

- 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 **a bank in India from the list of banks whose bank guarantees are acceptable to the Corporation (list enclosed)** and as per HPCL's proforma.

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- 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:
- i. The vendor fails to comply with the terms of this purchase order.
 - ii. The vendor fails to delivery the goods on time and / or replace the rejected goods promptly.
 - iii. The Vendor becomes bankrupt or goes into liquidation.
 - iv. The vendor makes a general assignment for the benefit of creditors.
 - v. 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 a bank from the list of banks whose bank guarantees are acceptable to the Corporation (list enclosed)** 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: ₹ 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.

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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)

- ® **REVISION: PROC-021/01.07.2017**

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 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.

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41A CONCILIATION

The Parties to the contract may seek to resolve all their disputes and differences amicably by Conciliation in accordance with the Conciliation Rules of HPCL (as in force and may be amended from time to time), provided however that the disputes/ differences amount to a claim in excess of Rs. One Crore. If however the disputes or differences are not resolved by conciliation, the Parties shall be free to approach a Court of competent jurisdiction. (The HPCL Conciliation Rules are attached).

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42. JURISDICTION

The Vendor hereby agrees that the Courts situated in location given in tender header" shall have the jurisdiction to hear and determine all actions and proceedings arising out of this contract.

CLAUSE

- a. Vendor needs to clarify whether you are registered with NSIC. If registered, vendor needs to submit the following documents along with their offer.
- b. Photocopy of the NSIC Registration Certificate, which clearly shows the following details/ information:
 - i. Name of the Bidder
 - ii. Address of the Bidder
 - iii. Validity of the Registration
 - iv. Items for which the Bidder is registered
 - v. Monetary Limit

and acknowledged copy of Entrepreneurs Memorandum Part II

- c. Also vendor has to clarify whether you have secured Orders for same items, during the preceding 12 months, in competition with Large Scale Units, WITHOUT any Price Preference.
- d. In case vendor have secured Orders for same items, during the preceding 12 months, in competition with Large Scale Units, WITHOUT any Price Preference, then vendor has to furnish a Declaration on their Letter Head accordingly.
- e. Please note that in the absence of the above information, offer will be evaluated without considering Price Preference.

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Preference to MSEs (Refer Gazette notification of the Government of India , the Ministry of Micro, Small and Medium Enterprises number S.O.2119 (E) , dated 26th June, 2020 on criteria for lassifying the enterprises as micro, small and medium enterprises & Udyam registration for revised guideline.)

- a. In case the bidder is a Micro or Small Enterprises registered with District Industries Centers or Khadi and Village Industries Commission or Khadi and Village Industries Board or Coir Board or National Small Industries Corporation or Directorate of Handicrafts and Handloom or any other body specified by Ministry of Micro and Small

Enterprises, the bidder shall be entitled for following:

- i. Issue of Tender Documents to MSEs free of cost.
- ii. Exemption to MSEs from payment of EMD.
- iii. Micro and Small Enterprises quoting price within price band of L1+15% shall also be allowed to supply a portion of requirement by bringing down their prices to L1 price in a situation where LI price is from someone other than a micro and small enterprises and such micro and small enterprises shall be allowed to supply upto 25% of the total tendered value. In case of more than one such Micro and Small Enterprises, the supply of 25% portion shall be shared amongst them. Further, out of above 25%, of 4% will be earmarked for procurement from MSEs owned by SC/ST entrepreneurs and 3% will be earmarked for procurement from MSEs owned by women.

This quota is to be transferred to other MSEs in case of non-availability of MSEs owned by SC/ST entrepreneurs or women entrepreneurs.

- b. The quoted prices against various items shall remain valid in case of splitting of quantities of the items as above.

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- c. MSE bidder shall submit the following:
- i. Documentary evidence that the bidder is a Micro or Small Enterprises registered with District Industries Centers or Khadi and Village Industries Commission or Khadi and Village Industries Board or Coir Board or National Small Industries Corporation or Directorate of Handicrafts and Handloom or any other body specified by Ministry of Micro, Small and Medium Enterprises.
 - ® ii. If the MSE is owned by SC/ST Entrepreneurs **or MSEs owned by women entrepreneurs**, the bidder shall furnish appropriate documentary evidence in this regard.
 - iii. The above documents submitted by the bidder shall be duly certified by the Statutory Auditor of the bidder or a practicing Chartered Accountant (not being an employee or a Director or not having any interest in the bidder's company/firm) where audited accounts are not mandatory as per law.
 - ® d. If the bidder does not provide the appropriate document or any evidence to substantiate the above, then it will be presumed that they do not qualify for any preference admissible in the **Public Procurement Policy for Micro and Small Enterprises (MSEs) order 2012 along with amendments notified vide Government of India Gazette from time to time.**

43. VALIDITY OF OFFER:

Offer shall be valid for 3 months from the due date / extended due date of the tender enquiry.

44. INTEGRITY PACT:

All tenders shall comply with the requirements of the Integrity Pact (IP) if the value of such tenders is ₹ 1 crore & above. Failure to sign the Integrity Pact shall lead to outright rejection of bid.

45. ORDER OF PRECEDENCE

In case of any discrepancy between the conditions stated in the GPC (which is an integral part of the Order) and those specifically mentioned in the Purchase Order, the later shall prevail over the former.

46. GENERAL:

- a. Deviations to Terms and Conditions shall lead to loading of prices or make your offer liable for rejection.
- b. All resident/non-resident parties to obtain and furnish their PAN in order to avoid tax withholding at a higher rate. Even though the non-residents may not have permanent establishment (PE), branch, local office in India, they can apply with their foreign address. For your information, the web address for applying for PAN in Form No. 49A to NSDL or UTISL online as given in the following sites:
(AO details for International Taxation are also available online).
 - i. <http://tin.tin.nsdl.com/pan/index.html/>
 - ii. <http://incometaxindia.gov.in/>
 - iii. <https://incometaxindiaefiling.gov.in/portal/index.jsp>
 - iv. <http://www.utitsl.co.in/>
- c. GRIEVANCE REDRESSAL: 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.

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- d. PBG Format is attached with this GPC.
- ® e. **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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