



ऑयल इंडिया लिमिटेड
(भारत सरकार का उद्यम)
Oil India Limited
(A Government of India Enterprise)

Conquering Newer Horizons

MATERIALS DEPARTMENT
P.O. Duliajan, Dist. Dibrugarh
ASSAM, PIN – 786 602, INDIA
TEL : (+91) 374 2808705
E-mail: bikramjit_singha@oilindia.in



AMENDMENT NO. 1 DATED 07.05.2021
TO
TENDER NO. SDG6653P22/09 DATED 05.04.2021

- 1.0 This Amendment no. 1 dated 07.05.2021 to tender no. SDG6653P22/09 is issued –
- (i) To incorporate the attached Appendix – AA under Annexure – A of the tender as
DD: ADDITIONAL NOTES TO THE BIDDER.
- 2.0 All other terms and conditions of the tender remain unchanged.

(M. B. SINGHA)
CHIEF MANAGER MATERIALS (FD)
FOR GENERAL MANAGER - MATERIALS (HoD)
FOR RESIDENT CHIEF EXECUTIVE

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DD: ADDITIONAL NOTES TO THE BIDDER

1.0 BIDDER TO ADHERE:

The bidder shall be deemed to have examined the complete Bid Document including technical specifications, terms & conditions, all attachments & annexure thereto and taken due cognizance of the contents to their full satisfaction prior to submitting Bid. Any lack of information shall not relieve the Seller in any way of its responsibility to fulfil obligations under the purchase order/contract in entirety.

2.0 EFFECTIVE DATE OF CONTRACT/ ORDER:

Unless otherwise specified in the contrary, the date of LOA will be the start of the Contract/Order for all practical purposes.

3.0 CONFIDENTIAL INFORMATION:

The Seller/Bidder shall treat all designs, drawings, specifications, data or information supplied by OIL (whether written or verbal) as confidential and shall use its best endeavours to ensure that such design, drawings, data or information is not divulged to any third party, except with the consent of OIL, where necessary for the purpose of performance of its obligation and subject to similar undertakings being obtained from such third parties to treat such design, drawings, data or information in like confidence other than designs, drawings, data or information which at the time of proposed disclosure are within the public knowledge or in the Seller's possession.

4.0 PATENT AND OTHER RIGHTS:

4.1. The Seller shall fully indemnify OIL against any action, claim or demand, costs and expenses arising from or incurred by reason of any infringement or alleged infringement of any letter, patent, design, trademark or name, copy right or other legally protected rights in respect of any plant, work, materials to be supplied or any arrangement, system or method of using, fixing or working to be employed by the Seller.

4.2. In the event of any claim or demand being made or action brought against OIL in respect of any of the aforesaid matters, OIL shall notify the Seller thereof as soon as possible and Seller shall conduct with the assistance of OIL if necessary, but at his own expense, all negotiation for the settlement of such matter and any legal proceeding, litigation/arbitration involved or which may arise there from. Notwithstanding above, OIL reserves the right to initiate action against the seller.

5.0 ASSIGNMENT:

5.1. The Seller shall not transfer or assign the consequent Contract or any part thereof without the prior consent in writing from OIL. Any permitted transfer/assignment or subletting shall not relieve the Seller of any of his obligations, which might have arisen before such permission was given.

5.2. The Seller shall not sublet the consequent Contract or any part thereof without the prior consent in writing from OIL. Any permitted subletting shall not relieve the Seller of any of his obligations under the contract/purchase order and shall be wholly responsible for compliance of the terms of the Contract/Purchase Order.

6.0 TAXES, DUTIES & LEVIES:

6.1. DOMESTIC SUPPLIER:

(a) Domestic Seller shall be responsible for all taxes/duties/ licence fee etc. incurred until the delivery of goods to the Purchaser. However, GST (Goods & Service Tax) as applicable on the finished product shall be reimbursed by the Purchaser.

(b) GST at applicable rate (s) shall be payable for the supplies to be made against this purchase order/ contract. However, supplier is required to take note of the Anti-Profiteering clause provisioned in GST and raise/submit supply invoice(s) incorporating the following details:

- (i) **OIL-Provisional GSTIN:**
- (ii) **GST Registration Details of Supplier:**
- (iii) **Item-wise HSN Code:**

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- (iv) **Applicable Rate of GST:**
- (v) **Total amount of benefit passed on to OIL due to reduction in rate of Tax (if so) or from Input Tax Credit by way of commensurate reduction in Prices under Anti Profiteering clause:**

In addition to above, the Supplier must submit an undertaking to OIL certifying that the benefit accrued to them on account of reduction in tax rate(s) or from Input Tax Credit has been entirely passed on to OIL under anti-profiteering provision of GST Act, 2017

- (c) For the purposes of levy and imposition of GST, the expressions shall have the following meanings:
 - (i) "GST" means any tax imposed on the supply of goods and/or services under GST Law.
 - (ii) "Cess" means any applicable cess, existing or future on the supply of Goods and Services as per Goods and Services Tax (Compensation to States) Act, 2017.
 - (iii) "GST Law" means IGST Act 2017, CGST Act 2017, UTGST Act, 2017 and SGST Act, 2017 and all related ancillary Rules and Notifications issued in this regard from time to time.
- (d) Vendor/Supplier/Contractor is required to pass on the benefit arising out of introduction of GST, including seamless flow of Input Tax Credit, reduction in Tax Rate on inputs as well as final goods by way of reduction of price as contemplated in the provision relating to Anti-Profiteering Measure vide Section 171 of the CGST Act, 2017. Accordingly, for supplies made under GST, the Vendor/Supplier/Contractor must confirm that benefit of lower costs has been passed on to OIL by way of lower prices/taxes and must also provide details of the same as applicable. OIL reserves the right to examine such details about costs of inputs/input services of the Vendor/Supplier/Contractor to ensure that the intended benefits of GST have been passed on to OIL.
- (e) Vendor/Supplier/Contractor agrees to do all things but not limited to providing GST compliant Tax Invoices or other documentation as per GST law relating to the supply of goods and/or services covered in the instant contract like raising of and/or acceptance or rejection of credit notes/ debit notes as the case may be, payment of taxes, timely filing of valid statutory Returns for the tax period on the Goods and Service Tax Network (GSTN), submission of general information as and when called for by OIL in the customized format shared by OIL in order to enable OIL to update its database etc. that may be necessary to match the invoices on GSTN common portal and also for claiming input tax credit in relation to any GST payable under this Contract or in respect of any supply under this Contract.
- (f) In case Input Tax Credit of GST is denied to OIL or demand is recovered from OIL by the Central State Authorities on account of any non-compliance by Vendor/Supplier/Contractor, including non-payment of GST charged and recovered, the Vendor/Supplier/Contractor shall indemnify OIL in respect of all such claims of tax, penalty and/or interest, loss, damages, costs, expenses and liability that may arise due to such non-compliance. OIL, at its discretion, may also withhold/recover such an amount demanded and recovered by the authorities/ state authorities from the pending payments of the Vendor/Supplier/Contractor.
- (g) In case of ICB tender, wherever OIL issues Project Authority Certificate to domestic Seller for availing duty-free import of raw material and component, any variation in the custom duty within the contractual completion period of the purchase order/contract shall be to Purchaser's account on CIF value of import declared by the Seller in its Bid.
- (h) All taxes, stamp duties and other levies for the services including installation/commissioning, Training etc. shall be to the Seller's account.
- (i) Income Tax on the value of the Services rendered by the Seller in connection with installation/commissioning, training etc. shall be deducted at source from the invoices at the appropriate rate under the I.T. Act & Rules from time to time.
- (j) Tax deduction certificate shall be issued by Purchaser for the Tax deducted at source as per provision of Act.

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(k) GST TDS shall be applicable for as per the provisions of the CGST Act 2017

13.2 FOREIGN SUPPLIER:

- a) All taxes, duties and levies imposed outside India shall be the responsibility of the Seller and charges thereof are included in the item rates and shall be to the Seller's account.
- b) All taxes, duties and levies imposed inside India on the ordered materials/goods shall be borne by the Purchaser. However, taxes, levies as may be payable in India on services, if included any in the order/contract, including the installation & Commissioning, training etc. shall be to Seller's account.
- c) Income Tax on the value of the Services rendered by the Seller in connection with installation, commissioning, training etc. shall be deducted at source from the invoices at the appropriate rate under the I.T. Act & Rules from time to time.
- d) Tax deduction certificate shall be issued by Purchaser for the Tax deducted at source as per provisions of Act.
- e) As per Income Tax Act, 1961 Foreign bidders should submit (along with their technical bid) following particulars, which are required to be furnished by OIL to Income Tax Department for complying with the requirements for making remittances to non-residents as per Income Tax Act, 1961 (as amended from time to time):
 - (i) Whether the non-resident has a Fixed Place Permanent Establishment (PE) or a Dependent Agency PE in India, in terms of the Double Taxation Avoidance Agreement (DTAA) between India and his country of tax residence through which the non-resident carries on business activities in relation to its engagement by OIL and if, yes, address of the Fixed Place PE or name & address of the Dependent Agent?
 - (ii) Whether by carrying on activities in relation to its engagement by OIL, the non-resident constitutes an Installation/Construction PE or a Service PE in India in terms of the DTAA between India and his country of tax residence?
 - (iii) If the non-resident has PE in India, whether the remittances to be made to him under his engagement by OIL are attributable to such PE?
 - (iv) If the remittances to be made to the non-resident under his engagement by OIL are attributable to a PE which it has in India, what quantum of the profits resulting to the non-resident from his engagement by OIL, can be said to be attributable to the role played by the PE, and the basis of arriving at such quantum?
 - (v) If no part of the remittances to be made to the non-resident under his engagement by OIL is attributable to a PE which it has in India, what are the reasons for the same?
 - (vi) Non-resident's complete address (not necessarily in India), e-mail address. phone number with International Dialling code.
 - (vii) If the non-resident has an Indian Income Tax Permanent Account Number (PAN), what is that PAN?
 - (viii) Country of tax residence of the non-resident supported by a TRC issued by the Government of country or specified territory to the effect that the person named therein is a resident of that country or specified territory.
 - (ix) In accordance with Rule 21AB of the Income-tax Rules, 1962, along with the TRC, the non-resident shall also furnish the requisite information in the prescribed "Form 10F".

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- (x) A declaration as to the country which can be regarded as the non-resident's principal place of business. This could be the same as his country of tax residence or different depending on facts.
- (xi) Whether the non-resident is constituted as a company, a partnership firm, or any other form of business organization.
- f) In view of above and in accordance with Income Tax Act, 1961 Foreign bidders shall undertake in their Technical bid that in the event of placement of order on them, they shall submit below documents within 15 days from the date of issue of Purchase order. The documents are required to be furnished by OIL to Income Tax Department for complying with the requirements for making remittances to non-residents as per Income Tax Act, 1961 (as amended from time to time):
- Tax Residency Certificate (TRC)
 - Form No. 10F
 - No Business Connection or Permanent Establishment Certificate
- g) Payment to Foreign supplier shall be released only after receipt of the above documents. Any delay in submission of Tax Residency Certificate (TRC), Form No. 10F and/or PE within the specified time may lead to the Income Tax Department directing OIL to deduct tax at a higher rate than at which it would otherwise have been deducted. Such increased tax liability shall be recovered from the Foreign Supplier.
- h) In addition to above particulars, the Foreign supplier should also provide any other information as may be required later for determining the taxability of the amount to be remitted to the non-resident. Further, the Foreign supplier shall be liable to intimate the subsequent changes (if any) to the information submitted against any of the above particulars, along with full details.

7.0 CHANGE IN LAW:

- 7.1. In the event of introduction of any new legislation or any change or amendment or enforcement of any Act or Law, rules or regulations of Government of India or State Government(s) or Public Body which becomes effective after the tender closing date and which results in increase in rate of taxes and duties on the supply of goods/services to PURCHASER under the PURCHASE ORDER (other than personnel and Corporate taxes), the SUPPLIER shall be indemnified for any such increased taxes and duties by the PURCHASER subject to the production of documentary proof to the satisfaction of the PURCHASER to the extent which directly is attributable to such introduction of new legislation or change or amendment as mentioned above and adjudication by the competent authority & the courts wherever levy of such taxes / duties are disputed by PURCHASER.
- 7.2. Similarly, in the event of introduction of new legislation or any change or amendment or enforcement of any Act or Law, rules or regulations of Government of India or State Government(s) or Public Body which becomes effective after the tender closing date and which results in any decrease in the rate of taxes and duties on the supply of goods/services to PURCHASER, (other than personnel and Corporate taxes), the SUPPLIER shall pass on the benefits of such reduced cost, taxes or duties to the PURCHASER, to the extent which is directly attributable to such introduction of new legislation or change or amendment as mentioned above.
- 7.3. All taxes & duties (except where otherwise expressly provided in the Purchase Order) as may be levied/ imposed in consequences of execution of the Services or in relation thereto or in connection therewith as per the Acts, Laws, Rules, Regulations in force on the tender closing date, shall be to SUPPLIER's account. Any increase/decrease in the rate of such duties, taxes after the tender closing date, but within the contractual completion/mobilization date as stipulated in the PURCHASE ORDER will be to the account of PURCHASER.
- 7.4. Any increase in the rate of taxes & duties after the delivery completion/ mobilization date or during the extended period will be to the SUPPLIER's account, where delay in completion /mobilization period is attributable to the SUPPLIER. However, any decrease in the rate of taxes and duties after the delivery completion/ mobilization date will be to PURCHASER's account.

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7.5. The prices given in the Price Bid are based on the applicable tariff as indicated by the SUPPLIER. In case this information subsequently proves to be wrong, incorrect or misleading, PURCHASER will have no liability to reimburse/pay to the SUPPLIER the excess duties, taxes, fees, if any finally levied / imposed by the concerned authorities. However, in such an event, PURCHASER will have the right to recover the difference in case the rate of duty/tax finally assessed is on the lower side.

7.6. Notwithstanding the provision contained in clause 7.1 to 7.4 above, the Purchaser shall not bear any liability in respect of:

- (i) Personal taxes on the personnel deployed by Purchaser, his sub-contractor, Agents etc.
- (ii) Corporate taxes and Fringe benefit tax in respect of Supplier and all of their sub- contractors, agents etc.
- (iii) Other taxes & duties including Customs Duty, and GST in addition to new taxes etc. in respect of sub-contractors, vendors, agents etc of the Supplier.
- (iv) Any liability on the Seller, which was accrued under the old law or contract, which the Contractor is obligated to pay either to the PURSHASER or to the Government Authority.

7.7. The above provisions would be applicable only in case of variation in rate of taxes and duties on supply of goods/services to PURCHASER and not applicable on taxes and duties on input (goods and services).

7.8. Any claim or reduction on account of change in law shall be accompanied with undertaking that the provisions of anti-profiteering clause under GST Act have been complied with.

8.0 TRANSFER OF TITLE AND RISK OF LOSS:

8.1. For Indigenous Material(s):

The transfer of property and risk in Indigenous Material(s) shall be deemed to take place as follows:

- a) For despatch on FOB Despatch Station basis: On handing over the Material(s) to the carrier against receipt of clean Railway Receipt/Truck or Lorry Receipt and such receipt having been handed over to OIL.
- b) For delivery on DDP Destination basis: On receipt of the Material(s) by OIL at the destination station.

8.2. For Imported Material(s):

The transfer of property and risks in Imported Material(s) shall be deemed to take place as follows:

- a) For FOB/FCA deliveries: On handing over the Material(s) to the carrier and issue of clean Bill of Lading/Airway Bill (except for freight to pay) and its transmission to OIL.
- b) For CIF/C&F deliveries: Transfer of title and risk of loss passes to OIL when delivered on board the ship by vendor who pays the transportation cost upto the destination port or to the designated destination airport (as per INCOTERMS).

9.0 LIMITATION OF LIABILITY:

Notwithstanding any other provisions except only in cases of wilful misconduct and/or criminal acts;

- a) Notwithstanding any other provisions herein to the contrary, except only in cases of willful misconduct and/or criminal acts and/or criminal negligence, neither the SELLER nor the PURCHASER shall be liable to the other, whether in Contract, tort, or otherwise, for any consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided however that this exclusion shall not apply to any obligation of the SELLER to pay Liquidated Damages to the COMPANY and/or COMPANY's right to forfeit the Performance Bank Guarantee(s) in terms of the contract.
- b) Notwithstanding any other provisions incorporated elsewhere in the purchase order/contract, the aggregate liability of the Seller in respect of this contract, whether under Contract, in tort or otherwise, shall not exceed 100% of the Contract price, provided however that this limitation shall not apply to the cost of repairing or replacing defective equipment by the Seller, or to any obligation

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of the Seller to indemnify the Purchaser with respect to Intellectual Property Rights or liquidated damage or Performance Bank Guarantee.

- c) Purchaser shall indemnify and keep indemnified Seller harmless from and against any and all claims, costs, losses and liabilities in excess of the aggregate liability amount in terms of clause (b) above.
- d) The consideration or object of the purchase order/contract/agreement must remain lawful all the time till completion of successful execution. Consideration or object of the purchase order/contract/agreement is lawful unless -
 - it is forbidden by law; or
 - is of such nature that, if permitted, it would defeat the provisions of any law; or
 - is fraudulent; or involves or implies, injury to the person or property of another; or
 - the Court regards it as immoral, or opposed to public policy;

In each of these cases, the consideration or object is said to be unlawful and such purchase order/contract/agreement of which the consideration or object is unlawful is void and cannot be enforced.

10.0 INDEMNITY AGREEMENT:

- 10.1. Except as provided hereof, Seller agrees to protect, defend, indemnify and hold Purchaser harmless from and against all claims, suits, demands and causes of action, liabilities, expenses, cost, liens and judgments of every kind and character, without limit, which may arise in favour of Seller's employees, agents, sellers and sub-sellers or their employees on account of bodily injury or death, or damage to personnel/properly as a result of the operations contemplated hereby, regardless of whether or not the said claims, demands or causes of action arise out of the negligence or otherwise, in whole or in part or other faults.
- 10.2. Except as provided hereof, Purchaser agrees to protect, defend, indemnify and hold Seller harmless from and against all claims, suits, demands and causes of action, liabilities, expenses, cost, liens and judgments of every kind and character, without limit, which may arise in favour of Purchaser's employees, agents, sellers and sub-sellers or their employees on account of bodily injury or death, or damage to personnel/properly as a result of the operations contemplated hereby, regardless of whether or not said claims, demands or causes of action arise out of the negligence or otherwise, in whole or in part or other faults.

11.0 TRANSIT INSURANCE:

- 11.1. All goods supplied under the consequent purchase order shall be fully insured in the freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery.
- 11.2. The Seller shall ensure that in effecting despatch of materials, the primary responsibility of the shipper/carriers/transporter for safe movement is always retained so that the Purchaser's interests are fully safeguarded and are in no way jeopardized. The Seller shall furnish the cost of materials against each shipment/consignment.
- 11.3. Against Purchase Orders placed on overseas/foreign Supplier, where shipment is on FOB/FCA or CFR basis, marine insurance shall be the responsibility of the Purchaser. The Supplier/Seller shall send OIL information of the proposed shipment/consignment well in advance by e-mail/courier to enable OIL to take necessary action for the marine/air/transit insurance of the shipment/consignment. Any failure by the Vendor to do so shall place the consignment at the Vendor's risk. However, in case the delivery is on CIF/CIP terms, the marine insurance is to be arranged and paid for by the Seller naming the Purchaser as beneficiary.
- 11.4. Against Purchase Orders placed on domestic/indigenous Suppliers, where delivery is on FOB Despatch Station basis, the transit insurance from FOB point onwards shall be arranged and borne by the Purchaser. The Supplier/Seller shall send OIL information of the proposed shipment/consignment in OIL's web site www.oil-india.com (Under Vendor Category > Transit Declaration. Any failure by the Vendor to do so shall place the consignment at the Vendor's risk. However, in case of delivery on DDP Destination basis, transit insurance shall be arranged and paid by the Seller naming the Purchaser as the beneficiary.

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11.5. Purchase orders against which the transit/marine insurance is to be arranged by OIL, the Seller/Supplier must comply the following, failing which the entire risk & responsibility pertaining to the shipment/consignment shall be to Seller's account:

- (a) Overseas/Foreign Supplier: The Seller shall notify OIL's Shipping Office at Kolkata, India in advance per e-mail/courier all information on the proposed shipment/consignment for Purchaser to take necessary action for the marine/air/transit insurance.
- (b) Shipment must be made under deck In the event of Seller's inability to ship the material under deck, Purchasers prior concurrence must be obtained for shipping consignment over deck and all details must be faxed to Purchaser and the port consignee for arranging insurance accordingly.
- (c) Domestic/Indigenous Supplier: Seller shall notify the despatch details to Purchaser immediately and update the consignment details in OIL's website www.oil-india.com (Under for Vendor -> Transit Declaration).

11.6. Seller must notify the shipment/despatch details to Purchaser immediately.

12.0 PROGRESS REPORT:

12.1. In consistent with the agreed terms, upon demand from Purchaser, upon receipt of purchase order, the Seller shall submit a time schedule for all key events during the execution of the order, so as to monitor the progress.

12.2. Based on the above time schedule the Seller shall furnish a monthly report on the progress of the order to the Purchaser. Without assuming any obligations, Purchaser may review the progress from time to time and advise the seller to take necessary corrective action to improve and to have a catch-up programme any time, if found not satisfactory.

12.3. Notwithstanding the above, if Seller fails to catch up and does not make satisfactory progress, Purchaser can notify the Seller in writing for take necessary action to make it good. If the Seller does not comply with the notice, the Purchaser shall be at liberty to take over the job and get it done by alternative source at the risk and cost of Seller.

13.0 LANGUAGE:

All related documents as well as subsequent correspondences between the Seller and the Purchaser shall be in English language only.

14.0 REPEAT ORDER:

Purchaser reserves the right to place repeat order or extend the ordered quantity against any/all items within the currency of the purchase order up to 50% of the original ordered quantity on same terms & conditions and rate(s) not exceeding the original ordered rate(s).

15.0 SUB-CONTRACTS / ASSIGNMENT:

15.1. Subcontracting/assigning to third parties shall not take place either in whole or in part without the prior written consent of the Purchaser, which the Purchaser may grant or deny as per its discretion and violation of same shall entitle the Purchaser to cancel the order in whole or in part and claim damages.

15.2. Purchase Order shall be issued in the name of bidder only and no request for issuance of the Purchase Order to a third party shall be entertained.

16.0 TIME IS THE ESSENCE OF PURCHASE ORDER/CONTRACT:

The time and the date of delivery/completion as stipulated in the contract/purchase order shall be deemed to be the essence of the contract/purchase order.

17.0 DELIVERY:

17.1. **For Foreign Bidders only:**

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In case of Imported Material, the foreign Supplier shall make shipment only after prior approval of the OIL's Shipping Office at Kolkata, email: oilcalsh@oilindia.in. Demurrage, if any, on account of not obtaining approval from OIL, prior to shipment, will be seller accounts.

Prior to shipment, Supplier is required to furnish Commercial Invoice for OIL to complete import formalities. Also, the supplier shall arrange to obtain shipment clearance prior to shipment of materials from Head-Kolkata Branch, Oil India Limited, 15A, Hemanta Basu Sarani, Kolkata-700001, E-Mail: oilcalsh@oilindia.in. The supplier shall affect shipment only on receipt of shipment clearance from OIL, failing which all related liabilities shall be to supplier's account.

17.1.1. Delivery shall be deemed to have been made in case of FOB/FCA purchase order/contract, when the goods have been loaded on board of the designated vessel or aircraft at the designated port or place of shipment, securely packed and unless otherwise determined, shall be deemed to be the date of the relative Bill of Lading or Airway Bill. The date of Bill of Lading (excluding the freight forwarder nomination time) shall be considered as the date of delivery for overseas/foreign Sellers.

17.1.2. However, in case of CFR/CIF/CIP purchase order/contract, the date of IGM (Import General Manifesto) shall be considered as the date of delivery for overseas/foreign Sellers.

17.2. **For Indian Bidders only:**

Requisite Certificate for claiming concessional GST, wherever applicable shall be obtained by OIL from competent authority after receipt of supplier's invoice. Suppliers are requested not to dispatch ordered materials without receiving such Certificates from OIL, failing which liabilities, if any, shall be to supplier's account.

In case of indigenous purchase order on domestic Supplier, delivery shall be deemed to have been completed based on the order terms as under:

(a) FOB Despatching Station basis: The date of LR/ GR/ RR/ Airway Bill/Courier Dockets (as applicable) shall be considered as the date of delivery.

(b) DDP Destination basis: The date of receipt of goods at designated site/destination by the Purchaser or its authorised Consultant/Representative shall be considered as the date of delivery.

(c) All FOC (Free of Cost) items or Warranty replacement items must be supplied on DDP (Delivery Duty Paid) up to Destination basis without any cost to OIL.

18.0 INGREDIENTS DISCLOSURE:

(a) If any of the items ordered constitute or contain "hazardous or toxic chemicals" or "hazardous substances" or flammable or hazardous "petroleum products" or "dangerous goods" as defined by International Air Transport Association (IATA) or State or local law, rule or regulation, Seller shall provide at the time of delivery all required notices and information and approval from OIL before shipment. Seller agrees to maintain such information current and shall provide Buyer with any amended, altered or revised information on a timely basis. Seller warrants that the goods supplied under this Agreement do not contain any substance whose use is prohibited under International Air Transport Association (IATA) or State or local law, rule or regulation.

(b) Prior to and with the shipment of the goods purchased, Seller agrees to furnish to Buyer sufficient warning and notice in writing (including appropriate placarding and labels on goods, containers, packing and vehicles used for shipment) of any "hazardous substance" which is an ingredient or a part of any of the goods, together with such special handling instructions as may be necessary to advise Buyer and third parties, including transportation carriers and Buyer's employees, as to the degree of care and precaution that will best prevent bodily injury or property damage in the handling, transportation, processing, use, recycling or disposal of the goods.

19.0 PACKING & MARKING OF GOODS/EQUIPMENT:

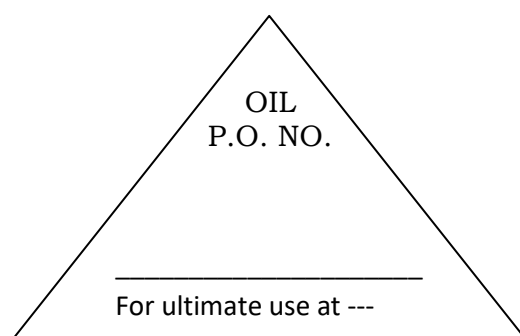
19.1. Packing of goods must be sufficiently robust to withstand multiple handling during transit for delivery to their final destination so that contents do not get damaged. Protection of the plant and equipment against

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corrosion or deterioration must be given special attention. In case of overseas Suppliers, the packing should be sea-worthy/air-worthy.

- 19.2. Machined steel and iron parts are to be heavily greased/varnished as prevention against rust.
- 19.3. In the case of internal combustion engines, compressors and similar equipment, internal parts are to be sprayed with an inhibitor or water splitting preservative and all openings should be suitably covered with tape/cap to prevent ingress of water.
- 19.4. Boxes/ Packing cases containing electrical/ electronic equipment are to be waterproof lined.
- 19.5. All items must have their respective identification marks painted/ embossed on them.
- 19.6. Crates or boxes should have a list of items contained therein secured to the exterior by means of an enveloping piece of tin sheet nailed to the wood. A duplicate list should also be included inside the crate with the contents.
- 19.7. Items prone for pilfering should be packed in boxes and not in bags.
- 19.8. The Seller shall be responsible for damage of goods either in full or in part and for corrosion and/or deterioration of the plant and equipment during transit due to inadequate/insufficient packing or due to noncompliance with the above Para Nos. 19.1 to 19.4 depending upon the nature of items and as such shall be obligated to repair or replace the damaged goods or plant or equipment in full or in parts thereof, at free of cost to OIL within a reasonable period of time.
- 19.9. Items that can be packed in bundles must be secured with strong wires or bands near each end and at regular intervals along the length to prevent splaying and ensure rigidity. Bundles must be suitably tagged using labels which are securely fastened by the ties clearly stencilled with mark, number and port mark.
- 19.10. Bundles or pieces must be adequately painted and marked as per item specifications.
- 19.11. In case of tubular, the weight of each bundle should not exceed 2 MT.
- 19.12. All spares are to be labelled with purchaser's order number and item number in addition to seller's part number, if any.
- 19.13. Electrical equipment must be suitable for use in humid and tropical climate and be specially treated / finished to prevent deterioration / corrosion. Insulation is to be non-hygroscopic and preferably vacuum dried and pressure impregnated.
- 19.14. Each box/crate/pallet/piece should be clearly marked on atleast two sides with OIL's Purchase order number, consignee name and address, consignment note number, package number and total number of packages.
- 19.15. Shipping Mark in case of foreign order to be despatched by sea/air:

Please put the following shipping mark clearly on each package / piece:



In addition to the shipping mark as shown above, packages must be marked on two sides with net and gross weights in kilograms and measurements in centimetres and country of origin. For pieces over 1 MT these

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dimensions must be marked on all sides to facilitate identification in case of shipping marks becoming obliterated.

All packages, wherever possible, should have a label placed inside bearing a clear impression of the external, mark, number and port mark.

19.16. Shipment confirmation by overseas/foreign Suppliers:

The foreign Seller shall advise the Purchaser by email or fax immediately after the shipment is affected with details of name of shipping line and vessel/airline and flight number, date of shipment, port of shipment, number and date of Bill of Lading/AWB, terms of delivery, number of packages, weight and volume of consignment and brief description of goods.

19.17. Road Despatch by domestic Suppliers:

19.17.1. In the event of an order other than DDP Destination terms on indigenous Seller, the materials shall be despatched through OIL's approved transporter/carrier (which will be specified in the order) on "Door Delivery" basis.

19.17.2. For orders placed on DDP Destination basis on indigenous Seller, the materials shall be despatched through reputed Bank approved transporters/carriers only on Door Delivery basis. In case OIL is required to collect the material from transporters godown, extra expenditure incurred thereof will be recovered from the Seller.

19.18. Rail Despatch by domestic Suppliers:

In case of Rail despatch, the indigenous Seller shall be fully responsible for arranging the required railway wagons/rake. Tubular consignment will be despatched preferably in open type wagons. In case of despatch by other wagons, prior approval of OIL is to be taken. Height of the wagons should not exceed 4.6 metres.

19.19. Weight and Size Limitation of Packages:

Category	Length (Mtrs.)	Width (Mtrs.)	Height (Mtrs.)	Capacity (MT)
Truck	5.185	1.98	1.98	9
Normal Trailer	10.98	2.44	2.44	18
Semi Low Bed Trailer	10.98	3.05	3.05	20
Low Bed Trailer	6.71	3.05	3.81	18

Above dimensional restrictions must not be violated without prior approval from the Purchaser. The finished packing should be in the form of a box under the limited dimensions.

20.0 TRANSPORTATION:

20.1. OVERSEAS/FOREIGN SUPPLIER:

- a) Where the Seller is required to undertake delivery of goods on FOB terms, documentation, handling & inland transportation upto putting the ordered goods on the board at port of loading shall be arranged and paid by the Seller. The total order value includes all such costs/FOB charges etc. For the orders issued on FOB/FCA terms, OIL reserves the right to convert the order from FOB/FCA Port of export to C&F Kolkata term considering the ocean/air freight quoted by Seller in their offer. In such case, seller shall submit enhanced performance security amount considering the quoted ocean freight charges as notified by OIL.
- b) Where the Seller is required to undertake the delivery of goods on CFR or CIF basis, documentation, handling & transportation of goods upto the port of discharge in the country of destination, as specified in the purchase order, shall be arranged and paid by the Seller. The total order value includes all such associated costs upto the port of discharge in the country of destination.
- c) In case of air-shipment of sundry consignments (gross weight upto 100Kg), OIL may nominate its Air-cargo Consolidation Service Provider to receive such duly packed consignments at their warehouse nearer to the gateway airport from various Sellers for arranging onward air-shipment upto the destination airport in India on consolidation basis. Seller, in consultation with the nominated air-cargo

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consolidation Service Provider, shall arrange for and bear all costs associated with preparation of documents, handling & inland transportation of such consignments upto the warehouse/gateway airport against purchase orders placed on FOB/FCA (by air) terms.

- d) All shipments of material and containerised cargo shall be made by suitable vessels certified for seaworthiness and complying with National/ International safety regulations and age (vintage) of the vessel being less than 25 years.

20.2. DOMESTIC/INDIGENOUS SUPPLIER:

- a) Where the Seller is required to undertake delivery of goods on FOB despatch station basis, the cost of handling & loading of goods on the carrier of Purchaser's nominated transporter/rail shall be arranged and paid by the Seller. The total order value includes all such associated costs.
- b) Where the Seller is required to undertake delivery of goods on DDP destination basis, handling & transportation of goods upto the designated site of the Purchaser, as specified in the purchase order, shall be arranged and paid by the Seller. The total order value includes all such associated costs.

20.3. Both Indian bidder and Foreign bidder must note that no trans-shipment en route is permitted. However, under exceptional circumstances, trans-shipment maybe allowed with prior consent of OIL. No charges shall be payable for such transshipment and consequent handling/storage of the goods.

21.0 DOCUMENTATION (FOR OVERSEAS/ FOREIGN SUPPLIERS):

21.1. This is a very important requirement. Seller is required to strictly follow this requirement and shall forward the document, as mentioned below, by air mail / courier immediately after the shipment is made:

	<u>Addressee</u>	<u>List of Documents</u>	<u>No. of copies</u>
(A)	To Purchaser's Banker through whom the L/C is established:	i) Clear negotiable Bill of Lading (Complete set)/ AWB duly signed and without any overwriting ii) Negotiable Copy of Invoice iii) Certificate of Origin copy iv) Declaration of Third-Party Inspection (TPI) Agency as per Proforma C in original, whenever involved	-1 -1 -1 -1
(B)	To Head (Kolkata Office) Oil India Limited 15A, Hemanta Basu Sarani Kolkata-700 001 Fax No. (91) 33-22101390/ 22202596	i) Copy of non-negotiable Bill of Lading/ AWB ii) Copy of non-negotiable invoice signed as in original in all pages iii) Certificate of Origin iv) Packing List v) Catalogues/ Literature, wherever applicable vi) Safety data sheet sets (in case of chemicals) vii) Tax Residency Certificate viii) Form No 10F (PROFORMA - D). ix) No Business Connection or Permanent Establishment Certificate (PROFORMA - E).	-3 -5 -3 -2 -1 -2 -1 -1 -1
(C)	To concerned purchase official, Oil India Limited (To be incorporated sphere wise)	i) Copy of non-negotiable Bill of Lading / AWB ii) Copy of non-negotiable invoice iii) Test / Inspection / TPI Certificate, If any (Original+Copy) iv) Literature / Catalogue, if applicable v) Packing List	-1 -1 -2 -1 -1

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(D)	To concerned finance official, Oil India Limited (To be incorporated sphere wise)	i)	Copy of non-negotiable invoice	-1
		ii)	Bill of Lading/AWB/ House AWB	-1

Note: Literature/ catalogue is not required in case of spares (unless otherwise stated in the main order)

- 21.2. The Seller shall be responsible for making available the shipping documents as mentioned above to the Purchaser's bankers and to Purchaser's Kolkata office within seven (7) days (3 days in case of shipment from ports nearby Kolkata port like Singapore) prior to the listed arrival of the vessel at Kolkata port. For air consignments, documents should be received within seven (7) days from date of dispatch. If the documents are not made available as requested, it will not be possible for Purchaser to clear the consignments through Customs at the discharging port in time and the same will accrue demurrage. Such demurrage and other expenses incurred by Purchaser due to late submission of documents (both negotiable and non-negotiable) or submission of incorrect documents by the Seller will be recoverable fully from the Seller/their Indian agent.

22.0 DOCUMENTATION (FOR DOMESTIC/INDIGENOUS SUPPLIERS):

- 22.1. Preparation and submission of proper documents by Seller is one of the very important requirements. The Seller must strictly follow the instructions.
- 22.2. Seller shall ensure that all the documents have clear reference of OIL's Purchase Order number.
- 22.3. Seller shall forward the documents, as mentioned below, by courier service immediately after the dispatch is made:

(I) WHERE PAYMENT AGAINST DIRECT SUBMISSION OF DESPATCH DOCUMENTS TO COMPANY:

A)	To concerned finance official Oil India Limited	i) ii) iii) iv) v) vi) vii) viii) ix)	Bill in original + one copy Copy of the C-Note/RR Copy of Mill Inspection Certificate, if any Copy of Third-Party Inspection Certificate, if any. Copy of Delivery Challan TPI Declaration as per Proforma C enclosed. (Original) Copy of Tax Invoice Copy of packing list. Documentary evidence of payment of Customs Duty, if any
B)	To concerned receiving official Oil India Limited	i) ii) iii) iv) v) vi) vii) viii)	Clear Consignee copy of RR/C-Note-Original+1 copy Copy of Tax Invoice Delivery Challan (Original) Packing list (Original) Mill inspection certificate, if any (Original) Third Party Inspection certificate, if any (Original) TPI Declaration as per Proforma C Enclosed-One Copy Warranty Certificate (Original)
C)	To concerned purchase official Oil India Limited		One set consisting copies of all the documents as mentioned in (B) above

Note: *Where payment term is after receipt and acceptance of materials, the complete set of documents meant for Chief General Manager (A/P) as indicated in para 22.3 (I) (A) should be submitted to Dy. General Manager Materials (Receiving).*

(II) WHEREVER DOCUMENTS TO BE NEGOTIATED THROUGH BANK:

(A)	To purchaser's Bankers (SBI/UBI/UCO)	i)	Clear Consignee copy of C-Note/ RR-Original Bill – Original
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	/CANARA/ALLAHABAD BANK): One complete set of documents comprising of following + One extra set Above documents should be sent to Banker with clear instructions to them that the extra set of copies of above documents must be sent to Chief General Manager (A/P), OIL along with the intimation from Bank.	ii) iii) iv) v) vi) vii) viii) ix)	Mill Inspection Certificate, if any – 1 copy Third Party Inspection certificate, if any – 1 copy Declaration by Third Party Inspector – 1 copy Delivery Challan – 1 copy Tax Invoice-Original Packing List – 1 copy Warranty Certificate – 1 copy Documentary evidence of payment of Customs Duty, if any
(B)	To concerned finance official Oil India Limited	i) ii) iii) iv) v) vi) vii) viii) ix) x)	Bill (Original + One Copy) Copy of the C-Note/RR Copy of Mill inspection certificate, if any Copy of Third-Party inspection certificate, if any Copy of delivery Challan Declaration by Third Party Inspector as per Proforma C enclosed. (Original) Copy of Tax Invoice Copy of packing list. Copy of warranty certificate Documentary evidence of payment of customs duty, if any
C)	To concerned receiving official Oil India Limited	i) ii) iii) iv) v) vi) vii) viii)	Clear Consignee copy of RR / C-Note-Original +1 copy Copy of Tax Invoice Delivery Challan (Original) Packing list (Original) Mill inspection certificate, if any (Original) Third Party Inspection certificate, if any (Original) Copy of declaration by third party inspector as per Proforma C enclosed Warranty Certificate (Original)
D)	To concerned purchase official Oil India Limited		One set consisting of copies of the documents as mentioned in (B) above

23.0 INSPECTION AND TEST:

- 23.1. The Purchaser reserves the right to inspect and/or to test the goods/ equipment through its inspector to confirm that goods being supplied are in conformity to the order specifications.
- 23.2. The required inspection/test and place where such inspection/test is to be conducted shall be as specifically mentioned under the Technical Specifications/Special Conditions of Purchase Order/ Contract.
- 23.3. The Seller shall notify the Purchaser giving the date for inspection of the materials after its readiness so that purchaser may depute its inspector. The Purchaser shall communicate to the Seller the detail of inspector being deputed. In case of third-party inspection, the Seller shall notify the third-party inspection agency as provided in the purchase order/contract and shall also simultaneously inform the Purchaser and co-ordinate the inspection/testing of materials through the designated third-party inspection agency. In all such cases, the Seller shall give sufficient notice period as mentioned in the purchase order so as to mobilize the inspector.
- 23.4. The inspection/test may be conducted at Seller's works or at the final destination. When the inspection is carried out at Seller's, all facilities for inspection/testing including man-power, equipment etc. shall be provided by the Seller without any extra cost to the Purchaser.

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- 23.5. Should any goods after inspection fails to conform to the specification, the Purchaser can reject such materials and the Seller shall have to replace such rejected materials/components complying with the required specifications without any extra cost to Purchaser.
- 23.6. Purchaser having inspected goods at Seller's works and cleared for despatch does not waive the right of the Seller/Purchaser to inspect the materials at final destination after arriving at Purchaser's site.
- 23.7. As may be necessary or specified in the purchase order, pre-despatch inspection may also be carried out by a team of officials from the relevant discipline of OIL.
- 23.8. Any and all expenses incurred in connection with test, preparation of report and analysis made by qualified laboratories, necessary technical documents, testing documents and drawings shall be at Seller's expense.
- 23.9. Arrangement for any inspection/ Certification required by Indian statutory authority shall be to Seller's account.
- 23.10. Nothing mentioned at sub-clauses under 23.0, shall in any way relieve the Seller from any warranty or other obligations under the purchase order/contract.

24.0 PRICE REDUCTION SCHEDULE FOR DELAY IN DELIVERY:

- 24.1. Subject to Force Majeure clause, if the Seller fails to deliver any or all ordered goods or to perform the service within the time period as specified in the purchase order, the Purchaser shall, without prejudice to other remedial measures under the purchase order, deduct from the purchase order price, a sum calculated (Liquidated damage) on the basis of the purchase order price, including subsequent modifications.
- 24.2. Deductions shall apply as per following formula:
In case of delay attributable to seller in delivery of ordered goods or delay in completion as per order terms, price reduction @ 0.5% per week of delay or part thereof of the value of the goods in respect of which default in delivery takes place, subject to a maximum of 7.5 % of the total supply order value (excluding site work). GST and other charges on account of deduction will be required to be paid by supplier/seller.
- 24.3. In case of package items (ordered as a complete system), the price adjustment shall be applicable on the entire order value of that package and not on the value of the undelivered portions (even though a billing breakup has been approved).
- 24.4. In case of purchase of bulk items where tolerance limit is specified (e.g. pipes, cables etc.), price adjustment clause shall be applicable on the actual quantity supplied, within the tolerance limit, instead of Purchase Order quantity.
- 24.5. In case of delay in delivery on the part of Seller, the invoice / document value shall be reduced as above and payment shall be released accordingly by the Purchaser.
- 24.6. In the event the invoice value is not reduced appropriately for the delay by the Seller, the Purchaser reserves the right to deduct the amount so calculated, from any amount falling due to the Seller or by recovery against the performance guarantee.
- 24.7. Both Seller and Purchaser agree that the above percentages of price reduction are genuine pre-estimates of the loss/damage which the Purchaser would have suffered on account of delay/ breach on the part of the Seller and the said amount will be payable on demand without there being any proof of the actual loss or damage caused by such breach/delay. Decision of the Purchaser in the matter of applicability of price reduction shall be final and binding.

25.0 FORCE MAJEURE:

- 25.1. In the event of either party being rendered unable by Force Majeure to perform any obligations required to be performed by them under the purchase order the relative obligations of the party affected by such force majeure shall upon notification to the other party be suspended for the period during which force majeure event lasts. The cost and loss sustained by the either party shall be borne by the respective parties.

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- 25.2. The term force majeure as employed herein shall mean Acts of God such as earthquake, hurricane, typhoon, flood, volcanic activity etc.; war (declared /undeclared); riot, revolts, rebellion, terrorism, sabotage by persons other than the SELLER's Personnel; fires, explosions, ionizing radiation or contamination by radio-activity or noxious gas, if not caused by SELLER's fault; declared epidemic/pandemic or disaster; acts and regulations of respective Govt. of the two parties, namely the PURCHASER and the SELLER and civil commotions, lockout not attributable to the SELLER
- 25.3. Upon occurrence of such cause(s) and upon its termination, the party alleging that it has been rendered unable as aforesaid thereby, shall notify the other party by a registered letter duly certified by the statutory authorities immediately but not later than 7(seven) days of the alleged beginning and ending thereof giving full particulars and satisfactory evidence in support of its claim.
- 25.4. Time for performance of the relative obligations suspended by the force majeure shall then be extended by the period for which such cause lasts. The extension of time shall be the sole remedy of the Seller for any delay under this clause and the Seller shall not be entitled in addition to or in lieu of such extension to claim any damages or compensation on any account whatsoever whether under the law governing contracts or any other law in force, and the Seller hereby waives and disclaims any and all contrary rights.
- 25.5. If the force majeure conditions persist for a period exceeding two (2) months, the Purchaser reserves the right to cancel the purchase order in full or in part.

26.0 TERMINATION OF PURCHASE ORDER:

26.1. Termination for Non-performance:

26.1.1. The Purchaser without prejudice to any other remedy for breach of purchase order, by giving a written notice for non-performance to the Seller, may terminate the purchase order in whole or in part for following reasons:

- i. In case a specified delivery schedule is not adhered to or the progress of the manufacturer or supply of the item is not satisfactory and is not in accordance with the progress schedule, or
- ii. In case Seller fails to deliver any or all part of the goods within the time period specified in the purchase order, or
- iii. If the Seller fails to perform any other obligation under the purchase order, and
- iv. If the Seller, in the either of the above condition, does not cure his failure within a stipulated period of 30 days (or such a longer period may authorize by the Purchaser in writing) after receipt of notice of non-performance from the Purchaser.
- v. In case Seller fails to deliver any or all part of the goods as per specifications, stipulated in the Purchase Order.

26.1.2. In the event the Purchaser terminates the purchase order in whole or in part, pursuant to clause 26.1.1, the Purchaser may procure, in the manner as deemed fit, goods similar to those undelivered and the Seller shall be liable to the Purchaser for any excess costs for such similar goods. However, the Seller shall continue performance of the purchase order to the extent not terminated. In such situation, Purchaser at its option shall forfeit the performance security without further any notice to the Seller.

26.1.3. In case of termination of the purchase order, due to reason mentioned at para 26.1.1, the vendor shall be put on holiday as per the provision of Banning Policy, 2017 of the Purchaser.

26.2. Termination on account of Death:

If the Seller is an individual or a proprietary concern and the individual or the proprietor dies or if the Seller is a partnership concern and one of the partner dies then unless, the Purchaser is satisfied that the legal representative of the individual or the proprietary concern or the surviving partners are capable of carrying out and completing purchase order, the Purchaser is entitled to cancel the purchase order for the uncompleted part without being in any way liable for any compensation payment to the estate of the deceased Seller and/or to the surviving partners of the Seller's firm on account of the cancellation of purchase order. The decision of the Purchaser in such assessment shall be final & binding on the parties. In the event of such cancellation, the Purchaser shall not hold the estate of the deceased Seller and/or the surviving partners of Seller's firm liable for any damages for non-completion of the purchase order.

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26.3. Termination in case of Liquidation/Bankruptcy/Insolvency:

26.3.1. In the event that the Seller, at any time during the term of the purchase order, becomes insolvent or makes a voluntary assignment of its assets for the benefit of creditors or is adjudged bankrupt, then the Purchaser shall, by a notice in writing have the right to terminate the purchase order and all the rights & privileges of the Seller hereunder shall stand terminated forthwith.

26.3.2. However, Purchaser shall be at liberty to give the Receiver or Liquidator or other person, the option of carrying out the purchase order subject to his providing a guarantee upto an amount to be agreed upon by Purchaser for due and faithful performance of the purchase order.

26.4. Termination for Convenience:

26.4.1. The Purchaser may, by written notice sent to the Seller, terminate the purchase order, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Purchaser's convenience, the extent to which performance of work under the purchase order is terminated and the date upon which such termination becomes effective.

26.4.2. The goods that are complete and ready for shipment within 30 days after the Seller's receipt of notice of termination shall be purchased by the Purchaser at the purchase order terms and prices. For the remaining goods the Purchaser may opt:

- (a) to have any portion completed and delivered at the purchase order terms and prices, and/or
- (b) to cancel the remainder and pay to the Seller an agreed amount for partially completed goods and for materials and parts previously procured by the Seller.

26.5. Termination due to change of ownership and Assignment:

In case the SUPPLIER's rights and /or obligations under the Purchase Order and/or the SELLER's rights, title and interest to the equipment/ material, are transferred or assigned without the PURCHASER's written consent, the PURCHASER may at its option, terminate this Purchase Order. PURCHASER shall not be however under any obligation to accord consent to the SUPPLIER for change of ownership & assignment of the contract.

26.6. Notwithstanding any provisions herein to the contrary, the Purchase Order may be terminated at any time by the SELLER on giving 07(Seven) days written notice to the SELLER due to any other reason not covered under the above Article from 26.1 to 26.5 and in the event of such termination the PURCHASER shall not be liable to pay any cost or damage to the SELLER except for payment for the goods, already delivered as per the Purchase Order upto the date of termination.

26.7. On termination of the Purchase Order, without prejudice to any other right or remedy available to OIL under the Purchase Order, in the event of OIL suffering any loss on account of delayed delivery or non-delivery or inferior quality of the material, OIL reserves the right to claim and recover damages from the Vendor in respect thereof.

26.8. Termination for submission of fraudulent documents:

If any information given by a bidder is found to be incorrect in any particular considered by OIL to be relevant for the evaluation of the bid/ tender, or is found by OIL to misrepresent or conceal facts, or if any of the documents submitted by the bidder in support of or relevant to the bid/ tender is found by OIL to be forged, false or fabricated, OIL shall reject the bid, and without prejudice to any other right(s) of action or remedy available to OIL, OIL shall forfeit the Earnest Money given by the bidder list as per the provision of Banning Policy, 2017 of OIL. If prior to the discovery of the incorrect information, misrepresentation or forged, false or fabricated document (s), the bid has resulted in a Purchase Order/Contract, the Purchase Order/Contract shall be liable to be terminated by OIL. In such situation the performance security / EMD shall be forfeited.

27.0 GENERAL HEALTH, SAFETY & ENVIRONMENT (HSE) GUIDELINES:

(Applicable in case of the Tenders/Purchase Orders involving Fabrication, Installation and Commissioning at Purchaser's site)

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- 27.1. It will be solely the SELLER's responsibility to fulfill and to comply all the legal formalities with respect to the Health, Safety and Environmental aspects of the entire job (namely; the person employed by him, the equipment, the environment, etc.)
- 27.2. It will be entirely the responsibility of the Supplier/ his Supervisor/representative to ensure strict adherence to all HSE measures and statutory rules during operation in OIL's installations and safety of workers engaged by him. The crew members will not refuse to follow any instruction given by company's Installation Manager/ Safety Officer/ Engineer/ Official/ Supervisor/ Junior Engineer for safe operation.
- 27.3. Any compensation arising out of the job carried out by the SELLER whether related to pollution, Safety or Health will be paid by the Seller only.
- 27.4. Any compensation arising due to accident of the Seller's personnel while carrying out the job, will be payable by the Seller.
- 27.5. When there is a significant risk to health, environment or safety of a person or place arising because of a non-compliance of HSE Measures Purchaser shall have the right to direct the Seller to cease work until the non-compliance is corrected.

28.0 APPLICABLE LAW AND JURISDICTION OF COURT:

- 28.1. The consequent Contract/Purchase Order shall be deemed to be a Contract made under, governed by and construed in accordance with the laws of India for the time being in force and shall be subject to the sole and exclusive jurisdiction of the Commercial Courts situated in Dibrugarh(or the Place where the contract is executed) and Principal Bench of Gauhati High Court(or the High Court under whose territorial jurisdiction, the place falls, where the contract is executed).
- 28.2. The consequent Contract/Purchase Order including all matter connected with the Contract/Purchase Order, shall be governed by the laws of India (both substantive and procedural) for the time being in force and shall be subject to exclusive jurisdiction of Courts, mentioned hereinabove. Foreign companies, operating in India or entering into Joint ventures in India, shall also be governed by the laws of India and shall be subject to sole and exclusive jurisdiction of above Courts.

29.0 SETTLEMENT OF DISPUTES AND ARBITRATION:

29.1. ARBITRATION (APPLICABLE FOR SUPPLIER/CONTRACTOR OTHER THAN PSU/GOVT. DEPARTMENTS AND MSMEs):

- 29.1.1. Except as otherwise provided elsewhere in the purchase order, if any dispute, difference, question or disagreement arises between the parties or their respective representatives or assignees, in connection with construction, meaning, operation, effect, interpretation of the consequent purchase order/contract or breach thereof which parties are unable to settle mutually or through mutually appointed Outside Expert Committee (OEC), the same shall be referred to Arbitration as provided hereunder:
- 29.1.2. A party wishing to commence arbitration proceeding shall invoke Arbitration Clause by giving 30 days' notice to the other party. The notice invoking arbitration shall specify all the points of dispute with details of the amount claimed to be referred to arbitration at the time of invocation of arbitration and not thereafter. If the claim is in foreign currency, the claimant shall indicate its value in Indian Rupee for the purpose of constitution of the arbitral tribunal.
- 29.1.3. The number of arbitrators and the appointing authority shall be as under:

Claim Amount (excluding claim for interest and counter claim, if any)	Number of Arbitrator	Appointing Authority
Upto Rs.5.00 Crore	Not Applicable	Not Applicable
Above Rs.5.00 Crore and Upto Rs.	Sole	OIL

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25 Crore	Arbitrator	
Above Rs. 25 Crore	Three Arbitrators	One Arbitrator by each party and the 3 rd Arbitrator, who shall be the Presiding Arbitrator, by the two Arbitrators.

- 29.1.4. The parties agree that they shall appoint only those persons as arbitrators who accept the conditions of the arbitration clause. No person shall be appointed as Arbitrator or Presiding Arbitrator who does not accept the conditions of the arbitration clause.
- 29.1.5. If any of the Arbitrators so appointed dies, resigns, becomes incapacitated or withdraws for any reason from the proceedings, it shall be lawful for the concerned party/arbitrators to appoint another person in his place in the same manner as aforesaid. Such person shall proceed with the reference from the stage where his predecessor had left if both parties consent for the same; otherwise, he shall precede de novo.
- 29.1.6. Parties agree that neither shall be entitled for any pre-reference or pendente-lite interest on its claims. Parties agree that any claim for such interest made by any party shall be void.
- 29.1.7. If after commencement of the arbitration proceedings, the parties agree to settle the dispute mutually or refer the dispute to conciliation, the arbitrators shall put the proceedings in abeyance until such period as requested by the parties.
- 29.1.8. Each party shall be responsible to decide for the travel and stay etc. of the arbitrator pointed by it. Claimant shall also be responsible for planning for travel/ stay arrangements of the Presiding Arbitrator and the expenses incurred shall be shared equally by the parties.
- 29.1.9. In case of sole arbitrator, OIL shall make all necessary arrangements for his travel, stay and the expenses incurred shall be shared equally by the parties.
- 29.1.10. The Arbitration shall be held at the place from where the contract /purchase order has been awarded. However, parties to the contract / purchase order can agree for Venue of Arbitration, different from the place of arbitration within India for the convenience of all concerned.
- 29.1.11. The fees to arbitrator(s) shall be governed by the Fourth Schedule of the Arbitration and Conciliation Act, 1996. The fees to the arbitrator(s) and secretarial expenses shall be paid in following manner:
- (i) 20% of the fees on submission of Statement of Claim and Counter Claim by the Claimant and Respondent respectively
 - (ii) 20% of the fees on completion of pleadings
 - (iii) 20% of the fees on commencement of the hearing
 - (iv) 40% of the Fees on conclusion of hearing and before passing of final award.
- However, subject to agreement by the Parties, the arbitrator(s) may determine a lump sum amount to be paid towards arbitrator's fees and secretarial expenses by the parties on commencement of the proceedings, which is to be adjusted against first instalment of payment, as prescribed in sl.(ii) above.
- 29.1.12. The Arbitrator(s) shall give reasoned and speaking award and it shall be final and binding on the parties.
- 29.1.13. Subject to aforesaid, provisions of the Arbitration and Conciliation Act, 1996 and any statutory modifications or re-enactment thereof shall apply to the arbitration proceedings under this clause.
- 29.1.14. It is agreed and undertaken by the Parties that irrespective of country of origin of the SELLER, the arbitration proceedings shall be governed by the Arbitration and Conciliation Act, 1996 and under no circumstances, the proceedings shall be construed as International Arbitration.
- 29.2. ARBITRATION (APPLICABLE IN CASE OF PURCHASE ORDER AWARDED ON CPSE AND GOVT. DEPARTMENTS/ ORGANIZATIONS):

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In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract(s) between Central Public Sector Enterprises (CPSEs)/ Port Trusts inter se and also between CPSEs and Government Departments/Organizations (excluding disputes concerning Railways, Income Tax, Customs & Excise Departments), such dispute or difference 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.

The Committee of Secretaries at the First level (tier) shall finalise its decision within 3(three) months after having received the reference/notice in writing regarding the dispute from the concerned aggrieved party.

Any party aggrieved with the decision of the Committee at the First level (tier) may prefer an appeal before the Cabinet Secretary at the Second level (tier) within 15 days from the date of receipt of decision of the Committee at First level, through its administrative Ministry/Department, whose decision will be final and binding on all concerned.

The Arbitration and Conciliation Act 1996 shall not be applicable to the Arbitration under this clause.

29.3. ARBITRATION (APPLICABLE TO MICRO, SMALL AND MEDIUM ENTERPRISE)

In the event of any dispute or difference relating to, arising from or connected with the Purchase Order, efforts shall be made to resolve the dispute(s) amicably by mutual consultation and in case such dispute(s) cannot be resolved through mutual consultation, then same shall be resolved through the procedure as prescribed in Section-18 of the Micro, Small and Medium Enterprises Development Act, 2006

30.0 RESOLUTION OF DISPUTES THROUGH CONCILIATION BY OUTSIDE EXPERT COMMITTEE (OEC):

(Not applicable in cases valuing less than Rs 25 lakhs)

- 30.1. If any dispute, difference, question or disagreement arises between the parties hereto or their respective representatives or assignees, in connection with construction, meaning, operation, effect, interpretation of the purchase order/contract or breach thereof which parties are unable to settle mutually, subject to consent of the Seller, the Purchaser at its discretion may first refer to conciliation through Outside Expert Committee (OEC) to be constituted by CMD, OIL as provided hereunder.
- 30.2. The party desirous of resorting to conciliation shall send a notice of 30 (thirty) days to the other party of its intention of referring the dispute for resolution through OEC. The notice invoking conciliation shall specify all the points of disputes with details of the amount claimed to be referred to OEC and the party concerned shall not raise any new issue thereafter.
- 30.3. CMD, OIL shall nominate three outside Experts, one each from Financial/commercial, Technical and Legal fields from the Panel of Outside Experts maintained by OIL who shall together be referred to as OEC (Outside Experts Committee).
- 30.4. Parties shall not claim any interest on claims/counterclaims from the date of notice invoking conciliation till execution of settlement agreement, if so arrived at. In case, parties are unable to reach a settlement, no interest shall be claimed by either party for the period from the date of notice invoking conciliation till the date of OEC recommendations in any further proceeding.
- 30.5. The Proceedings of the OEC shall be broadly governed by Part III of the Arbitration and Conciliation Act, 1996 including any modifications thereof.
- 30.6. The parties shall be represented by their in-house employees/executives. No party shall bring any advocate or outside consultant/advisor/agent. Ex-officers of OIL who have handled the matter in any capacity directly or indirectly shall not be allowed to attend and present the case before OEC on behalf of Contractor. However, ex- employees of parties may represent their respective organizations.
- 30.7. OEC shall hear both the parties and recommend possible terms of settlement between the parties. The recommendations of OEC shall be non-binding and the parties may decide to accept or not to accept the same or may accept part of the recommendation. Parties shall be at liberty to accept the OEC recommendation with any modification they may deem fit.

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- 30.8. Where recommendations are acceptable to both the parties, a settlement agreement will be drawn up in terms of the OEC recommendations or with such modifications as may be agreed upon by the parties. The settlement agreement shall be signed by both the parties. This settlement agreement shall have the same legal status and effect as that of an arbitration award on agreed terms on the substance of the dispute rendered by an arbitral tribunal under Section 30 of the Arbitration and Conciliation Act, 1996.
- 30.9. OIL will share all other guidelines regarding reconciliation through OEC with the supplier when it resorts to settlement through OEC. Both parties agree to adhere to these guidelines.
- 30.10. All the expenditure incurred in the OEC proceedings shall be shared by the parties in equal proportion. The parties shall maintain account of expenditure and present to the other for the purpose of sharing on conclusion of the OEC proceedings.

If the parties are not able to resolve the dispute through OEC or do not opt for conciliation through OEC, the party may invoke arbitration clause as provided in the contract / purchase order.

It is expected to conclude a case by OEC within 8-10 weeks. The place of conciliation shall be Guwahati for all purchase orders issued from the Field HQ, Duliajan and Pipeline HQ, Guwahati, whereas, New Delhi shall be the Place of Conciliation for all other Purchase Orders issued by other spheres of OIL.

Solicitation or any attempt to bring influence of any kind on either OEC Members or PURCHASER is completely prohibited in conciliation proceedings and PURCHASER reserves the absolute right to close the conciliation proceedings at its sole discretion if it apprehends any kind of such attempt made by the SELLER or its representatives.

31.0 EXCLUSIONS

Parties agree that following matters shall not be referred to conciliation or arbitration or OEC:

- i) Any claim, difference or dispute relating to, connected with or arising out of OIL's decision to initiate any proceedings for suspension or debarment or banning, or decision to suspend or to ban or to debar business dealings with the Bidder / Seller and/or with any other person involved or connected or dealing with bid / contract / bidder / Supplier.
- ii) Any claim, difference or dispute relating to, connected with or arising out of OIL's decision under the provisions of Integrity Pact executed between OIL and the Bidder / Supplier.
- iii) Any claim, difference or dispute relating to, connected with or arising out of OIL's decision to comply with any order or directive of any statutory or government authority.

32.0 SET-OFF:

Any sum of money due and payable to the Seller (including Security Deposit refundable to them) under the consequent order or any other purchase order may be appropriated by Oil India Limited and set-off against any claim of Oil India Limited (or such other person or persons contracting through Oil India Limited) for payment of a sum of money arising out of the purchase order or under any other purchase order made by the Seller with Oil India Limited (or such other person or persons contracting through Oil India Limited).

33.0 DISPOSAL OF REJECTED MATERIALS AT PURCHASER'S SITE:

In case any material is rejected by the Purchaser after receipt at site, the Seller shall be informed about the same including the reasons for rejection. Seller shall also be advised about the location where the rejected materials are lying at risk and cost of the Seller. The Seller shall also be advised to remove or dispose of the materials within 4(four) weeks from the date of notice, failing which the Purchaser will be entitled to dispose-off the materials at risk and cost of the Seller.

34.0 ERRING / DEFAULTING AGENCIES:

Erring and defaulting agencies like bidder, Seller, supplier, vendor, service provider will be dealt as per OIL's Banning Policy dated 6th January, 2017 available in OIL's website: www.oil-india.com. Moreover, OIL reserves the right to take legal or any other action on the basis of merit of the case.

35.0 LIABILITY OF UNION GOVERNMENT OF INDIA:

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It is expressly understood and agreed upon by and between SUPPLIER and PURCHASER that PURCHASER 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 Union of India is not a party to this agreement and has no liabilities, obligations or rights, whatsoever hereunder. It is expressly understood and agreed that PURCHASER is an independent legal entity with power and authority to enter into contracts solely on its own behalf under the applicable laws of India and general principles of the Contract law. The bidder/ Supplier expressly agrees, acknowledges and understands that Purchaser is not an agent, representative or delegate of the Union of India. It is further understood and agreed that Union of India is not and shall not be liable for any acts, omissions, commissions, breaches or other wrongs arising out of the contract. Accordingly, bidder/ SUPPLIER hereby expressly waives, releases and foregoes any and all actions or claims, including cross claims, impleader claims or counter claims against the Union of India arising out of the Purchase Order and covenants not to sue the Union of India as to any manner, claim, cause of action or thing whatsoever arising of or under the Purchase Order.

36.0 WAIVERS:

It is fully understood and agreed that none of the terms and conditions of this agreement shall be deemed waived by either party unless such waiver is executed in writing only by the duly authorized representatives of both the parties. The failure of either party to execute any right shall not act as a waiver of such right by such party.

37.0 SEVERABILITY:

Should any provision of this agreement be found to be invalid, illegal or otherwise not enforceable by any court of law, such finding shall not affect the remaining provisions hereto and they shall remain binding on the parties hereto.
