- 23.1 Contractor agrees for withholding from wages and salaries of its agents, servants or employees all sums, required to be withheld by the laws of the Republic of India or any other agency having jurisdiction over the area where Contractor is conducting

operations, and to pay the same promptly and directly when due to the proper authority. Contractor further agrees to comply with all accounting and reporting requirements of any Nation having jurisdiction over the subject matter hereof and to conform to such laws and regulations and to pay the cost of such compliance. If requested, Contractor will furnish the evidence of payment of applicable taxes, in the country(ies) of the Contractor's and his sub-contractor(s) and expatriate employees.

24 INTELLECTUAL PROPERTY

- 24.1 Neither Owner nor Contractor nor their personnel, agents nor any sub-contractor shall divulge to any one (other than persons designated by the party disclosing the information) any information designated in writing as confidential and obtained from the disclosing party during the course of execution of the works so long as and to the extent that the information has not become part of the public domain. This obligation does not apply to information furnished or made known to the recipient of the information without restriction as to its use by third parties or which is demonstrated to be in recipient's possession at the time of disclosure by the disclosing party. Upon completion of the works or in the event of termination pursuant to the provisions of the Contract, Contractor shall immediately return to Owner all drawings, plans, specifications and other documents supplied to the Contractor by or on behalf of Owner or prepared by the Contractor solely for the purpose of the performance of the works, including all copies made thereof by the Contractor.

25 BANK GUARANTEE FOR FREE ISSUE MATERIAL, IF APPLICABLE.

Bidder shall note that successful bidder on award of contract will be liable to submit Bank Guarantee equal to the value of free issue material for respective schedule as defined below;

The BG shall be valid from date of free issue material take over from custody of HPCL till the date of completion of installation of final equipment.

26 GOVT. ACTS/ REGULATIONS

- 26.1 Any reference to the specific statutes/regulations in the IFB is only indicative, and it is entirely for the Bidder to ascertain the Applicable Laws.

27 INTEGRITY PACT

- 27.1 Integrity Pact: All tenders and contracts shall comply with the requirements of the Integrity Pact (IP) if the value of such tenders or contracts exceed Rs.1 crore. Failure to sign the Integrity Pact shall lead to outright rejection of bid.

28. DRAWING / DOCUMENTATIONS

Contractor to note that review of any drawing/document by Owner does not absolve the contractor from the responsibility of ensuring complete compliance to the Bid package requirements. Noncompliance to the bid package requirements observed at any stage of project execution shall be rectified by contractor without any time and cost implication to Owner.

Owner reserve the right to carry out capacity & capability assessment of the bidder using in –house information and past performance.

29. Bidders shall not quote TCS rate/amount anywhere in their bid; even if quoted the same shall not be consider for evaluation as well as for payment purpose. Bidder shall be required to withdraw the same else the bid will be rejected. TCS claim to be made on Face of Invoices/Debit note and routed through BTS.

Tax Collection at Source u/s 206C(1H) of Income Tax Act 1961:

A Seller of Goods (“Vendor”) within the requirement of Sec.206C (1H) of Income Tax Act, 1961, shall claim applicable Tax Collected at Source (“TCS”) in the Invoice to be issued to HPCL or can claim the same through mutually agreed separate document. The payment of such TCS shall be made by HPCL once TCS amount deposited by vendor with the Tax authorities is reflected in Tax Credit Portal [Form 26AS] of HPCL. HPCL’s PAN Number for the purpose of TCS is AAACH1118B which is required to be uploaded by the Vendor for every TCS deposit. The Vendor is obliged to claim TCS as per the extant statutory provision. HPCL shall be liable to reimburse appropriate TCS only. HPCL shall not be made liable for reimbursement of any higher TCS mistakenly deposited by the Vendor or in case any wrong deposit of TCS is made by the Vendor to the Tax authorities on account of HPCL. The Vendor shall be solely responsible for compliance of TCS provisions, viz., its collection at appropriate percentage, its remittance to Tax Authorities, filing of applicable/appropriate returns in stipulated time and issuance of TCS Certificate to HPCL matching with TCS collected by it from HPCL. Any liability, claim, proceedings regarding and arising out of TCS compliance shall be the sole responsibility of Vendor. In case any such claim, liability, proceedings are initiated against HPCL, which are solely attributable to the non-compliance of Vendor with the TCS provision, the Vendor undertakes to indemnify HPCL against all such claims, liabilities and proceedings. Further, HPCL shall be entitled to deduct any such additional payment liability from the running bill of the Vendor or its total outstanding

COMPLETION PERIOD

Completion Period: Entire work covered under the tender shall be completed within 5 Months (i.e., 4 months for supply & 1 Month for installation) from the date of Purchase order. Contractor shall mobilize and commence the work within 14 days from the date of Purchase order. Contractor must note that time is the essence of the contract.

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Annexure-II to SCC

PAYMENT TERMS

Payment:

- i) 70% payment shall be released after completion of supply portion. Retention money of 3% shall be kept on hold from this amount if CPBG is not submitted by the party.
- ii) 30% payment shall be released after completion of installation & commissioning and duly submission of reports/ documents required under documentation clause before release of payment..



commercial part 2				
Sl.No.	Description	Attached File	Set Value	Supporting Doc. Req'd
1	Commercial Part 2	commercialpart2.pdf	-	No
2	Payment	Payment.pdf	-	No
3	PPLC	PP_Indivisible_Works Contract_Dec 2020.pdf	-	No
4	RA Manual	5.3 RA Manual.pdf	-	No

CLAUSE REGARDING PROVISION FOR PROCUREMENT FROM A BIDDER WHICH SHARES A LAND BORDER WITH INDIA

1. Order (Public Procurement No. 1) dated 23.07.2020, Order (Public Procurement No. 2) dated 23.07.2020 and Order (Public Procurement No. 3) dated 24.07.2020, Department of Expenditure, Ministry of Finance, Govt. of India refers. The same are available at website <https://doe.gov.in/procurement-policy-divisions>.

2. Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority. For details of competent authority refer to Annexure I of Order (Public Procurement No. 1) dated 23.07.2020.

Further the above will not apply to bidders from those countries (even if sharing a land border with India) to which the Government of India has extended lines of creditor in which the Government of India is engaged in development projects. Updated lists of countries to which lines of credit have been extended or in which development projects are undertaken are given in the website of the Ministry of External Affairs, Govt. of India

3. **"Bidder"** (including the term 'tenderer', 'consultant' 'vendor' or 'service provider' in certain contexts) **for purpose of this provision** means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency, branch or office controlled by such person, participating in a procurement process.

4. **"Bidder from a country which shares a land border with India"** for the purpose of this:

- a. An entity incorporated, established or registered in such a country; or
- b. A subsidiary of an entity incorporated, established or registered in such a country; or
- c. An entity substantially controlled through entities incorporated, established or registered in such a country; or
- d. An entity whose beneficial owner is situated in such a country; or
- e. An Indian (or other) agent of such an entity; or
- f. A natural person who is a citizen of such a country; or
- g. A consortium or joint venture where any member of the consortium or joint venture falls under any of the above.

5. **"Beneficial owner"** for the purpose of above (4) will be as under:

i. In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person(s), has a controlling ownership interest or who exercises control through other means.

Explanation—

- a) "Controlling ownership interest" means ownership of, or entitlement to, more than twenty-five per cent of shares or capital or profits of the company;
- b) "Control" shall include the right to appoint the majority of the directors or to control the management or policy decisions, including by virtue of their

shareholding or management rights or shareholders agreements or voting agreements;

- ii) In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;
 - iii) In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;
 - iv) Where no natural person is identified under (i) or (ii) or (iii) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;
 - v) In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.
6. "Agent" for the purpose of this Order is a person employed to do any act for another, or to represent another in dealings with third persons

7. **SUBMISSION OF CERTIFICATE IN BIDS:**

Bidder shall submit a certificate in this regard as Form-I.

If such certificate given by a bidder whose bid is accepted is found to be false, this would be a ground for immediate rejection of the bid/termination and further action as per "Procedure for Action in case of Corrupt/Fraudulent/ Collusive / Coercive Practices" of tender document.

8. The registration, wherever applicable, should be valid at the time of submission of bids and at the time of acceptance of bids. In respect of supply otherwise than by tender, registration should be valid at the time of placement of order. If the bidder was validly registered at the time of acceptance / placement of order, registration shall not be a relevant consideration during contract execution.

9. **PROVISION TO BE IN WORKS CONTRACTS, INCLUDING TURNKEY CONTRACTS:**

The successful bidder shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority. The definition of "contractor from a country which shares a land border with India" shall be as in Para 4 herein above. A Certificate to this regard is to be submitted by bidder is placed at Form-II

UNDERTAKING ON LETTERHEAD

To,
M/s HPCL

SUB:
TENDER NO:

Dear Sir

We have read the clause regarding Provisions for Procurement from a Bidder which shares a land border with India, we certify that, bidder M/s _____ (*Name of Bidder*) is :

- (i) Not from such a country []
- (ii) If from such a country, has been registered with the Competent Authority. []
(Evidence of valid registration by the Competent Authority shall be attached)

(Bidder is to tick appropriate option (✓ or X) above).

We hereby certify that bidder M/s _____ (*Name of Bidder*) fulfills all requirements in this regard and is eligible to be considered against the tender.

Place: [Signature of Authorized Signatory of Bidder]
Date: Name:
Designation:
Seal:

**CERTIFICATE FOR TENDERS FOR WORKS INVOLVING POSSIBILITY OF SUB-
CONTRACTING**

To,

M/s HPCL

SUB:

TENDER NO:

Dear Sir

We have read the clause regarding Provisions for Procurement from a Bidder of a country which shares a land border with India and on sub-contracting to contractors from such countries; we certify that, bidder M/s_____ (*Name of Bidder*) is:

(i) not from such a country []

(ii) if from such a country, has been registered with the Competent Authority. []

(Evidence of valid registration by the Competent Authority shall be attached)

(Bidder is to tick appropriate option (✓ or X) above).

We further certify that bidder M/s_____ (**Name of Bidder**) will not sub-contract any work to a contractor from such countries unless such contractor is registered with the Competent Authority.

We hereby certify that bidder M/s_____ (**Name of Bidder**) fulfills all requirements in this regard and is eligible to be considered.

Place:

[Signature of Authorized Signatory of Bidder]

Date:

Name:

Designation:

Seal:



BANK GUARANTEE IN LIEU OF EARNEST MONEY

(On Non-Judicial stamp paper of appropriate value)

TO : Hindustan Petroleum Corporation Limited

(Address as applicable)

IN CONSIDERATION OF MESSRS. HINDUSTAN PETROLEUM CORPORATION LIMITED a Government of India Company registered under the Companies Act, 1956, having its registered office at 17, Jamshedji Tata Road, Bombay-20 (hereinafter called "The Corporation" which expression shall include its successor in business and assigns) issued a tender on Messrs. a partnership firm/sole proprietor business/a company registered under the Companies Act, 1956 having its office at (hereinafter called "the Tenderer" which expression shall include its executors, administrators and assigns) against Tender no..... dated (hereinafter called "the tender" which expression shall include any amendments/ alterations to "the tender" issued by "the Corporation") for the supply of goods to/execution of services for "the Corporation" and "the Corporation" having agreed not to insist upon immediate payment of Earnest Money for the fulfilment of the said tender in terms thereof on production of an acceptable Bank Guarantee for an amount of `..... (Rupees only).

We, Bank having office at Bombay (hereinafter referred to as "the Bank" which expression shall include its successors and assigns) at the request and on behalf of "the Tenderer" hereby agree to pay to the Corporation without any demur on first demand an amount not exceeding `..... (Rupees only) against any loss or damage, costs, charges and expenses caused to or suffered by "the Corporation" by reason of non performance and fulfilment or for any breach on the part of "the Tenderer" of any of the terms and conditions of the said "tender".

2. We, Bank further agree that "the Corporation" shall be sole Judge whether the said "Tenderer" has failed to perform or fulfill the said "tender" in terms thereof or committed breach of any of the terms and conditions of "the order" and the extent of loss, damage, cost, charges and expenses suffered or incurred or would be suffered or incurred by "the Corporation" on account thereof and we waive in favour of "the Corporation" all the rights and defences to which we as guarantors and/or "the Tenderer" may be entitled to.
3. We, Bank further agree that the amount demanded by "the Corporation" as such shall be final and binding on "the Bank" as to "the Bank" 's liability to pay and the amount demanded and "the Bank" to undertake to pay "the Corporation" the amount so demanded on first demand and without any demur notwithstanding any dispute raised by "the Tenderer" or any suit or other legal proceedings including arbitration pending before any court, tribunal or arbitrator relating thereto, our liability under this guarantee being absolute and unconditional.



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4. We, Bank further agree with "the Corporation" that "the Corporation" shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said "tender"/or to extend time of performance by "the Tenderer" from time to time or to postpone for any time to time any of the powers exercisable by "the Corporation" against "the Tenderer" and to forbear to enforce any of the terms and conditions relating to "the tender" and we shall not be relieved from our liability by reason of any such variation or extension being granted to "the Tenderer" or for any forbearance, act or omission on the part of "the Corporation" or any indulgence by "the Corporation" to "the tenderer" or by any such matter or things whatsoever which under the law relating to sureties would but for this provision have the effect of relieving us.
 5. NOTWITHSTANDING anything hereinbefore contained, our liability under this Guarantee is restricted to ` (Rupees..... only). Our liability under this guarantee shall remain in force until expiration of six months from the due date of opening of the said "tender". Unless a demand or claim under this guarantee is made on us in writing within said period, that is, on or before all rights of "the Corporation" under the said guarantee shall be forfeited and we shall be relieved and discharged from all liabilities thereunder.
 6. We, Bank further undertake not to revoke this guarantee during its currency except with the previous consent of "the Corporation" in Writing.
 7. We, Bank lastly agree that "the Bank" 's liability under this guarantee shall not be affected by any change in the constitution of "the Tenderer".
 8. "The Bank" has power to issue this guarantee in favour of "the Corporation" in terms of the documents and/or the Agreement/Contract or MOU entered into between "the Tenderer" and "the Bank" in this regard.

IN WITNESS WHEREOF the Bank has executed this document on this day of

For Bank
(by its constituted attorney)

(Signature of a person authorised
to sign on behalf of "the Bank")