



PMC Cell – MM

## Oil and Natural Gas Corporation Ltd

Corporate Materials Management

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Circular No. 09/2018

No: MAT/PMC/13(108)exp(29)4/2018

Dated: 23.02.2018

**Sub: Modification in the provisions on experience criteria in respect of Service and LSTK Contracts.**

Reference is invited to circular Nos. 11/2017 and 14/2017 dated 01.03.2017 and 03.04.2017 respectively, whereby modified BEC/Tender conditions pertaining to acceptance of bids based on the experience of technical collaborator, parent/subsidiary company etc. and also bids submitted by the Joint Venture and consortium of companies against Service and LSTK tenders were notified.

EPC, in its meetings (01/2018) and (05/2018) held on 03.01.2018 and 31.01.2018 has reviewed the aforesaid BEC/Tender conditions pertaining to experience criteria in respect of Service and LSTK contracts and taken following major decisions:

- (i) The requirement of the leader of consortium to himself meet the major portion of the experience criteria has been modified.  
The members of consortium shall decide the Leader of consortium. The leader of consortium shall have minimum 26% stake in terms of bid value.
- (ii) Notwithstanding the provisions that the members of consortium shall be jointly and severally liable to ONGC, the leader of consortium shall have primary responsibility of executing the scope of work.
- (iii) ONGC shall correspond / communicate only with the leader of a Consortium and likewise, the leader of the Consortium only should communicate with ONGC on behalf of the Consortium. No cognizance shall be given to communication received directly from other consortium members.
- (iv) In case of award to the consortium, only the leader of the Consortium shall submit the PBG for the entire requisite amount of the PBG on behalf of the Consortium.
- (v) Standard format of MOU to be submitted by the consortium members introduced.
- (vi) In cases where Supply of material is also involved along with rendering of Services in ICB tenders of Service Contracts, separate clause has been introduced.
- (vii) The certificate to establish the relationship between bidding company and supporting company has been allowed from the Statutory Auditor or Company Secretary or one of the Directors of the bidding company.
- (viii) The liability of the Guarantor, under the Guarantee, shall be limited to the liability of the Contractor as per the Contract.

- (ix) The bidding company can submit additional PBG amount required to be submitted by the supporting company or the Ultimate Controlling Company subject to fulfilling certain conditions.
- (x) Supporting company which holds more than fifty percent of the paid up share capital of the bidder company either directly or through intermediate subsidiaries or vice versa also acceptable.
- (xi) The requirement by supporting company to maintain more than 50% share-holding between Supporting Company and Bidding Company till the execution / completion of the contract, has been dispensed with.
- (xii) In case Supporting or Ultimate Controlling Company fails to submit Bank Guarantee, EMD/SD submitted by the bidder shall be forfeited.
- (xiii) Authorisation letter from one of the Directors of Supporting Company authorising the signatories to execute the corporate guarantee, duly certified by the Company Secretary of the Supporting Company shall be required.

In accordance with the decisions taken in the aforesaid meetings of EPC, BEC/tender conditions in respect of Service and LSTK contracts stand modified to the extent of following Annexures:

Annexure-I	:	Modified provisions of BEC for Service Contracts notified vide circular No. 11/2017 dated 01.03.2017.
Annexure-II	:	Modified Tender Conditions for Service Contracts.
Annexure-III	:	Modified provisions of BEC for LSTK Contracts notified vide circular No. 14/2017 dated 03.04.2017.
Annexure-IV	:	Modification to the existing format of GURANTEE BY THE SUPPORTING COMPANY/GUARANTOR (Appendix A-2)
Annexure-V	:	Modifications to the existing FORMAT OF AGREEMENT BETWEEN BIDDER AND THEIR SUPPORTING COMPANY (Appendix No A-1)
Annexure-VI	:	Standardized format for Memorandum of Understanding (MoU) for Consortium

Work centers are advised to carry out suitable modifications in the tender conditions pertaining to LSTK and other tenders also.

Above guidelines should be meticulously followed by all concerned.

  
 (Ashwini Nagia)  
 ED-Chief MM Services

Distribution: (Through ONGC's intranet website 'ongcreports.net').

**All concerned may download the circular from the site. Hard copies are not distributed separately.**

Copy to:

1. EO to CMD, ONGC, New Delhi.
2. CEA to Director(T&FS) / Director (Offshore) / Director (HR) / Director (Exploration)/Director (Onshore) / Director (Finance), ONGC, New Delhi.
3. CVO, ONGC, New Delhi.

Annexure-I

Statement showing existing (notified vide circular No. 11/2017 dated 01.03.2017) vis-à-vis modified provisions of BEC for Service Contracts

SI No.	Clause No.	Existing Provisions	Modified Provisions	Remarks
1.	B.1	Technical rejection criteria  The following vital technical conditions should be strictly complied with failing which the bid will be rejected:	Technical rejection criteria  The following vital technical conditions should be strictly complied with failing which the bid will be rejected:	No change
2.	1.0	Bid should be complete covering all the scope of job/ supply and should conform to the technical specifications indicated in the bid documents, duly supported with technical catalogues/ literatures wherever required. Incomplete and non-conforming bids will be rejected outright.	Bid should be complete covering all the scope of job/ supply and should conform to the technical specifications indicated in the bid documents, duly supported with technical catalogues/ literatures wherever required. Incomplete and non-conforming bids will be rejected outright.	No change
3.	2.0	Eligibility and experience of the bidder:- <b>(Work centers to choose and fill up the blanks as per the requirement of the individual tender )</b>	Eligibility and experience of the bidder:- <b>(Work centers to choose and fill up the blanks as per the requirement of the individual tender )</b>	No change
4.	2.1(a)	<b><i>(Work centers to choose and fill up the blanks as per the requirement of the individual tender, wherever required)</i></b>	<b><i>(Work centers to choose and fill up the blanks as per the requirement of the individual tender, wherever required)</i></b>	No change
5.	2.1(a)-I	Bidder (i.e. Single bidder / Indian Joint Venture company Incorporated) should	Bidder (i.e. Single bidder / Indian Joint Venture company Incorporated) should have	No change

SI No.	Clause No.	Existing Provisions	Modified Provisions	Remarks
		<p>have minimum ...years of experience in providing (similar)*services.</p> <p>Bidder should have executed at least ... number of contracts of (similar)*nature in the last ...years.</p> <p>To this effect, Bidder should submit copies of respective contracts, alongwith documentary evidence in respect of satisfactory execution of each of those contracts, in the form of copies of any of the documents (indicating respective contract number and type of services), such as - (i) Satisfactory completion / performance report (OR) (ii) proof of release of Performance Security after completion of the contract (OR) (iii) proof of settlement / release of final payment against the contract (OR) (iv) any other documentary evidence that can substantiate the satisfactory execution of each of the contracts cited above.</p> <p><b>[As per requirements of individual case, after due deliberation in TC (while finalizing BEC) and approval of CPA, work center should suitably modify the following entries appearing above:</b></p>	<p>minimum ...years of experience in providing (similar)*services.</p> <p>Bidder should have executed at least ... number of contracts of (similar)*nature in the last ...years.</p> <p>To this effect, Bidder should submit copies of respective contracts, alongwith documentary evidence in respect of satisfactory execution of each of those contracts, in the form of copies of any of the documents (indicating respective contract number and type of services), such as - (i) Satisfactory completion / performance report (OR) (ii) proof of release of Performance Security after completion of the contract (OR) (iii) proof of settlement / release of final payment against the contract (OR) (iv) any other documentary evidence that can substantiate the satisfactory execution of each of the contracts cited above.</p> <p><b>[As per requirements of individual case, after due deliberation in TC (while finalizing BEC) and approval of CPA, work center should suitably modify the following entries appearing above:</b></p>	

SI No.	Clause No.	Existing Provisions	Modified Provisions	Remarks
		<p>(*) The word (similar)* should be defined with specific reference to the nature of required Services;</p> <p>Above details should be specified without restricting competition and also taking into account the nature and criticality of the Service.]</p> <p><b>(Provisions at (II) below should be incorporated when bids from consortium of companies are allowed by CPA at the time of approving the BEC)</b></p>	<p>(*) The word (similar)* should be defined with specific reference to the nature of required Services;</p> <p>Above details should be specified without restricting competition and also taking into account the nature and criticality of the Service.]</p> <p><b>(Provisions at (II) below should be incorporated when bids from consortium of companies are allowed by CPA at the time of approving the BEC)</b></p>	

SI No.	Clause No.	Existing Provisions	Modified Provisions	Remarks
6.	2.1(a)-II	<p>Where consortium bids are allowed, <u>leader of consortium should himself meet the major portion of the experience criteria covering the activities of work to be performed by him in term of bid value in comparison to other members of the consortium, on its own</u> and not through any other arrangement like through Supporting Company, Parent / Subsidiary / Sister Subsidiary / Co-Subsidiary / Technical Collaboration / Sub-contracting,. <u>(e.g. in case of a Consortium bid having two members, the consortium member who has more than 50% stake (in terms of the bid value) shall be the leader of the Consortium, and in case of a Consortium bid having three members, the leader of the Consortium should have more than 33.33% stake (in terms of bid value) in the Consortium).</u> <u>Necessary documentary evidence to this effect should be submitted with techno-commercial bid.</u></p>	<p>Where consortium bids are allowed, <u>leader and members of consortium should themselves meet the experience criteria covering the respective activities of work to be performed by them on their own</u> and not through any other arrangement like through Supporting Company, Parent / Subsidiary / Sister Subsidiary / Co-Subsidiary / Technical Collaboration / Sub-contracting. <u>Necessary documentary evidence to this effect should be submitted with techno-commercial bid.</u></p> <p><u>The members of consortium shall decide the Leader of consortium. The leader of consortium shall have minimum 26% stake in terms of bid value, as reflected in the MOU executed by the consortium members. Each member of consortium shall remain jointly and severally liable to ONGC.</u></p>	<p>Underlined portion modified.</p> <p>Underlines portion added/modified .</p>
7.		<p>For this purpose the role and scope of work of each consortium member including the percentage of work to be performed by the respective consortium members should be attached/annexed with the Memorandum of Understanding in the un-priced bid.</p>	<p>For this purpose the role and scope of work <u>to be performed by the respective consortium members expressed as a percentage of bid value should be indicated in the Memorandum of Understanding (MOU) submitted along with techno-commercial bid as per format provided in the tender.</u></p>	<p>Underlined portions modified.</p>

SI No.	Clause No.	Existing Provisions	Modified Provisions	Remarks
8.		Other consortium partner(s) shall have relevant experience pertaining to the activities of work to be performed by them on their own and not through any other arrangement like through Supporting Company, Parent / Subsidiary / Sister Subsidiary / Co-Subsidiary / Technical Collaboration / Sub-contracting, (other than the activity to be performed by leader of consortium). Necessary documentary evidence to this effect should be submitted with techno-commercial bid.	-Deleted-	Provision deleted.
9.	2.1.2 renumbered as 2.1.1	The leader of the consortium should confirm unconditional acceptance of full responsibility of executing the entire 'Scope of work' of this tender. This confirmation should be submitted along with the techno-commercial bid.	<u>Notwithstanding the provisions that the members of consortium shall be jointly and severally liable to ONGC, the leader of consortium should undertake unconditional acceptance of primary responsibility of executing the entire 'Scope of work' of this tender. This confirmation should be submitted along with the techno-commercial bid.</u>	Underlined portion modified.
10.	2.1.3 renumbered as 2.1.2	A constituent of the Consortium shall not be permitted to participate either in an individual capacity as a bidder or as a member of another Consortium in the same tender.	A constituent of the Consortium shall not be permitted to participate either in an individual capacity as a bidder or as a member of another Consortium in the same tender.	No change
11.	2.1.4	Only that consortium member who has undertaken a particular activity in execution of a contract shall be considered as having	Only that consortium member who has undertaken a particular activity in execution of a contract shall be considered as having	No change

SI No.	Clause No.	Existing Provisions	Modified Provisions	Remarks
		<p>technical experience of that particular activity.</p> <p>Note: For detailed conditions on consortium bid refer clause 1.3 &amp; 7.14 of ITB.</p>	<p>technical experience of that particular activity.</p> <p>Note: For detailed conditions on consortium bid refer clause 1.3 &amp; 7.14 of ITB.</p>	
12.	2.1(b)	<p>The bidder should meet the experience criteria detailed above.</p> <p>In case the bidder is an Incorporated Indian Joint Venture Company, registered in India and incorporated under the Companies Act 1956 and any amendments there under, then the technical experience criteria laid down in the Technical BEC should be met as under:</p> <ul style="list-style-type: none"> <li>(i) The Joint Venture Company by itself should meet the experience criteria <u>or</u></li> <li>(ii) The Joint Venture Partner (who can be either a Indian or a foreign company) having a stake of atleast 26% in the Joint Venture Company should meet the technical experience criteria stipulated in the tender on its own and cannot rely on any other arrangement such as Consortium or Supporting Company of the JV Partner for meeting the technical experience criteria. Documentary evidence in support of</li> </ul>	<p>The bidder should meet the experience criteria detailed above.</p> <p>In case the bidder is an Incorporated Indian Joint Venture Company, registered in India and incorporated under the Companies Act 1956 and any amendments there under, then the technical experience criteria laid down in the Technical BEC should be met as under:</p> <ul style="list-style-type: none"> <li>(i) The Joint Venture Company by itself should meet the experience criteria <u>or</u></li> <li>(ii) The Joint Venture Partner (who can be either a Indian or a foreign company) having a stake of atleast 26% in the Joint Venture Company should meet the technical experience criteria stipulated in the tender on its own and cannot rely on any other arrangement such as Consortium or Supporting Company of the JV Partner for meeting the technical experience criteria. Documentary evidence in support of the above</li> </ul>	No change



SI No.	Clause No.	Existing Provisions	Modified Provisions	Remarks
		<p>the above should be submitted along with the techno-commercial bid.</p> <p>(iii) In case of (ii) above, an undertaking from the Joint Venture partner, based on whose experience the JV seek qualification, shall be submitted with the techno commercial bid stating they shall maintain minimum 26% shareholding in the JV till the execution of the contract.</p>	<p>should be submitted along with the techno-commercial bid.</p> <p>(iii) In case of (ii) above, an undertaking from the Joint Venture partner, based on whose experience the JV seek qualification, shall be submitted with the techno commercial bid stating they shall maintain minimum 26% shareholding in the JV till the execution of the contract.</p>	
13.	B.1 – 2.2	<p><b>Eligibility criteria in case bid is submitted on the basis of technical experience of another company (supporting company) which holds more than fifty percent of the paid up share capital of the bidder company or vice versa. (Applicable in ICB tenders only):</b></p> <p>Offers of those bidders (not under consortium arrangement) who themselves do not meet the technical experience criteria as stipulated in the BEC and are quoting based on the experience of another company (supporting company) can also be considered. In such case the supporting company should hold more than fifty percent of the paid up share capital of the bidding company.</p>	<p><b><u>(Applicable in ICB tenders only):</u></b></p> <p><b>Eligibility criteria in case bid is submitted on the basis of technical experience of another company (supporting company) which holds more than fifty percent of the paid up share capital of the bidder company <u>either directly or through intermediate subsidiaries or vice versa.</u></b></p> <p>Offers of those bidders (not under consortium arrangement) who themselves do not meet the technical experience criteria as stipulated in the BEC and are quoting based on the experience of another company (supporting company) can also be considered. In such case the supporting company should hold more than fifty percent of the paid up share capital of the bidding company <u>either directly</u></p>	Underlined provision added.

SI No.	Clause No.	Existing Provisions	Modified Provisions	Remarks
		<p>Bidder can also draw experience from a company in which the bidder holds more than fifty percent of the paid up share capital.</p> <p>However, the supporting company should on its own meet the technical experience as stipulated in the BEC and should not rely on any other company or through any other arrangement like Technical collaboration agreement.</p> <p>In that case as the bidding company is dependent upon the technical experience of another company with a view to ensure commitment and involvement of the companies involved for successful execution of the contract, the participating bidder should enclose the following Agreements / Guarantees along with the techno-commercial bid:</p> <p>(i) An Agreement (as per format enclosed at Appendix A-1) between the bidder and the supporting company.</p> <p>(ii) Guarantee (as per format enclosed at Appendix A-2) by the supporting company to ONGC for fulfilling the obligation under the Agreement.</p> <p>(iii) Undertaking by Supporting Company to provide a Performance Bank Guarantee</p>	<p><u>or through intermediate subsidiaries or vice versa.</u></p> <p>However, the supporting company should on its own meet the technical experience as stipulated in the BEC and should not rely on any other company or through any other arrangement like Technical collaboration agreement.</p> <p>In that case as the bidding company is dependent upon the technical experience of another company with a view to ensure commitment and involvement of the companies involved for successful execution of the contract, the participating bidder should enclose the following Agreements / Guarantees/<u>Undertakings</u> along with the techno-commercial bid:</p> <p>(i) An Agreement (as per format enclosed at Appendix A-1) between the bidder and the supporting company.</p> <p>(ii) Guarantee (as per format enclosed at Appendix A-2) by the supporting company to ONGC for fulfilling the obligation under the Agreement.</p> <p>(iii) Undertaking by Supporting Company to provide a Performance Bank</p>	<p>Underlined portion added</p>

SI No.	Clause No.	Existing Provisions	Modified Provisions	Remarks
		<p>(as per format and instructions enclosed at Appendix A-3), equivalent to 50% of the value of the PBG, in case the supported bidding company is the successful bidder.</p> <p>(iv) Undertaking by supporting company stating that more than 50% share-holding between Supporting Company and Bidding Company shall be</p>	<p>Guarantee (as per format and instructions enclosed at Appendix A-3), equivalent to 50% of the value of the PBG <u>which is to be submitted by the bidding company</u>, in case the supported bidding company is the successful bidder.</p> <p><u>In cases where foreign based supporting company does not have Permanent Establishment in India, the bidding company can furnish performance Bank Guarantee for an amount which is sum of PBG amount to be submitted by the bidder and additional PBG amount required to be submitted by the supporting company subject to the condition that supporting company have 100% paid up equity share capital of the bidder either directly or through intermediate subsidiaries Or vice versa.</u></p> <p><u>In such case bidding company shall furnish an undertaking that their foreign based supporting company is not having any Permanent Establishment in India in terms of Income Tax Act of India.</u></p> <p><b>-Deleted-</b></p>	<p>Underlined portion added</p> <p>Underlined provision added</p> <p>Provision deleted.</p>

SI No.	Clause No.	Existing Provisions	Modified Provisions	Remarks
		<p>maintained till the execution / completion of the contract.</p> <p>(v) Undertaking from the supporting company to the effect that in addition to invoking the PBG submitted by the contractor, the PBG provided by supporting company shall be invoked by ONGC due to non-performance of the contractor.</p>	<p>(iv) Undertaking from the supporting company to the effect that in addition to invoking the PBG submitted by the contractor, the PBG provided by supporting company shall be invoked by ONGC due to non-performance of the contractor.</p> <p><u>Note:</u> <u>In case Supporting company fails to submit Bank Guarantee as per (iii) above, EMD/SD submitted by the bidder shall be forfeited.</u></p>	<p>Clause renumbered</p> <p>Note added.</p>
14.	2.3	<p><b>Eligibility criteria in case bid is submitted on the basis of technical experience of such companies that are controlled by a 'ultimate controlling company'. : (Applicable in ICB Tenders only):</b></p> <p>(For the purpose of this clause 'ultimate controlling company' is the one that holds more than fifty percent of the paid up share capital of each of the companies viz. the bidding company, all the supporting companies, intermediate company and 'any other company' mentioned in the clause.)</p> <p>Offers of those bidders (not under consortium arrangement) who themselves</p>	<p><b>Eligibility criteria in case bid is submitted on the basis of technical experience of such companies that are controlled by a 'ultimate controlling company'. : (Applicable in ICB Tenders only):</b></p> <p>(For the purpose of this clause 'ultimate controlling company' is the one that holds more than fifty percent of the paid up share capital of each of the companies viz. the bidding company, all the supporting companies, intermediate company and 'any other company' mentioned in the clause.)</p> <p>Offers of those bidders (not under consortium arrangement) who themselves do not meet</p>	<p>No change</p> <p>No change</p> <p>No change</p>

SI No.	Clause No.	Existing Provisions	Modified Provisions	Remarks
		<p>do not meet the technical experience criteria stipulated in the BEC can also be considered based on the experience of the company within the 'ultimate controlling company' subject to meeting of the following conditions;</p> <p>i. Provided that the supporting company and the bidding company are both controlled by an ultimate controlling company either directly or through its intermediate company or through 'any other company' within the ultimate controlling company.</p> <p>ii. Provided that the supporting company on its own and not through any other arrangement like Technical collaboration agreement meets the technical experience criteria stipulated in the BEC.</p> <p>iii. Provided that with a view to ensure commitment and involvement of the ultimate controlling company for successful execution of the contract, the bidding company shall enclose an agreement (<b>as per format enclosed at Appendix A-4</b>) between them, their ultimate controlling company and the supporting company.</p>	<p>the technical experience criteria stipulated in the BEC can also be considered based on the experience of the company within the 'ultimate controlling company' subject to meeting of the following conditions;</p> <p>i. Provided that the supporting company and the bidding company are both controlled by an ultimate controlling company either directly or through its intermediate company or through 'any other company' within the ultimate controlling company.</p> <p>ii. Provided that the supporting company on its own and not through any other arrangement like Technical collaboration agreement meets the technical experience criteria stipulated in the BEC.</p> <p>iii. Provided that with a view to ensure commitment and involvement of the ultimate controlling company for successful execution of the contract, the bidding company shall enclose an agreement (<b>as per format enclosed at Appendix A-4</b>) between them, their ultimate controlling company and the supporting company.</p>	<p>No change</p> <p>No change</p> <p>No change</p>

SI No.	Clause No.	Existing Provisions	Modified Provisions	Remarks
		<p>iv. Undertaking to provide an additional PBG (as per format and instructions enclosed at Appendix A-3), equivalent to 50% of the value of the PBG by the bidding company, is submitted either by Supporting Company which supports the bidding company or the Ultimate Controlling Company.</p>	<p>iv. <u>Undertaking by Supporting Company or Ultimate Controlling Company that in case of award, an additional PBG (as per format and instructions enclosed at Appendix A-3), equivalent to 50% of the value of the PBG by the bidding company, shall be submitted either by Supporting Company which supports the bidding company or the Ultimate Controlling Company, in case the supported bidding company is the successful bidder.</u></p> <p><u>In cases where foreign based supporting company or the Ultimate Controlling Company do not have Permanent Establishment in India, the bidding company can furnish performance Bank Guarantee for an amount which is sum of PBG amount to be submitted by the bidder and additional PBG amount required to be submitted by the supporting company or the Ultimate Controlling Company subject to the condition that supporting company or the ultimate controlling company, as the case may be, has 100% paid up equity share capital of the bidder either directly or through intermediate subsidiaries Or vice versa.</u></p> <p><u>In such case bidding company shall furnish an undertaking that their foreign based supporting company or the Ultimate Controlling Company are not</u></p>	<p>Underlined portion modified.</p> <p>Underlined para added</p> <p>Underlined para added</p>

SI No.	Clause No.	Existing Provisions	Modified Provisions	Remarks
		<p>v. Provided that the turnover of the ultimate controlling company in the last financial year is more than US\$ 1 billion. Copy of the latest <u>published Audited Annual Report</u> to be submitted by the ultimate/ holding parent company, along with the techno-commercial bid.</p> <p>vi. In case of contracts involving multifarious activities such as - (a) manufacturing /supply (b) installation and commissioning (c) servicing and maintenance of any equipment, then in that case, the bidding company can draw on the experience of multiple supporting company(ies) specializing in each sphere of activity, i.e. (a) manufacturing/supply (b) installation and commissioning (c) servicing and maintenance. However, all the supporting companies and the bidding company should be controlled by a ultimate controlling company, either directly or through its intermediate company or through 'any other company' within the ultimate controlling company.</p> <p>vii. In case of scenario at (vi) above, separate agreement for such activity(s) among each supporting, bidding</p>	<p><u>having any Permanent Establishment in India in terms of Income Tax Act of India.</u></p> <p>v. Provided that the turnover of the ultimate controlling company in the last financial year is more than US\$ 1 billion. Copy of the latest <u>Audited Annual Financial Statements</u> to be submitted by the ultimate/ holding parent company, along with the techno-commercial bid.</p> <p>vi. In case of contracts involving multifarious activities such as - (a) manufacturing /supply (b) installation and commissioning (c) servicing and maintenance of any equipment, then in that case, the bidding company can draw on the experience of multiple supporting company(ies) specializing in each sphere of activity, i.e. (a) manufacturing/supply (b) installation and commissioning (c) servicing and maintenance. However, all the supporting companies and the bidding company should be controlled by a ultimate controlling company, either directly or through its intermediate company or through 'any other company' within the ultimate controlling company.</p> <p>vii. In case of scenario at (vi) above, separate agreement for such activity(s) among each supporting, bidding company or the</p>	<p>Underlined portion modified.</p> <p>No change</p> <p>No change</p>

SI No.	Clause No.	Existing Provisions	Modified Provisions	Remarks
		<p>company and the ultimate controlling company shall be submitted (as per format enclosed at Appendix A-4). However, in such cases, additional PBG as per clause (iv) above shall be furnished by the ultimate controlling company.</p>	<p>ultimate controlling company shall be submitted (as per format enclosed at Appendix A-4). However, in such cases, additional PBG as per clause (iv) above shall be furnished by the ultimate controlling company.</p> <p>Note:  <u>In case Supporting Company which supports the bidding company or the Ultimate Controlling Company, fails to submit Bank Guarantee as per (iv) above, EMD/SD submitted by the bidder shall be forfeited.</u></p>	<p>Note Added</p>
15.	<p>Note for clause No. B.1(2.2) and B.1(2.3):</p>	<p>Note for clause No. B.1(2.2) and B.1(2.3):</p> <p>A certificate from the statutory Auditor of the bidding company <u>as well as of the supporting company</u> to establish the relationship and equity percentage holding between bidding company and the supporting company or bidding company, intermediary company, supporting company and ultimate controlling company as the case may be.</p> <p><u>The certificates should be duly certified by the Company Secretary or one of the Directors of the company concerned.</u></p>	<p>Note for clause No. B.1(2.2) and B.1(2.3):</p> <p>(i) A certificate from the <u>Statutory Auditor or Company Secretary or one of the Directors of the bidding company</u> to establish the relationship and equity percentage holding between bidder and the supporting company or bidding company, intermediary company, supporting company or the ultimate controlling company as the case may be.</p> <p><u>Deleted</u></p> <p>(ii) <u>Authorisation letter from one of the Directors of Supporting Company authorising the signatories to execute the corporate guarantee, duly certified by the</u></p>	<p>Underlined portion modified.</p> <p>Underlined portion of the existing provision deleted.</p> <p>Underlined portion added.</p>



SI No.	Clause No.	Existing Provisions	Modified Provisions	Remarks
		The above certificate should not be more than 30 days old as on the original date of techno-commercial bid opening.	<u>Company Secretary of the Supporting Company.</u>  <u>The above certificates/ undertakings / Authorization letter should be of a date after NIT date.</u>	Clause added in line with proposed Financial Criteria
16.	2.4 (clause no. of subsequent existing clause reading as 2.3 & 2.4 corrected to read as 2.5 & 2.6 )	No Provisions exists	<u>(Applicable for ICB tenders only)</u>  (Applicable for Cases where Supply of material is also involved along with rendering of Services)  In cases where scope of work involves rendering services and supply of material also, the offer from a bidder who meets the experience criteria either on its own or based on the experience of the supporting company shall be accepted subject to meeting the condition laid down at Clause 2.2.  In case bidder is not able to execute supply of material portion of the scope of work on its own, then it shall be allowed to supply material through other company provided that the bidder and the company supplying material belongs to same group of companies and the company supplying the material have 100% paid up equity share capital of the bidder either directly or through intermediate subsidiaries or vice versa.	New Provision Added

SI No.	Clause No.	Existing Provisions	Modified Provisions	Remarks
			<p>The order on direct sale basis for supply of material shall be placed by ONGC directly on such group company of the bidder. However, the bidder shall be fully responsible for delivering the material at site including customs clearance and without any interruption in operation and without any additional cost to ONGC.</p> <p>In case of suspension of work due to non-availability of the material, zero rate shall be applicable for the service portion also and the bidder shall be responsible for all the consequences arising out of non-availability/delayed supply of the material including but not limited to forfeiture of Performance Bank Guarantee submitted by the successful bidder/contractor/supporting company(ies).</p> <p>For this purpose, the following information/document shall be submitted by the bidder alongwith techno-commercial bid:</p> <ul style="list-style-type: none"> <li>(I) The details of the group company supplying the material,</li> <li>(II) The role and scope of work to be performed by Bidder and aforesaid group company of the bidder</li> <li>(III) A certificate from the <u>Statutory Auditor or Company Secretary or one of the Directors of the bidding</u></li> </ul>	

SI No.	Clause No.	Existing Provisions	Modified Provisions	Remarks
			<p><u>company</u> to establish the relationship and equity percentage holding between bidder and the group company supplying the material.</p>	

## Statement showing existing vis-à-vis modified Tender Conditions for Service Contracts

Sl. No.	Clause No.	Existing Provisions	Modified Provisions	Remarks
1	1.3 of ITB of ICB and IND	<p>(Work Center to delete whichever not applicable)</p> <p>Bids from consortium of companies shall not be considered.</p> <p>OR</p> <p>1.3 In case the bidder is a consortium of companies, the following requirement should be satisfied by the bidder:</p>	<p>(Work Center to delete whichever not applicable)</p> <p>Bids from consortium of companies shall not be considered.</p> <p>OR</p> <p>1.3 In case the bidder is a consortium of companies, the following requirement should be satisfied by the bidder:</p>	No Change
2	1.3.1 of ITB of ICB and IND	<p>1.3.1 Where consortium bids are allowed, leader of consortium should himself meet the major portion of the experience criteria covering the activities of work to be performed by him in term of bid value in comparison to other members of the consortium, on its own and not through any other arrangement like through Supporting Company, Parent / Subsidiary / Sister Subsidiary / Co-Subsidiary / Technical Collaboration / Sub-contracting,. (e.g. in case of a Consortium bid having two members, the consortium member who has more than 50% stake (in terms of the bid value) shall be the leader of the Consortium and in case of a Consortium bid having three members, the leader of the Consortium should have more than 33.33% stake (in terms of bid value) in the</p>	<p>1.3.1 Where consortium bids are allowed, <u>leader and members of consortium should themselves meet the experience criteria covering the respective activities of work to be performed by them on their own</u> and not through any other arrangement like through Supporting Company, Parent / Subsidiary / Sister Subsidiary / Co-Subsidiary / Technical Collaboration / Sub-contracting. <u>Necessary documentary evidence to this effect should be submitted with techno-commercial bid.</u></p> <p><u>The members of consortium shall decide the Leader of consortium. The leader of consortium shall have minimum 26% stake in terms of bid value, as reflected in the MOU executed by consortium</u></p>	In line with proposed experience criteria

		<p><u>Consortium</u>). Necessary documentary evidence to this effect should be submitted with techno-commercial bid.</p> <p>For this purpose the role and scope of work of each consortium member including the percentage of work to be performed by the respective consortium members should be attached/annexed with the Memorandum of Understanding in the un-priced bid.</p> <p>Other consortium partner(s) shall have relevant experience pertaining to the activities of work to be performed by them on their own and not through any other arrangement like through Supporting Company, Parent / Subsidiary / Sister Subsidiary / Co-Subsidiary / Technical Collaboration / Sub-contracting, (other than the activity to be performed by leader of consortium). Necessary documentary evidence to this effect should be submitted with techno-commercial bid.</p>	<p><u>members. Each member of consortium shall remain jointly and severally liable to ONGC.</u></p> <p>For this purpose the role and scope of work <u>to be performed by the respective consortium members expressed as a percentage of bid value should be indicated in the Memorandum of Understanding (MOU) submitted along with techno-commercial bid as per format provided in the tender.</u></p>	
3	1.3.2 of ITB of ICB and IND	<p>1.3.2 The Leader of the Consortium can submit the bid on behalf of the Consortium. Memorandum of Understanding (MoU) <u>between the Consortium members duly signed by the Chief Executives of the Consortium members must accompany the techno-commercial bid.</u></p> <p>The MoU should clearly define the role / scope of work to be performed by each constituent and should clearly define the leader of the Consortium. All the members of the Consortium must resolve</p>	<p>1.3.2 The Leader of the Consortium can submit the bid on behalf of the Consortium. Memorandum of Understanding (MoU) <u>(as per format enclosed in tender) between the Consortium members duly signed by the authority (ies) as per the note in the MOU format, must accompany the techno-commercial bid.</u></p> <p>The MoU should clearly define the role / scope of work to be performed by each constituent and should clearly define the leader of the Consortium. All the members of the Consortium must resolve</p>	<p>The underlined portion modified.</p> <p>No Change</p>

		and affirm in the MoU that each party shall be jointly and severally liable to ONGC for any and all obligations and responsibility arising out of the Contract and for discharging all obligations under the Contract. MoU signed between the members of the Consortium shall form part of the contract. In case of award of contract, the MoU shall be kept valid through the entire contract period, including extensions, if any. After award of contract, no alterations / modifications would be permitted in the MoU.	and affirm in the MoU that each party shall be jointly and severally liable to ONGC for any and all obligations and responsibility arising out of the Contract and for discharging all obligations under the Contract. MoU signed between the members of the Consortium shall form part of the contract. In case of award of contract, the MoU shall be kept valid through the entire contract period, including extensions, if any. After award of contract, no alterations / modifications would be permitted in the MoU.	
7.14 (e) of ITB of ICB and IND	Leader of the Consortium on behalf of the Consortium shall co-ordinate with ONGC during the period the bid is under evaluation and also during the execution of the contract, if the same is awarded. The Leader of the Consortium shall also be responsible for resolving dispute / misunderstanding / undefined activities, if any, amongst all the constituents of the Consortium.	Leader of the Consortium on behalf of the Consortium shall co-ordinate with ONGC during the period the bid is under evaluation and also during the execution of the contract, if the same is awarded. <u>ONGC shall correspond / communicate only with the leader of a Consortium and likewise, the leader of the Consortium only should communicate with ONGC on behalf of the Consortium. No cognizance shall be given to communication received directly from other consortium members.</u> The Leader of the Consortium shall also be responsible for resolving dispute / misunderstanding / undefined activities, if any, amongst all the constituents of the Consortium.		Underlined portion modified
7.14(n) of ITB of ICB and IND	No Provisions exist	In case of award to the consortium, only the leader of the Consortium shall submit the PBG for the entire requisite amount of the PBG on behalf of the Consortium.		

**Annexure-III**

**Statement showing Existing (notified vide circular No. 14/2017 dated 03.04.2017) vis-à-vis modified provisions of BEC for LSTK Contracts**

(Work Center may allot suitable clause numbers as per the requirement of the case.)

Sl. No	clause No	Existing provisions notified vide Circular No. 14/2017 dated 03.04.2017	Modified provisions	Remarks
1.	1.	<p><b><u>Incorporated Joint Venture Company</u></b></p> <p>In case the bidder is an Incorporated Indian Joint Venture Company, registered in India and incorporated under the Companies Act 1956 and any amendments thereunder, then the technical experience criteria laid down in the Technical BEC should be met as under:</p> <p>(i) The Joint Venture Company by itself should meet the experience criteria  <b>or</b>                      (ii) The Joint Venture Partner (who can be either a Indian or a foreign company) having a stake of at least 26% in the Joint Venture Company should meet the technical experience criteria stipulated in the tender on its own and cannot rely on any other arrangement such as Consortium or Supporting Company of the JV Partner</p>	<p><b><u>Incorporated Joint Venture Company</u></b></p> <p>In case the bidder is an Incorporated Indian Joint Venture Company, registered in India and incorporated under the Companies Act 1956 and any amendments thereunder, then the technical experience criteria laid down in the Technical BEC should be met as under:</p> <p>(i) The Joint Venture Company by itself should meet the experience criteria  <b>or</b>                      (ii) The Joint Venture Partner (who can be either a Indian or a foreign company) having a stake of at least 26% in the Joint Venture Company should meet the technical experience criteria stipulated in the tender on its own and cannot rely on any other arrangement such as Consortium or Supporting Company of the JV Partner</p>	No change

Sl. No	clause No	Existing provisions notified vide Circular No. 14/2017 dated 03.04.2017	Modified provisions	Remarks
		<p>for meeting the technical experience criteria. Documentary evidence in support of the above should be submitted along with the techno-commercial bid.</p> <p>(iii) In case of (ii) above, an undertaking from the Joint Venture partner, based on whose experience the JV seek qualification, shall be submitted with the techno commercial bid stating they shall maintain minimum 26% shareholding in the JV till the execution of the contract.</p>	<p>for meeting the technical experience criteria. Documentary evidence in support of the above should be submitted along with the techno-commercial bid.</p> <p>(iii) In case of (ii) above, an undertaking from the Joint Venture partner, based on whose experience the JV seek qualification, shall be submitted with the techno commercial bid stating they shall maintain minimum 26% shareholding in the JV till the execution of the contract.</p>	
2.	2.  2.1	<p><b><u>Consortium Bids</u></b></p> <p><i>(Provisions pertaining to consortium bids to be incorporated by the work centres when bids from consortium of companies are allowed)</i></p> <p>Where consortium bids are allowed, leader of consortium should himself meet the major portion of the experience criteria covering the activities of work to be performed by him in term of bid value in comparison to other members of the consortium, on its own and not through any other arrangement like through Supporting Company, Parent /</p>	<p><b><u>Consortium Bids</u></b></p> <p><i>(Provisions pertaining to consortium bids to be incorporated by the work centres when bids from consortium of companies are allowed)</i></p> <p>Where consortium bids are allowed, <u>leader and members of consortium should themselves meet the experience criteria covering the respective activities of work to be performed by them on their own</u> and not through any other arrangement like through Supporting Company, Parent / Sister Subsidiary / Co-Subsidiary /</p>	<p>Underlines portion added/modified to lower the requirement of minimum stake for leader of the consortium. The reference to MOU has been made for clarity</p>



Sl. No	clause No	Existing provisions notified vide Circular No. 14/2017 dated 03.04.2017	Modified provisions	Remarks
		<p><u>Subsidiary / Sister Subsidiary / Co-Subsidiary / Technical Collaboration / Sub-contracting. (e.g. in case of a Consortium bid having two members, the consortium member who has more than 50% stake (in terms of the bid value) shall be the leader of the Consortium, and in case of a Consortium bid having three members, the leader of the Consortium should have more than 33.33% stake (in terms of bid value) in the Consortium). Necessary documentary evidence to this effect should be submitted with techno-commercial bid.</u></p>	<p><u>Technical Collaboration / Sub-contracting. Necessary documentary evidence to this effect should be submitted with techno-commercial bid.</u></p> <p><u>The members of consortium shall decide the Leader of consortium. The leader of consortium shall have minimum 26% stake in terms of bid value, as reflected in the MOU submitted by the consortium members. Each member of consortium shall remain jointly and severally liable to ONGC.</u></p>	
3.		<p><u>For this purpose the role and scope of work of each consortium member including the percentage of work to be performed by the respective consortium members should be attached/annexed with the Memorandum of Understanding in the un-priced bid.</u></p>	<p><u>For this purpose the role and scope of work to be performed by the respective consortium members expressed as a percentage of bid value should be indicated in the Memorandum of Understanding(MOU) submitted along with techno-commercial bid as per format provided in the tender.</u></p>	<p>Underlined portions modified to provide clarity alongwith MOU format.</p>

Sl. No	clause No	Existing provisions notified vide Circular No. 14/2017 dated 03.04.2017	Modified provisions	Remarks
4.		Other consortium partner(s) shall have relevant experience pertaining to the activities of work to be performed by them on their own and not through any other arrangement like through Supporting Company, Parent / Subsidiary / Sister Subsidiary / Co-Subsidiary / Technical Collaboration / Sub-contracting, (other than the activity to be performed by leader of consortium). Necessary documentary evidence to this effect should be submitted with techno-commercial bid.	-Deleted-	Provision deleted as covered under modified first paragraph above.
5.	2.2	The leader of the consortium should confirm unconditional acceptance of full responsibility of executing the entire 'Scope of work' of this tender. This confirmation should be submitted along with the techno-commercial bid.	<u>Notwithstanding the provisions that the members of consortium shall be jointly and severally liable to ONGC, the leader of consortium should undertake unconditional acceptance of primary responsibility of executing the entire 'Scope of work' of this tender. This confirmation should be submitted along with the techno-commercial bid.</u>	Underlined portion modified.
6.	2.3	A constituent of the Consortium shall not be permitted to participate either in an individual capacity as a bidder or as a member of another Consortium in the same tender.	A constituent of the Consortium shall not be permitted to participate either in an individual capacity as a bidder or as a member of another Consortium in the same tender.	No change
7.	2.4	Only that consortium member who has undertaken a particular activity in execution of a contract shall be considered as having	Only that consortium member who has undertaken a particular activity in execution of a contract shall be considered as having	No change

Sl. No	clause No	Existing provisions notified vide Circular No. 14/2017 dated 03.04.2017	Modified provisions	Remarks
		technical experience of that particular activity.	technical experience of that particular activity.	
8.	2.5	The overall responsibility of project management of entire project shall be that of the leader of the consortium.	The overall responsibility of project management of entire project shall be that of the leader of the consortium.	No change
9.	2.5.1	Successful bidder/Contractor shall be required to perform by themselves (and not through any other arrangement like through Supporting Company, Parent / Subsidiary / Sister Subsidiary / Co-Subsidiary / Technical Collaboration / Sub-contracting) project management and at least one of main activities based on which they are seeking their qualification.	Successful bidder/Contractor/ <u>Leader of Consortium</u> shall be required to perform by themselves (and not through <del>any</del> other arrangement like through Supporting Company, Parent / Subsidiary / Sister Subsidiary / Co-Subsidiary / Technical Collaboration / <del>Sub-contracting</del> ) project management and at least one of main activities based on which they are seeking their qualification.  <u>In case of sub-contracting, sub-contractors shall be subject to pre-qualification by ONGC based on the sub-contractor's experience.</u>	Sub Contracting has been allowed. Provision modified accordingly.
10.	2.5.2	In case of Consortium bids, all consortium partner(s), other than the Leader of consortium, shall also be required to perform by themselves (and not through any other arrangement like through Supporting Company, Parent / Subsidiary / Sister Subsidiary / Co-Subsidiary / Technical Collaboration / Sub-contracting) one of the project activities on which they are seeking their qualification (other than the activity(ies)	In case of Consortium bids, all consortium partner(s), other than the Leader of consortium, shall also be required to perform by themselves (and not through <del>any</del> other arrangement like through Supporting Company, Parent / Subsidiary / Sister Subsidiary / Co-Subsidiary / Technical Collaboration / <del>Sub-contracting</del> ) one of the project activities on which they are seeking their qualification (other than the activity(ies)	Sub Contracting has been allowed. Provision modified accordingly.

Sl. No	clause No	Existing provisions notified vide Circular No. 14/2017 dated 03.04.2017	Modified provisions	Remarks
		indicated by the Leader of consortium to be performed by Leader).	indicated by the Leader of consortium to be performed by Leader).  <u>In case of sub-contracting, sub-contractors shall be subject to pre-qualification by ONGC based on the sub-contractor's experience.</u>	
11.	3.  3.1	<p><u>Qualification based on Supporting Company</u></p> <p>Eligibility criteria in case bid is submitted on the basis of technical experience of another company (supporting company) which holds more than fifty percent of the paid up share capital of the bidder company or vice versa. <u>(Applicable in ICB tenders only):</u></p> <p>Offers of those bidders (not under consortium arrangement) who themselves do not meet the technical experience criteria as stipulated in the BEC and are quoting based on the experience of another company (supporting company) can also be considered. In such case the supporting company should hold more than fifty percent of the paid up share capital of the bidding company.</p>	<p><u>(Applicable in ICB tenders only):</u></p> <p><u>Qualification based on Supporting Company</u></p> <p>Eligibility criteria in case bid is submitted on the basis of technical experience of another company (supporting company) which holds more than fifty percent of the paid up share capital of the bidder company <u>either directly or through intermediate subsidiaries or vice versa.</u></p> <p>Offers of those bidders (not under consortium arrangement) who themselves do not meet the technical experience criteria as stipulated in the BEC and are quoting based on the experience of another company (supporting company) can also be considered. In such case the supporting company should hold more than fifty percent of the paid up share capital of the bidding company <u>either directly or through intermediate subsidiaries or vice versa.</u></p>	<p>Underlined portion modified/added.</p> <p>Underlined portion added.</p>

Sl. No	clause No	Existing provisions notified vide Circular No. 14/2017 dated 03.04.2017	Modified provisions	Remarks
		<p><u>Bidder can also draw experience from a company in which the bidder holds more than fifty percent of the paid up share capital.</u></p> <p>However, the supporting company should on its own meet the technical experience as stipulated in the BEC and should not rely on any other company or through any other arrangement like Technical collaboration agreement.</p> <p>In that case, as the bidding company is dependent upon the technical experience of another company with a view to ensure commitment and involvement of the companies involved for successful execution of the contract, the participating bidder should enclose the following Agreements / Guarantees along with the techno-commercial bid:</p> <p>(i) An Agreement (as per format enclosed at Appendix A-1) between the bidder and the supporting company.</p> <p>(ii) Guarantee (as per format enclosed at Appendix A-2) by the supporting company to ONGC</p>	<p><b>-Deleted-</b></p> <p>However, the supporting company should on its own meet the technical experience as stipulated in the BEC and should not rely on any other company or through any other arrangement like Technical collaboration agreement.</p> <p>In that case, as the bidding company is dependent upon the technical experience of another company with a view to ensure commitment and involvement of the companies involved for successful execution of the contract, the participating bidder should enclose the following Agreements / Guarantees/<u>Undertakings</u> along with the techno-commercial bid:</p> <p>(i) An Agreement (as per format enclosed at Appendix A-1) between the bidder and the supporting company.</p> <p>(ii) Guarantee (as per format enclosed at Appendix A-2) by the supporting company to ONGC</p>	<p><u>Deleted as has been covered under above paragraph.</u></p> <p>Underlined portion added.</p>

Sl. No	clause No	Existing provisions notified vide Circular No. 14/2017 dated 03.04.2017	Modified provisions	Remarks
		<p>for fulfilling the obligation under the Agreement.</p> <p>(iii) Undertaking by Supporting Company to provide a Performance Bank Guarantee (as per <u>format and instructions enclosed at Appendix A-3</u>), equivalent to 50% of the value of the PBG, in case the supported bidding company is the successful bidder.</p>	<p>for fulfilling the obligation under the Agreement.</p> <p>(iii) <u>Undertaking by Supporting Company to provide an additional Performance Bank Guarantee (as per <u>format and instructions enclosed at Appendix A-3</u>), equivalent to 50% of the value of the PBG which is to be submitted by the bidding company,</u> in case the supported bidding company is the successful bidder.</p> <p><u>In cases where foreign based supporting company does not have Permanent Establishment in India, the bidding company can furnish performance Bank Guarantee for an amount which is sum of PBG amount to be submitted by the bidder and additional PBG amount required to be submitted by the supporting company subject to the condition that supporting company have 100% paid up equity share capital of the bidder either directly or through intermediate subsidiaries Or vice versa.</u></p> <p><u>In such case bidding company shall furnish an undertaking that</u></p>	<p>Underlined provision modified</p> <p>Underlined provision added.</p>

Sl. No	clause No	Existing provisions notified vide Circular No. 14/2017 dated 03.04.2017	Modified provisions	Remarks
		<p>(iv) Undertaking by supporting company stating that more than 50% share-holding between Supporting Company and Bidding Company shall be maintained till the execution / completion of the contract.</p> <p>(v) Undertaking from the supporting company to the effect that in addition to invoking the PBG submitted by the contractor, the PBG provided by supporting company shall be invoked by ONGC due to non-performance of the contractor.</p>	<p><u>their foreign based supporting company is not having any Permanent Establishment in India in terms of Income Tax Act of India.</u></p> <p>(iv) Undertaking from the supporting company to the effect that in addition to invoking the PBG submitted by the contractor, the PBG provided by supporting company shall be invoked by ONGC due to non-performance of the contractor.</p> <p><u>Note:</u> In case Supporting company fails to submit Bank Guarantee as per (iii) above, EMD/SD submitted by the bidder shall be forfeited.</p>	<p>Underlined provision added.</p> <p>Provision renumbered as (iv)</p> <p>Note added</p>
12.	3.2	Eligibility criteria in case bid is submitted on the basis of technical experience of such companies that are controlled by a 'ultimate controlling company'. :(Applicable in ICB Tenders only): (To be	Eligibility criteria in case bid is submitted on the basis of technical experience of such companies that are controlled by a 'ultimate controlling company'. :(Applicable in ICB Tenders only): (To be	

Sl. No	clause No	Existing provisions notified vide Circular No. 14/2017 dated 03.04.2017	Modified provisions	Remarks
		<p>incorporated in LSTK tenders on case to case basis depending on the need for the same but with the specific approval of Director concerned).</p> <p>(For the purpose of this clause 'ultimate controlling company' is the one that holds more than fifty percent of the paid up share capital of each of the companies viz. the bidding company, all the supporting companies, intermediate company and 'any other company' mentioned in the clause.) Offers of those bidders (not under consortium arrangement) who themselves do not meet the technical experience criteria stipulated in the BEC can also be considered based on the experience of the company within the 'ultimate controlling company' subject to meeting of the following conditions;</p> <p>i. Provided that the supporting company and the bidding company are both controlled by an ultimate controlling company either directly or through its intermediate company or through 'any other company' within the ultimate controlling company.</p>	<p>incorporated in LSTK tenders on case to case basis depending on the need for the same but with the specific approval of Director concerned).</p> <p>(For the purpose of this clause 'ultimate controlling company' is the one that holds more than fifty percent of the paid up share capital of each of the companies viz. the bidding company, all the supporting companies, intermediate company and 'any other company' mentioned in the clause.) Offers of those bidders (not under consortium arrangement) who themselves do not meet the technical experience criteria stipulated in the BEC can also be considered based on the experience of the company within the 'ultimate controlling company' subject to meeting of the following conditions;</p> <p>i. Provided that the supporting company and the bidding company are both controlled by an ultimate controlling company either directly or through its intermediate company or through 'any other company' within the ultimate controlling company.</p>	



Sl. No	clause No	Existing provisions notified vide Circular No. 14/2017 dated 03.04.2017	Modified provisions	Remarks
		<p>ii. Provided that the supporting company on its own and not through any other arrangement like Technical collaboration agreement meets the technical experience criteria stipulated in the BEC.</p> <p>iii. Provided that with a view to ensure commitment and involvement of the ultimate controlling company for successful execution of the contract, the bidding company shall enclose an agreement <b>(as per format enclosed at Appendix A-4)</b> between them, their ultimate controlling company and the supporting company.</p> <p>iv. Undertaking to Provide an additional PBG <b>(as per format and instructions enclosed at Appendix A-3)</b>, equivalent to 50% of the value of the PBG by the bidding company, is submitted either by Supporting Company which supports the bidding company or the Ultimate Controlling Company.</p>	<p>ii. Provided that the supporting company on its own and not through any other arrangement like Technical collaboration agreement meets the technical experience criteria stipulated in the BEC.</p> <p>iii. Provided that with a view to ensure commitment and involvement of the ultimate controlling company for successful execution of the contract, the bidding company shall enclose an agreement <b>(as per format enclosed at Appendix A-4)</b> between them, their ultimate controlling company and the supporting company.</p> <p>iv. <u>Undertaking by Supporting Company / Ultimate Controlling Company that in case of award an additional PBG (as per format and instructions enclosed at Appendix A-3)</u>, equivalent to 50% of the value of the PBG to be submitted by the bidding company, <u>shall be</u> submitted either by Supporting Company which supports the bidding company or the Ultimate Controlling Company, <u>in case the supported bidding company is the successful bidder.</u></p>	<p>Underlined provision modified/added,</p> <p>Underlined provision added .</p>

Sl. No	clause No	Existing provisions notified vide Circular No. 14/2017 dated 03.04.2017	Modified provisions	Remarks
			<p><u>In cases where foreign based supporting company or the Ultimate Controlling Company do not have Permanent Establishment in India , the bidding company can furnish performance Bank Guarantee for an amount which is sum of PBG amount to be submitted by the bidder and additional PBG amount required to be submitted by the supporting company or the Ultimate Controlling Company subject to the condition that supporting company or the ultimate controlling company, as the case may be, have 100% paid up equity share capital of the bidder either directly or through intermediate subsidiaries Or vice versa</u></p> <p><u>In such case bidding company shall furnish an undertaking that their foreign based supporting company or Ultimate Controlling Company are not having any Permanent Establishment in India in terms of Income Tax Act of India.</u></p>	<p>Underlined provision added</p> <p>Underlined provision added.</p>

Sl. No	clause No	Existing provisions notified vide Circular No. 14/2017 dated 03.04.2017	Modified provisions	Remarks
		<p>v. Provided that the turnover of the ultimate controlling company in the last financial year is more than US\$ 1 billion. Copy of the latest <u>published Audited Annual Report</u> to be submitted by the ultimate/ holding parent company, along with the techno-commercial bid.</p> <p>vi. In case of contracts involving multifarious activities such as - (a) manufacturing /supply (b) installation and commissioning (c) servicing and maintenance of any equipment, then in that case, the bidding company can draw on the experience of multiple supporting company(ies) specializing in each sphere of activity, i.e. (a) manufacturing/supply (b) installation and commissioning (c) servicing and maintenance. However, all the supporting companies and the bidding company should be controlled by a ultimate controlling company, either directly or through its intermediate company or through 'any other company' within the ultimate controlling company.</p>	<p>v. Provided that the turnover of the ultimate controlling company in the last financial year is more than US\$ 1 billion. Copy of the latest <del>published Audited Annual Financial Statements Report</del> to be submitted by the ultimate/ holding parent company, along with the techno-commercial bid.</p> <p>vi. In case of contracts involving multifarious activities such as - (a) manufacturing /supply (b) installation and commissioning (c) servicing and maintenance of any equipment, then in that case, the bidding company can draw on the experience of multiple supporting company(ies) specializing in each sphere of activity, i.e. (a) manufacturing/supply (b) installation and commissioning (c) servicing and maintenance. However, all the supporting companies and the bidding company should be controlled by a ultimate controlling company, either directly or through its intermediate company or through 'any other company' within the ultimate controlling company.</p>	<p>Underlined provision modified</p> <p>Strike through portion deleted.</p>

Sl. No	clause No	Existing provisions notified vide Circular No. 14/2017 dated 03.04.2017	Modified provisions	Remarks
		<p>vii. In case of scenario at (vi) above, separate agreement for such activity(s) among each supporting, bidding company and the ultimate controlling company shall be submitted (as per format enclosed at Appendix A-4). However, in such cases, additional PBG as per clause (iv) above shall be furnished by the ultimate controlling company.</p>	<p>vii. In case of scenario at (vi) above, separate agreement for such activity(s) among each supporting, bidding company or the ultimate controlling company shall be submitted (as per format enclosed at Appendix A-4). However, in such cases, additional PBG as per clause (iv) above shall be furnished by the ultimate controlling company.</p> <p><u>Note:</u>  <u>In case Supporting Company which supports the bidding company or the Ultimate Controlling Company fails to submit Bank Guarantee as per (iv) above, EMD/SD submitted by the bidder shall be forfeited.</u></p>	<p>Note added</p>
13.	<p><u>Note for clause No. 3.1 and 3.2</u></p>	<p><u>Note for clause No. 3.1 and 3.2:</u>  A certificate from the statutory Auditor of the bidding company <u>as well as of the supporting company</u> to establish the relationship and equity percentage holding between bidding company and the supporting company or bidding company, intermediary company, supporting company and ultimate controlling company as the case may be. <u>The certificates should be duly certified by the Company Secretary or one of the Directors of the company concerned.</u></p>	<p><u>Note for clause No. 3.1 and 3.2:</u>  (i) A certificate from the Statutory Auditor or <u>Company Secretary or one of the Directors of the bidding company</u> <del>as well as of the supporting company</del> to establish the relationship and equity percentage holding between bidder and the supporting company or bidding company, intermediary company, supporting company or the ultimate controlling company as the case may be.</p>	<p>Underlined provision modified.  Strikethrough portion deleted  Underline para under existing clause deleted.</p>

Sl. No	clause No	Existing provisions notified vide Circular No. 14/2017 dated 03.04.2017	Modified provisions	Remarks
		The above certificate should not be more than 30 days old as on the original date of techno-commercial bid opening.	<p>(ii) <u>Authorisation letter from one of the Directors of Supporting Company authorising the signatories to execute the corporate guarantee, duly certified by the Company Secretary of the Supporting Company.</u></p> <p><u>The above certificates /undertakings/ Authorisation letter should be of a date after NIT date.</u></p>	<p>Underlined Provision added.</p> <p>Underlined provision added/modified inline with existing financial criteria.</p>

Annexure-IV

**MODIFICATION TO THE EXISTING FORMAT OF GURANTEE BY THE SUPPORTING COMPANY/GUARANTOR –  
SERVICE / LSTK CONTRACT (Appendix A-2)**

Para No.	Existing Provisions	Modified Provisions	Remarks
3./Page 1 (Existing paras shall be renumbered)	The Bidder/Guarantor Company holds more than 50 % paid up equity capital of the Supporting Company/Bidder. <u>Further, Bidder/Guarantor Company undertakes to maintain more than 50% paid up equity capital of the Supporting Company/Bidder till the execution / completion of the contract.</u>	The Bidder/Guarantor Company holds more than 50 % paid up equity capital of the Supporting Company/Bidder.	Underlined provision deleted
4 /Page 2 (Existing paras shall be renumbered)	No Provision exists	<i>The liability of the Guarantor, under the Guarantee, is limited to the liability of the Contractor as per the Contract.</i>	New Provision added.

**ANNEXURE-V**

**MODIFICATIONS TO THE EXISTING FORMAT OF AGREEMENT BETWEEN BIDDER AND THEIR SUPPORTING COMPANY-  
SERVICE / LSTK CONTRACT (Appendix No A-1)**

<b>Para SI No.</b>	<b>Existing Provisions</b>	<b>Modified Provisions</b>	<b>Remarks</b>
3 /Page 1	Bidder and the Supporting Company undertakes to maintain more than 50% share-holding between Supporting Company and Bidding Company till the execution / completion of the contract.	<u>The Bidder/Supporting Company holds more than 50 % paid up equity capital of the Supporting Company/Bidder.</u>	Provision modified

Standardized format for Memorandum of Understanding (MoU) for Consortium

This MoU is executed at..... on this ..... day of ..... between/among:

1. M/s ....., a company duly incorporated and validly existing under the laws of....., having its registered office at ..... Corporate Identity Number -- ----- (hereinafter referred to as "**Member 1**") which expression shall, unless excluded by or repugnant to the subject or context thereof, be deemed to include its successors, administrators, executors and permitted assigns);
2. M/s....., a company duly incorporated and validly existing under the laws of ....., having its registered office at..... Corporate Identity Number -- ----- (hereinafter individually referred to as the "**Member 2**"), which expression shall, unless excluded by or repugnant to the subject or context thereof, be deemed to include its successors, administrators, executors and permitted assigns);

AND

(More members can be added on similar lines as above depending on the members involved in the particular consortium)

The above Member 1 and Member 2 hereinafter shall individually referred to as "**Consortium Member**" and collectively be referred to as "**Consortium**"

WHEREAS

- A. **Oil and Natural Gas Corporation Limited**, a company duly incorporated and validly existing under the (Indian) Companies Act, 1956, having its registered office at ONGC, Deendayal Urja Bhavan, 5 Nelson Mandela Marg, Vasant Kunj, New Delhi-110070, India, and having an office, amongst others, at..... [*insert Purchase Centre Address*] hereafter called "**ONGC**" has floated a Tender Number ..... for ..... on .....
- B. The Consortium Members individually do not fulfil the technical eligibility criteria of the said tender and are not eligible to submit its bid against the said tender.
- C. The Consortium Members have come together and desired to form a Consortium for submitting their bid against the said tender of ONGC.

AND WHEREAS

1. The terms and conditions in the bid documents more specifically clause 1.3 & 7.14 of ITB (**appropriate clause reference pertaining to Consortiums to be given for LSTK tenders**) have been read and understood by the Consortium and acceptable to each member of the Consortium who agrees to abide by the same.
2. Each member hereby confirms that he has the qualification and experience for their respective scope of work as required under the Bid Evaluation Criteria and fulfils the conditions of eligibility as required therein.

NOW, THEREFORE, the Consortium Members agree as follows:



- i) All the members of the Consortium shall be jointly and severally responsible for the execution and discharge of all the obligations under the contract, if awarded to the Consortium to the complete satisfaction of ONGC.
- ii) The role and scope/division of work of each Consortium Member shall be as under:

SL. No	Name of the Consortium Member who will carry out the activity	Activities (Role & Scope of Work to be performed)	Cross reference within the bid offer, where supporting documents are submitted/ attached ##	Scope of work / activity to be performed, expressed as a percentage (%) of Bid Value
1		(i)		.....%
		(ii)		.....%
		<b>Total</b>		.....%
2				.....%
				.....%

## (In case bid has not been prepared before signing of MOU, the aforesaid cross reference may be provided in the offer in lieu of indicating in MOU)

- (iii) In accordance with the tender conditions of the aforesaid tender, M/s..... (Member 1 or 2 as the case may be) is hereby authorized by all the Consortium members to be the Leader of the Consortium (hereinafter referred to as the "Leader") and to act on behalf of the Consortium, and :
  - (a) shall submit the bid, execute all relevant Bid Documents and deliver any documentation required on behalf of the consortium;
  - (b) shall be responsible for exchange of correspondence with ONGC and such correspondence exchanged between ONGC and Leader shall be binding on all Consortium Members
  - (c) shall be responsible for resolving any disputes/ misunderstanding / undefined activities, if any, amongst all the members of the Consortium
  - (d) Notwithstanding the provisions of being jointly and severally liable to ONGC by all members of consortium, the leader of consortium shall be primarily responsible for full execution of the entire 'Scope of work' of this tender/Contract(if awarded);
  - (e) shall sign the contract as authorised and on behalf of the Consortium **(Delete if each member of the consortium shall be signing the contract)**
  - (f) shall undertake full responsibility for timely completion of the awarded work ; and
  - (g) shall take the overall responsibility of project management of entire project.
- (iv) All payments under the contract shall be made by ONGC to individual Consortium Members as duly indicated in Price Bid format along with member wise details of price breakup /on percentage basis OR if no such price breakup/ on percentage basis is provided then only to the Leader of the Consortium **(strike out the one which is not applicable).**

**In WITNESS WHEREOF, this MOU has been signed by or on behalf of each of the Members as of the day first above written.**

Executed and delivered as a deed  
by each Member acting by

.....

in the presence of:

.....  
Signature

.....

Address:

Occupation:

.....  
Signature

**Instructions:**

- (i) The above MOU shall be acceptable, only if signed by any of the following officials (who are empowered to sign such MOU) from the respective companies of the consortium members:
- CEO, (or)
  - any of the full time Directors at the Board level, (or)
  - Proprietor in case of Sole Proprietorship concerns, (or)
  - all Partners (or any of the Partners holding power of attorney on behalf of other Partners) in case of Partnership concerns, (or)
  - any official holding valid authorization for signing such MOU on behalf of the Member of the consortium.