

**15. GENERAL**

- 15.1. Materials required for the works whether brought by the or supplied by the Owner shall be stored by the contractor only at places approved by Engineer-in-Charge/Site-in-Charge. Storage and safe custody of the material shall be the responsibility of the Contractor.
- 15.2. Owner and/or Engineer-in-Charge/Site-in-Charge connected with the contract, shall be entitled at any time to inspect and examine any materials intended to be used in or on the works, either on the site or at factory or workshop or at other place(s) manufactured or at any places where these are laying or from which these are being obtained and the contractor shall give facilities as may be required for such inspection and examination.
- 15.3. In case of any class of work for which there is no such specification supplied by the owner as is mentioned in the tender documents, such work shall be carried out in accordance with Indian Standard Specifications and if the Indian Standard Specifications do not cover the same the work should be carried out as per standard Engineering practice subject to the approval of the Engineer-in-Charge/Site-in-Charge.
- 15.4. Should the work be suspended by reason of rain, strike, lockouts or other cause the contractor shall take all precautions necessary for the protection of the work and at his own expense shall make good any damages arising from any of these causes.
- 15.5 The contractor shall cover up and protect from injury from any cause all new work also for supplying all temporary doors, protection to windows and any other requisite protection for the whole of the works executed whether by himself or special tradesmen or sub- contractors and any damage caused must be made good by the contractors at his own expense.
- 15.6 If the contractor has quoted the items under the deemed exports, then it will be the responsibility of the contractor to get all the benefits under deemed exports from the Government. The Owner's responsibility shall only be limited to the issuance of required certificates. The quotation will be unconditional and phrases like "subject to availability of deemed exports benefit" etc. will not find place in it.
16. Integrity Pact : Effective 1<sup>st</sup> September, 2007, all tenders and contracts shall comply with the requirements of the Integrity Pact (IP) if the value of such tenders or contracts is ₹ 1 crore & above. Failure to sign the Integrity Pact shall lead to outright rejection of bid.
17. Grievances of parties participating or intend to participate in the tender shall be addressed in writing to the officer designate of the Grievance Redressal Cell where the tenders have to be submitted within the stipulated period. Detailed mechanism of Grievance Redressal is available on the HPCL website
- ® 18. **The guidelines for Holiday Listing as adopted and available on HPCL website shall be applicable to all tenders floated and all Purchase Orders/Contracts placed by HPCL.**

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**ANNEXURE 7b****7b. GENERAL TERMS & CONDITIONS OF CONTRACT FOR SUPPLY****1. PRELIMINARY**

- 1.1 This is a Contract for execution of job as defined in tender document at the specified location
- 1.2 The tenderer for the abovementioned supply is the company/ proprietary concern/ individual (as per details & address mentioned in the unpriced bid) and undersigned (digitally) is authorized to submit the bid on behalf of tenderer.
- 1.3 The terms and conditions mentioned hereunder are the terms and conditions of the Contract for the execution of the job mentioned under item 1.1 above.
- 1.4 It is the clear understanding between Hindustan Petroleum Corporation Limited and the tenderer that in case the bid of tenderer is accepted by Hindustan Petroleum Corporation Limited and an intimation to that effect is so issued and also a Procurement Order is on the tenderer this document shall form part of the Contract between the parties and terms and conditions hereunder would govern the parties interest.
- 1.5 Interpretation of Contract Documents: All documents forming part of the Contract are to be taken mutually explanatory. Should there be any discrepancy, inconsistency, error or omission in the contract, the decision of the Owner/Engineer-in-Charge/Site-in-Charge shall be the final and the contractor shall abide by the decision. The decision shall not be arbitrable. Items shown upon the drawings but not mentioned in the specification or described in the specifications without being shown on the drawings shall nevertheless be deemed to be included in the same manner as if they are shown in the drawings and described in the specifications.
- 1.6 Special conditions of Contract : The special conditions of contract, if any provided and whenever and wherever referred to shall be read in conjunction with General Terms and Conditions of contract, specifications, drawings, and any other documents forming part of this contract wherever the context so requires. Notwithstanding the subdivision of the documents into separate sections, parts volumes, every section, part or volume shall be deemed to be supplementary or complementary to each other and shall be read in whole. In case of any misunderstanding arising the same shall be referred to decision of the Owner/ Engineer-in-Charge/Site-in-Charge and their decision shall be final and binding and the decision shall not be arbitrable.

It is the clear understanding that wherever it is mentioned that the Contractor shall do/perform a job and/or provide facilities for the performance of the job, the doing or the performance or the providing of the facilities is at the cost and expenses of the Contractor not liable to be paid or reimbursed by the Owner.

- ® 1.7 The Order of Precedence of documents shall be as follows with document at level 1 having the highest precedence (Refer Annexure 22 – Govt. Guideline Sr. No. 12)

1. Contract Agreement
2. Detailed Letter of Acceptance along with its enclosures
3. Letter of Award / Fax of Acceptance
4. Job Specifications (specific to particular job only)
5. Drawings
6. Special Conditions of Contract
7. Technical Specifications
8. Instructions to Bidders
9. General Conditions of Contract
10. Other Documents

**Any amendment / change order issued after signing of formal contract shall take precedence over respective clauses of the formal contract and its annexures**

## **2. DEFINITIONS**

- a. The following expressions used in the Purchase Order shall have meaning as indicated against each of these:
- b. The CORPORATION means HINDUSTAN PETROLEUM CORPORATION LIMITED, a company incorporated in India having its registered office at 17, Jamshedji Tata Road, Mumbai- 400 020 and shall include its successors and assignees.
- c. “Goods / Materials”: Goods and/or Materials shall mean any of the articles, materials, machinery, equipments, supplies, drawings, data and other property and all services including but not limited to design, delivery, installation, inspection, testing and commissioning specified to complete the order.
- d. “Vendor / Seller / Supplier”: Vendor / Seller / Supplier shall mean the person, firm or corporation to whom this Purchase Order is issued.
- e. “Contractual Delivery Date”: Contractual Delivery date is the date on which goods shall be delivered F.O.R/F.O.T. Despatching Point/ Destination in accordance with the terms of the Purchase Order. This contractual delivery date / period is inclusive of all the lead time for engineering, procurement of raw materials, manufacturing, inspection, testing, packing and any other activity whatsoever required to be accomplished for affecting the delivery at the agreed delivery point.
- f. “Inspectors”: Inspectors deputed by Corporation.
- g. ‘Total Order Value’ means:-
  - i. For Material Supply Contract: - The basic cost excluding taxes, duties, levies, freight etc. unless and until specifically mentioned in the purchase order.
  - ii. For Lump sum / Turnkey contract: - The total cost & all other cost inclusive of taxes, duties, levies, freight etc.

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h. 'Total Order Value' shall be considered for the purpose of calculation of:

1. Price reduction on account of delay
2. Performance bank Guarantee Amount
3. Payment of advance, if any to be made.

i. **Note:** - The total order for levy of Price Reduction on account of delay shall include all types of escalation (including on account of Foreign Exchange Variation) agreed to in terms of Purchase Order.

### **3. REFERENCE FOR DOCUMENTATION**

Purchase Order number must appear on order confirmation, correspondence, drawings, invoices, shipping notes, packings and on any documents or papers connected with the order.

### **4. CONFIRMATION OF ORDER**

The Vendor shall acknowledge the receipt of the Purchase Order within ten days following the mailing of this order and shall thereby confirm his acceptance of this Purchase Order in its entirety without exceptions. The acknowledgment will bear on both purchase order and General Procurement Conditions.

### **5. SALES CONDITIONS**

With Vendor's acceptance of provisions of this Purchase Order, he waives and considers as cancelled any of his general sales conditions.

### **6. COMPLETE AGREEMENT**

The terms and conditions of this Purchase Order shall constitute the entire agreement between the parties hereto. Changes will be binding only if the amendments are made in writing and signed by an authorized representative of the Corporation and the Vendor.

### **7. INSPECTION-CHECKING-TESTING**

- a. The equipment, materials and workmanship covered by the Purchase Order shall be subject to inspection and testing at any time prior to shipment and or despatch and to final inspection within a reasonable time after arrival at the place of delivery. Inspectors shall have the right to carry out the inspection and testing which will include the raw materials at manufacturer's shop, at fabricator's shop and at the time of actual despatch before and after completion of packing.
- b. All tests, mechanical and others and particularly those required by codes will be performed at the Vendor's expenses and in accordance with Inspector's instructions. The Vendor will also bear the expenses concerning preparation and rendering of tests required by Boiler Inspectorate or such other statutory testing agencies or by any other reputed inspection agencies as may be nominated by the Corporation.
- c. Before shipping or despatch, the equipment and or materials will have to be checked and stamped by inspectors who are authorized also to forbid the use and despatch of any equipment and/or materials which during tests and inspection fail to comply with the specifications, codes and testing requirements.

- d. The vendor shall inform the Corporation at least eight days in advance of the exact place, date and time of rendering the equipment or materials for required inspection.
- e. The vendor shall provide free access to inspectors during normal working hours at Vendor's or his/its sub-Vendor's works and place at their disposal all useful means of performing, checking, marking, testing, inspection and final stamping.
- f. Even if the inspections and tests are fully carried out, Vendor would not be absolved to any degree from his responsibilities to ensure that all equipments and materials supplied comply strictly with requirements as per agreement both during construction, at the time of delivery, inspection, on arrival at site and after its erection or start-up and guarantee period as stipulated in clause 30 hereof.
- g. The Vendor's responsibility will not be lessened to any degree due to any comments made by the Corporation and Inspectors on the Vendor's drawings or by Inspectors witnessing any chemical or physical tests.
- h. In any case, the equipment and materials must be in strict accordance with the Purchase order and/or its attachments failing which the Corporation shall have the right to reject the goods and hold the Vendor liable for non-performance of contract.

## **8. OFFICIAL INSTITUTIONAL TESTING**

- a. In addition to testing and inspection by Inspectors mentioned above, nominated agencies or similar institutional agencies like Boiler Inspectorate may be assigned for official testing of all coded equipment. The Vendor shall ensure that all Procedures for preparation and Performance of tests prescribed by such Institutions shall be completed scrupulously.
- b. The Vendor is required to send to such Institutions as may be designated by the Corporation at least three sets of construction drawings for each equipment and calculations. All manufacturer's mill's tests certificates and analytical reports from material laboratories in respect of all raw materials and components employed shall have to be presented to such institution's Inspectors in the number of copies required. Vendor shall be responsible for any delay in submission of necessary certificates. The Vendor shall maintain close liaison with the Corporation and Institution's Inspectors to maintain schedule and delay, if any in this process will not be taken into consideration as a cause of Force Majeure.

## **9. WEIGHTS AND MEASUREMENTS**

- a. All weights and measurements recorded by the Corporation on receipt of goods at site will be treated as final.
- b. Vendor's shipping documents and invoices must contain the following data:
  - i. Unit net weight
  - ii. Unit gross weight (packing included)
  - iii. Dimensions of packing.

## **10. DESPATCH INSTRUCTIONS**

- a. Unless otherwise specifically advised in writing, goods shall not be despatched without prior inspection, testing and Release Order / Materials Acceptance Certificates issued by Inspectors.

- b. In case despatch by rail is specified in the Purchase Order, vendor shall exercise due care and ensure that the consignment shall be booked under appropriate railway classification, failing which, any additional freight incurred by Corporation due to Vendor's booking the material under a wrong classification shall be to Vendor's account.
- c. The goods shall be consigned in the name of consignee as applicable.
- d. Corporation's warehouse is open to receive stores between 9.00 A.M and 3 P.M on all working days. No goods will be accepted after 3.00 P.M.
- e. Corporation reserves the right to advise any change in despatching point / destination and / or mode of transport, as may be required. Any extra expenditure on this account supported by documentary evidence will be reimbursed by the Corporation.

#### **11. OILS & LUBRICANTS**

The first filling of oils and lubricants, if any, required for every equipment shall be included in the price and appropriate products manufactured by the Corporation (HPCL) shall be used. The Vendor shall also recommend the quality / quantity of oils and lubricants required for one-year continuous operation.

#### **12. SPARE PARTS**

- a. The Vendor must furnish itemised price list of spare parts indicating quantity, unit rate & total rate required for two years operation of the main equipment and prime movers also, if mentioned in the tender.
- b. The Vendor shall provide the necessary cross sectional drawing to identify the spare parts numbers and their location as well as inter-changeability chart.

#### **13. PACKING AND MARKING**

- a. The Materials shall be suitably packed for safe transportation till receipt at site and should be commensurate with best possible practices of packing, unless specifically stipulated in the Technical specifications, to avoid any damage during transit.
- b. All fragile and exposed parts shall be packed carefully and the package shall bear the words '**HANDLE WITH CARE**', '**THIS SIDE UP**' and '**FRAGILE**'.
- c. All holes and openings and also other delicate surfaces shall be carefully protected against bad weather. All threaded fittings shall be greased and provided with plastic caps. All small pieces shall be packed in cases.
- d. The Supplier shall be liable for all damages or breakage to the Materials due to defective or insufficient packing as well as for corrosion due to insufficient protection.
- e. Detailed packing list in waterproof envelope shall be kept in each package together with material and one copy of packing list shall be fastened outside the box in waterproof envelope.
- f. Each package shall be marked in bold letters on the external three surface of the package as follows:



- i. From: Address of Supplier / Sub-supplier.
- ii. For: Hindustan Petroleum Corporation Ltd. \_\_\_\_\_(location)
- iii. Item:
- iv. Package No. : \_\_\_\_\_of total packages
- v. Dimensions: \_\_\_\_\_(Dimensions of each package)
- vi. Weight: \_\_\_\_\_(Weight of each package)
- vii. Special Instruction for storage, if any.
- viii. Special unloading arrangements, if required, shall be clearly mentioned in the Packing List.
- ix. All packages containing the following items shall be packed separately as ordered and shall have additional clear marking for identification.
  1. Mandatory Spares.
  2. Commissioning Spares.

**14. SHIPMENT AND SHIPMENT NOTICES**

- a. The Vendor shall make shipment only after prior approval by Inspectors whenever specifically mentioned. In the event of the Vendor having been advised to hold shipments(s) for any reason whatsoever the Vendor shall hold the materials in his / its warehouse for at least 30 days without any compensation; or without prejudice to any reduction in price already accrued on account of delay.
- b. Within 24 hours of shipment, Vendor shall inform despatch particulars to Corporation by fax / courier / email.
- c. The Vendor shall carefully note the destination of materials.
- d. The demurrage or other expenses incurred owing to any negligence, delay, default on the part of the Vendor will be to Vendor's account.

**15. CONTROL REGULATIONS**

The supply, despatch and delivery of goods shall be arranged by the Vendor in strict conformity with the statutory regulations including provision of Industries (Development and Regulation) Act 1951 and any amendment thereof as applicable from time to time. The Corporation disowns any responsibility for any irregularity or contravention of any of the statutory regulations in manufacture or supply of the stores covered by this order.

**16. TRANSIT RISK**

Transit Risk insurance shall be covered by the Corporation. The Vendor shall advise the despatch particulars to Corporation immediately after shipment.

**17. RESPECT FOR DELIVERY DATES.**

Time of delivery as mentioned in the Purchase Order shall be the essence of the contract and no variation shall be permitted except with prior authorization in writing from the Corporation. Goods should be delivered securely packed and in good order and condition at the place and within the time specified in the Purchase Order for their delivery.

**18. PRICE REDUCTION FOR DELAYED DELIVERY**

In case of delayed delivery, prices will be reduced @1/2% of the total basic order value for every week of delay or part thereof subject to a maximum of @5% of the total basic order value.

**NOTE :**

- a. Price Reduction shall be applicable only on the basic cost and on Full complete week (s) and for fractional days Price reduction shall be applicable on pro-rata, if any.
- b. Initially Price Reduction shall be applicable for total basic order value and final Price Reduction settlement to be on undelivered portion in the contractual delivery period.

® **19. FORCE MAJEURE**  
**Circumstances leading to force majeure**

- (a) act of terrorism;
- (b) riot, war, invasion, act of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection of military or usurped power;
- (c) ionising radiation or contamination, radio activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive assembly or nuclear component;
- (d) epidemics, earthquakes, flood, fire, hurricanes, typhoons or other physical natural disaster, but excluding weather conditions regardless of severity; and
- (e) freight embargoes, strikes at national or state-wide level or industrial disputes at a national or state-wide level in any country where Works are performed, and which affect an essential portion of the Works but excluding any industrial dispute which is specific to the performance of the Works or the Contract.

For the avoidance of doubt, inclement weather, third party breach, delay in supply of materials (other than due to a nationwide transporters' strike) or commercial hardship shall not constitute a Force Majeure event.

• **Notification of Force Majeure**

Contractor shall notify within [10(ten)] days of becoming aware of or the date it ought to have become aware of the occurrence of an event of Force Majeure giving full particulars of the event of Force Majeure and the reasons for the event of Force Majeure preventing the Affected Party from, or delaying the Affected Party in performing its obligations under the Contract.

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- **Right of either party to terminate**

If an event of Force Majeure occurs and its effect continues for a period of 180 (one hundred eighty days) or more in a continuous period of 365 (three hundred sixty-five) days after notice has been given under this clause, either Party may terminate the Contract by issuing a written notice of 30 (thirty) days to the other Party.

- **Payment in case of termination due to Force Majeure**

The Contract Price attributable to the Works performed as at the date of the commencement of the relevant event of Force Majeure.

The Contractor has no entitlement and Owner has no liability for:

- a) any costs, losses, expenses, damages or the payment of any part of the Contract Price during an event of Force Majeure; and
- b) any delay costs in any way incurred by the Contractor due to an event of Force Majeure.

Time extension for such cases will be worked out appropriately.

## **20. REJECTION, REMOVAL OF REJECTED GOODS AND REPLACEMENT**

- a. In case the testing and inspection at any stage by Inspectors reveal the equipment, material and workmanship do not comply with specification and requirements, the same shall be removed by the Vendor at their / its own expense and risk within the time allowed by the Corporation. The Corporation shall be at liberty to dispose of such rejected goods in such manner as they may think appropriate. In the event the Vendor fails to remove the rejected goods within the period as aforesaid, all expenses incurred by the Corporation for such disposal shall be to the account of the Vendor. The freight paid by the Corporation, if any, on the inward journey of the rejected materials shall be reimbursed by the Vendor to the Corporation before the rejected materials are removed by the Vendor.
- b. The Vendor will have to proceed with the replacement of that equipment or part of equipment without claiming any extra payment if so required by the Corporation. The time taken for replacement in such event will not be added to the contractual delivery period.

## **21. TRANSFER OF PROPERTY FROM THE VENDOR TO THE CORPORATION**

- a. The transfer of property shall be deemed to have taken place as follows subject to the provisions herein contained:
  - i. Exworks: when the vendor places the goods at the disposal of the buyer at the vendor's premises or another named place (i.e. works, factory, warehouse, etc.)
  - ii. F.O.R. or F.O.T despatch point: On handing over the equipment to the carrier against receipt and such receipt having been passed over to the Corporation.
  - iii. FOT / FOR destination station: On taking delivery from the transporters/railways at the destination station.

- iv. Equipment sent freight carriage paid to the project Site: On arrival under lifting hook at the job site.
- v. Equipment erected by the Vendor: On temporary acceptance at job site.
- vi. Equipment commissioned by the Vendor: On taking over by the Corporation for regular operation after test runs at maximum capacity for specified period satisfactorily performed.

**22. PRICE**

- a. Unless otherwise agreed to in the terms of the Purchase Order, the price shall be firm and not subject to escalation for any reason whatsoever till the execution of entire order, even though it might be necessary for the order execution to take longer than the delivery period specified in the order.
- b. **Price shall be exclusive of GST (CGST, SGST, IGST as applicable), Customs Duty and applicable Cess, which are leviable by law on sale of finished goods to Corporation. The nature and extent of such levies shall be shown separately.**
- c. **Anti-Profiteering Clause – GST Act anti-profiteering provisions mandates that any reduction in tax rates or benefits of input tax credits be passed on to the consumer by way of commensurate reduction in prices. Vendors to take note of the same and pass such benefits while quoting their price.**

**23. TAXES & DUTIES:**

- a. **GST (CGST, SGST, IGST as applicable), Customs Duty and applicable Cess as applicable shall be reimbursed for the materials consigned to Corporation as per limits indicated in the offer against documentary evidence to be furnished by the supplier. Corporation shall pay only those taxes, duties and levies as indicated by Supplier at the time of bid submission/as agreed subsequently prior to opening of priced bids). Taxes/duties and/or levies not indicated by supplier in bid, but payable, shall be to Supplier's account. In case of any increase/decrease applicable in GST (CGST, SGST, IGST as applicable) Customs Duty and applicable Cess indicated with reference to limits mentioned in the offer/bid or new taxes/duties/levies imposed by the Indian Government through Gazette notification after the date of submission of last Price Bid but prior to contractual delivery date, the Corporation shall reimburse/adjust the increase/decrease in taxes & duties on satisfactory supporting documents.**
- b. Supplier shall be responsible for availing all applicable concessions in taxes, duties, levies etc. as per terms of Purchase Order. Any loss, direct or implied, accrued to Corporation on account of supplier's failure to avail concessions shall be borne by Supplier.
- c. **The vendor shall comply with all the provisions of the GST Act/Rules/requirements like providing of tax invoices, payment of taxes to the authorities within the due dates, filing of returns with the due dates etc. to enable HPCL to take Input Tax Credit. In case of imports, vendors shall provide import documents and invoice fulfilling the requirement of Customs Act and Rules. Vendor will be fully responsible for complying with the Customs provisions to enable HPCL to take Input Tax Credit.**

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- d. In case, HPCL is not able to take Input Tax Credit due to any noncompliance/default/negligence of the seller of goods/service provider, the same shall be recovered from the pending bills/dues (including security deposit, BG etc.)
  - e. Vendor shall be responsible to indemnify the Corporation for any loss, direct or implied accrued to the Corporation on account of supplier/service provider failure to discharge his statutory liabilities like paying taxes on time, filing appropriate returns within the prescribed time etc.

**24. CUSTOMS DUTY (CD) VARIATION**

- a. The prices mentioned in offer are subject to Customs Duty (CD) variation. In case of any increase in rates of Customs Duty, IGST and applicable Cess by the Indian Government through Gazette notification after the submission of last priced offer but within the time schedule for import of materials, as mentioned. Corporation shall reimburse the increase in taxes and duties at actuals against satisfactory supporting documents.
- b. All downward variations in the rates of all such duties shall be to Corporation's account and same shall be calculated on actual CIF value of imported materials subject to the limit mentioned. Supplier shall submit all relevant documents to Corporation for the proof of duty paid by them within one month from the date of Bill of Entry (BOE).
- c. Custom Duty variation shall be paid by Corporation up to the limit of maximum CIF value of imported components as indicated in the offer.
- d. Rate of Custom Duty along with tariff number considered by Supplier in the prices shall be indicated in the offer.

**25. FOREIGN EXCHANGE (FE) VARIATION**

- a. The CIF value in Indian Rupees / Foreign Currency to be declared should cover the currencies of the countries from which import of materials / components are envisaged to administer foreign currency variation.
- b. The FE variation will be paid for if imports are made at the listed currency subject to ceiling limit.
- c. The list of foreign currency, country of origin, ceiling of foreign value of import envisaged against each item of materials / components for import and rate of conversion into Rupees envisaged to be furnished in the tender. The period within which import shall be made after placement of LOI (i.e. Contractual Completion date of imports, herein after called CDD) shall also be indicated in the offer.
- d. For reimbursement of foreign exchange variation, documentary evidence like bank certificates of remittance showing the date of payment and rate of foreign currency to Indian rupees to be furnished along with a copy of bills of entry duty attested by Customs department. All downward variations in conversion rate will be to Corporation's account.
- e. Variation will be paid only if imports are made within the period as specified in offer for import. For imports made beyond that period, foreign currency variation will be paid based on the conversion rates prevailing on the last date of period of agreed to for imports. The last date for imports agreed will be the import landing date in India envisaged by Bill of Entry.
- f. Bidder shall indicate the maximum CIF component along with currency of import. In case supplier imports less than the CIF value indicated in the bid, Duty, FE variation etc. shall be reimbursed only for the actual import carried out.

- g. Foreign exchange variation, if any, downward or upward, will be paid only if imports are made within the agreed completion period.
- h. For the purpose of Foreign Exchange variation reimbursement, State Bank of India (SBI) selling rate applicable on the bill of entry date or SBI selling rate on Bank remittance date or actual remittance rate, whichever is lower shall be considered. The following clause also to be considered.
- i. The BOE date may fall within Contractual Completion Date or beyond, it has already been stipulated as above conditions that no reimbursement for FE / CD variation will be paid if the actual import is beyond Contractual completion date. In such a case, the variation reimbursement will be restricted to the difference between the rate quoted in the tender and the lower of the following:
  - i. The actual remittance rate.
  - ii. SBI Bill selling rate on the date of CDD.

## **26. TERMS OF PAYMENT**

- a. The following payment terms shall be applicable:
  - i. 75% of the bill amount duly recommended by user on receipt of materials / docs. at HPCL shall be paid within 7 days of receipt of bill.
  - ii. Balance 25% to be paid after verification/ certification within 15 days of receipt of bill. However, the final bill payment will not exceed 30 days.
- b. HPCL has taken the initiative to expedite the payment to vendors through e-payment. Hence confirm that you have filled the HPCL bank mandate for e-payment.
- c. Payment against invoice shall be made on receipt of equipment/materials at site against submission of following documents along with your Bill/Invoice:-
  - i. Delivery Challan / Lorry Receipt.
  - ii. Manufacturer's Test Certificate
  - iii. Inspection/Clearance report
  - iv. Manufacturer's Guarantee Certificate
  - v. Performance Bank Guarantee for 10% Basic Order Value
  - vi. Any other document specified in the Purchase Order.
- d. The financial settlement of Vendor's invoice is liable to be withheld in the event the Vendor has not complied with submission of drawing data and such documentation as called for in the Purchase Order and/or as required otherwise.
- e. HPCL will furnish their approved format for bank guarantee/ indemnity bond for all the advance payments directly to vendor along with FOA/ PO, wherever applicable.
- f. In case of delayed supplies, bills will be paid after recovering the amount as per price reduction clause of the P.O.
- g. All bank guarantees shall be non revocable and from Scheduled / Nationalised Banks other than cooperative banks in India and as per HPCL's proforma.

- h. PBG shall be valid till expiry of guarantee period. All other Bank Guarantees shall be valid till contractual completion period, unless otherwise specified. All bank guarantees shall have a claim period of 1(one) month after expiry date of bank guarantee.

**27. RECOVERY OF SUMS DUE**

Whenever any claim against the Vendor for payment of a sum of money arises out of or under the contract, the Corporation shall be entitled to recover such sums from any sum then due or which at any time thereafter may become due from the Vendor under this or any other contract with the Corporation and should this sum be not sufficient to cover the recoverable amount, the Vendor shall pay to the Corporation on demand the balance remaining due.

**28. CHANGES**

The Corporation has the option at any time to make changes in quantities ordered or in specification and drawings. If such changes cause an increase or decrease in the price or in the time required for supply, an equitable adjustment under this provision must be finalised within 10 days from the date when change is ordered.

**29. CANCELLATION / RISK PURCHASE CLAUSE:**

- a. The Corporation reserves the right to cancel this purchase order or any part thereof and shall be entitled to rescind the contract wholly or in part with a written notice to the vendor if:
- The vendor fails to comply with the terms of this purchase order.
  - The vendor fails to delivery the goods on time and / or replace the rejected goods promptly.
  - The Vendor becomes bankrupt or goes into liquidation.
  - The vendor makes a general assignment for the benefit of creditors.
  - A receiver is appointed for any of the property owned by the vendor.
- b. Upon receipt of the said cancellation notice, the vendor shall discontinue all work on the Purchase Order and matters connected with it. The vendor is aware that the said goods
- are required by the Corporation for the ultimate purpose of materials production and that non delivery may cause loss of production and consequently loss of profit to the Corporation.
- c. Therefore, in case of Termination of the contract, Corporation shall have the right to carry out the unexecuted portion of the supply/work either by themselves or through any other vendor(s)/contractor(s) at the risk and cost of the vendor/contractor. In view of paucity of time, Corporation shall have the right to place such unexecuted portion of the supply/work on any nominated vendor(s)/contractor(s). However, the overall liability of the vendor/Contractor shall be restricted to 100% of the total contract value.
- d. The provision of this clause shall not prejudice the right of the Corporation from invoking the provisions of clause "Delayed Delivery" as a fore said.

**30. PATENTS AND ROYALTIES**

On acceptance of this order, the Vendor will be deemed to have entirely indemnified the Corporation from any legal action or claims regarding compensation for breach of any patent rights.

**31. PERFORMANCE GUARANTEE**

a. The supplies made against this order shall be fully guaranteed against any manufacturing defects/poor workmanship/inferior quality etc. for a period of 12 months from the date of commissioning or 18 months from the date of supply whichever is earlier. During this period, you will arrange to repair/replace any defective parts free of cost or replace complete set if required. Guarantee Certificate should be submitted along with despatch documents. You will furnish performance Bank Guarantee in favour of HPCL issued by Scheduled bank (other than co-operative banks) for 10% value of the material supplied and valid during the above guarantee period.

- ® b. **Composite PBG valid upto a period of 3 months beyond the expiry of defect liability period. Demand Draft should be drawn on Scheduled Banks (other than cooperative banks).**

**Quantum of Performance Bank Guarantee inclusive of Security Deposit should be as follows:**

- **All items (other than CVR items) : 10% of PO value**

- **For CVR items: r 10.0 lakhs or 5% of the order value whichever is lower.**

Composite PBG of **above value** towards Performance Bank Guarantee inclusive of Security Deposit shall be accepted (in lieu of deduction of retention money of 10% from each bill); Such composite PBG shall be valid upto a period of 3 months beyond the expiry of defect liability period. Demand Draft should be drawn on Scheduled Banks (other than cooperative banks).

**32. NON WAIVER**

Failure of the Corporation to insist upon any of the terms or conditions incorporated in the Purchase Order or failure or delay to exercise any right or remedies or by law or failure to properly notify Vendor in the event of breach, or the acceptance of, or payment of any goods hereunder or approval of design shall not release the Vendor and shall not be deemed a waiver of any right of the Corporation to insist upon the strict performance thereof or of any of his or their rights or remedies as to any such goods regardless of when goods are shipped, received or accepted nor shall any purported oral modification or revision of the order by the Corporation act as waiver of the terms hereof.

**33. NON ASSIGNMENT**

The Purchase Order shall not be assigned to any other agency by the Vendor without obtaining prior written consent of Corporation.

**34. PART ORDER/ SPLIT ORDER / REPEAT ORDER**

Vendor hereby agrees to accept part orders, split order at Corporation's option without any limitation whatsoever and also accept repeat order up to 100% of each item during a period of 12 months after placement of purchase order at the same unit prices, terms and conditions.



**35. VENDOR'S DRAWINGS AND DATA REQUIREMENT**

The Vendor shall submit drawings, data and documentation in accordance with but not limited to what is specified in the requisition and / or in Vendor drawings and data form attached to the Purchase Order as called for in clause 8, viz, 'Expediting' above. The types, quantities and time limits of submitting this must be respected in its entirety failing which the Purchase Order shall not be deemed to have been executed for all purposes including settlement of payment since the said submission is an integral part of Purchase Order execution.

**36. TECHNICAL INFORMATION**

- a. Drawings, specifications & details shall be the property of the Corporation and shall be returned by the Vendor on demand. The Vendor shall not make use of drawing and specifications for any purpose at any time save and except for the purpose of the Corporation.
- b. The Vendor shall not disclose the technical information furnished to or gained by the Vendor under or by virtue or as a result of the implementation of this Purchase Order to any person, firm or body or corporate authority and shall make all endeavours to ensure that the technical information is kept CONFIDENTIAL. The technical information imparted and supplied to the Vendor by the Corporation shall at all times remain the absolute Property of the Corporation.

**37. SERVICES OF VENDOR'S PERSONNEL**

Unless otherwise specified in the PO, services of vendor's personnel shall be made within two weeks advance notice and the Vendor shall depute the necessary personnel to site for supervision of erection and start up of the equipment and train a few of the Corporation's personnel for the operation and maintenance of the equipment if required, by the Corporation. The terms and conditions for the services of the Vendor shall be mutually settled.

**38. VENDOR'S LIABILITY**

The Vendor's workmen or employees shall under no circumstances be deemed to be in Corporation's employment and the Vendor shall hold himself responsible for any claim or claims which they or their heirs, dependents, personal representatives may have or make for damages or compensation for anything done or committed to be done in the course of carrying out the work covered by this Purchase Order, whether arising on Corporation premises or elsewhere and agrees to indemnify the Corporation against any such claim or claims if made against the Corporation and all cost (as between attorney and client) of proceedings, suits or action which the Corporation may incur/sustain in respect of the same. The Vendor shall also procure and keep in force at his own cost comprehensive Automobile Liability insurance for adequate coverage in respect of all his vehicles visiting or plying in project premises. The Vendor shall also be responsible for compliance of existing laws in respect of their workmen and employees. Extent of Liability shall be read in conjunction with clause no. 28 above.

- ® a. **LIMITATION OF LIABILITY**  
**Notwithstanding anything contrary contained herein, the aggregate total liability of Seller, excluding his liability towards infringement of patent, trade mark or industrial design rights under the contract or otherwise shall be limited to 100% of value of Purchase order. However, neither party shall be liable to the other party for any indirect and consequential damages, loss of profits or loss of production. (Refer Annexure 22 – Govt. Guideline Sr. No. 13)**

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**39. CORPORATION'S MATERIAL**

- a. Corporation's material shall be delivered to the Vendor against submission of Bank Guarantee for indemnifying the full value thereof strictly in the manner and as per proforma of bank Guarantee approved by the Corporation.
- b. Wherever possible the material shall be consigned to Vendor's siding. In the event the Vendor does not have any siding, materials shall be consigned to the Public siding / goods depot to be specifically confirmed by Vendor Loading / Unloading and any handling from the siding / destination shall be arranged by the Vendor at his responsibility and cost.
- c. The Vendor shall give a firm and binding list of Corporation issue materials and the desired schedule of its delivery to Shop floor strictly in accordance with the sequence of fabrication vis-à-vis the contract delivery period.
- d. Unused material or scrap from material supplied by the Corporation to the Vendor shall be returned by the Vendor to the Corporation or if the Corporation so directs, the Vendor may dispose of the same by sale or otherwise on such terms and conditions as the Corporation may stipulate and the Vendor shall pay to the Corporation the sale proceeds of the material so disposed by sale deducting therefrom expenses incurred by the Vendor on such sale, the quantum of such deduction to be mutually agreed upon in advance between the Corporation and the Vendor.

**40. GUARANTEE FOR SPARE PARTS:**

- a. The seller shall undertake that before going out of production of the spare parts he will give adequate advance notice to the Procurement so that the latter may order his requirements of spares in one lot if so desires.
- b. The seller shall further guarantee that if he goes out of production of spare parts, then he will make available blue prints, drawings of spare parts and specification of materials at no extra cost to the Procurement, if and when required in connection with the equipment to enable the procurer to fabricate or procure spare parts from other source.
- d. The provision of this clause shall remain effective and binding upon the seller even after the completion or expiry of the order and till the plant / machinery / equipment / instrument supplied under the order is in use by the procurer.

**41. ARBITRATION**

- 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 agreement, 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 or after determination, foreclosure, termination or breach of the agreement (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 agreement 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 either himself act as the Sole Arbitrator or nominate some officer/retired officer of Hindustan Petroleum Corporation Limited (referred to as Corporation or HPCL) or a retired officer of any other Government Company in the Oil Sector of the rank of Ch. Manager & above or any retired officer of the Central Government not below the rank of a Director, 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 and/or shareholder of the Corporation, 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 or that in the course of his/her duties, he/she has/had expressed views on all or any of the matters in dispute or difference.

- 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 aforesaid, 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. 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.
- e. The Award of the Sole Arbitrator shall be final and binding on the parties to the Agreement.
- f. The work under the Contract shall, however, 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 R 40,000/- per case for transportation contracts and R 60,000/- for engineering contracts and if the sole Arbitrator completes the arbitration including his award within 5 months of accepting his appointment, he shall be paid R 10,000/- additionally as bonus. 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, 25% on completion of arguments and balance on 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 \_\_\_\_\_ for all purposes. The Arbitration shall be held at Visakhapatnam and conducted in English language.
- k. The Appointing Authority is the Functional Director\* of Hindustan Petroleum Corporation Limited.
- l. Procurement Authorities may mention, if considered necessary, the proper designation such as Director-Refineries, etc.