

**Instruction to Bidders,**  
**Model Contract**  
**&**  
**General Contract Conditions**  
**For**  
**SERVICE CONTRACT**

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**SERVICE CONTRACTS  
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**INSTRUCTIONS TO BIDDERS**

**A: INTRODUCTION**

**1. Eligibility and experience of the bidder:-**

1.1(a) The bidder should have minimum ...years of experience as indicated in BEC in providing similar services. Bidder should have executed at least ... contracts of similar nature in the last ...years and should submit documentary evidence to this effect in the form of satisfactory completion of services from reputed clients.

1.1(b) In case the bidder is an Indian company/ Indian Joint Venture Company, either the Indian company/ Indian Joint Venture Company or its technical collaborator/ joint venture partner should meet the criteria laid down at 1.1(a).

1.2 Details of experience and past performance of the bidder and the collaborator (in case of collaboration) or of joint venture partner (in case of a joint venture), on works/ jobs done of similar nature in the past and details of current work in hand and other contractual commitments, indicating areas and clients are to be submitted along with the techno-commercial bid, in support of the experience laid down at para 1.1(a) and (b) above.

1.3 In case the bidder is a consortium of companies, the following requirement should be satisfied by the bidder:

- a) The leader of the consortium should satisfy the minimum experience requirement as per para 1.1(a) above.
- b) The leader of the consortium should confirm unconditional acceptance of full responsibility of executing the ' Scope of work' of this tender. This confirmation should be submitted along with the techno-commercial bid.
- c) All the members of the consortium must undertake in their MOU that each party shall be jointly and severally liable to ONGC for any and all obligations and responsibilities arising out of this contract.

1.4(a) Indian companies/ Joint Venture companies :- Indian bidders whose proposal for technical collaboration/ Joint Venture involves foreign equity participation or payment of royalty and / or lumpsum for technical know-how and wherever Govt. approval is necessary, are required to submit copy of Govt. approval, on their application submitted to SIA, prior to the date price bid opening.

1.4(b) Bidders should submit Memorandum Of Understanding (MOU) / Agreement with their technical collaborator/joint venture partner ( in case of Joint venture) clearly indicating their roles under the scope of work.

1.4(c) MOU/ Agreement concluded by the bidder with technical collaborator/ joint venture partner (in case of joint venture), should also be addressed to ONGC, clearly stating that the MOU /Agreement is applicable to this tender and shall be binding on them for the contract period.

## **2.0 TENDER FEE**

(Circular No. 28/2012 dated 05.10.2012)

2.1 The offer will not be considered without tender fee. However, MSEs (and not their dealers/distributors) registered with District Industry Centers or Khadi and Village Industries Commission or Khadi and Village Industries Board or Coir Board or National Small Industries Corporation or Directorate of Handicrafts and Handloom or any other body specified by Ministry of MSME are exempted from payment of tender fee for the Services they are registered with District Industry Centers or Khadi and Village Industries Commission or Khadi and Village Industries Board or Coir Board or National Small Industries Corporation or Directorate of Handicrafts and Handloom or any other body specified by Ministry of MSME. The Government Departments are also exempted from payment of tender fee. The firms registered with ONGC under Indigenisation Programme will not qualify for exemption from payment of tender fee.

## **2.2 Refund of tender fee**

In the event a particular tender is cancelled, the tender fee will be refunded to the concerned Bidder.

## **3. TRANSFER OF BIDDING DOCUMENT**

The Bidding document is not transferable.

## **4. COST OF BIDDING**

4.1 The Bidder shall bear all costs associated with the preparation and submission of its bid, and the ONGC will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

## **B: THE BIDDING DOCUMENT**

## **5. CONTENT OF BIDDING DOCUMENTS**

5.1 The services required, bidding procedures and contract terms are described in the bidding document. In addition to the Invitation for Bids, the bidding documents include:

**ANNEXURE I : Instructions to Bidders** with following Appendices

Appendix 1 : Bidding Document Acknowledgement proforma

Appendix 2 : Bid submission proforma

Appendix 3 : Bid submission Agreement proforma.

Appendix 4 : Bid Bond Bank Guarantee proforma

Appendix 4A : Proforma for irrevocable Letter of Credit

Appendix 5 : Checklist

Appendix 6 : Proforma for Bidders past services(similar)

Appendix 7 : Proforma of Authorisation Letter for attending Tender Opening

Appendix 8 : Proforma of Certificate on Relatives of Directors

Appendix 9 : List of Foreign banks acceptable to ONGC for issuance of Bank Guarantees.

Appendix 10 : Proforma for proposed changes/modifications.

**ANNEXURE II : General Conditions of Contract (GCC)** with following appendices.

Appendix 1 : Proforma of Performance Bond Bank Guarantee.

**ANNEXURE III :** Scope of work, Technical Specifications and Special conditions of Contract and Price Bid Proforma.

**(To be supplied by ONGC separately for each tender)**

**ANNEXURE IV :** Bid Evaluation Criteria. **(To be supplied by ONGC separately for each tender)**

(Circular No. 05/2013 dated 23.01.2013)

5.2 The bidder is expected to examine all instructions, forms, terms and specifications in the bidding documents. Failure to furnish all information required by the bidding documents will be at the bidder's risk. Tenders not complying with tender conditions and not conforming to tender specifications may result in the rejection of its bid without seeking any clarifications.

(Circular No. 53/2009 dated 02.12.2009)

## 6. PRE-BID CONFERENCE (Wherever applicable)

6.1 In order to avoid clarification/confirmation after opening of bids, wherever specifically mentioned in NIT, Pre-bid conference shall be held so as to provide an opportunity to the participating bidders to interact with ONGC with regard to various tender provisions/tender specifications,

before the bids are submitted. In case, due to the points/doubts raised by the prospective bidders, any specific term & condition (which is not a part of "Standard terms and conditions of tender") needs to be modified, then the same will be considered for modification.

6.2 After pre-bid conference, the specifications & other tender conditions will be frozen. No change in specifications and tender conditions will be permissible after bid opening. All the bidders must ensure that their bid is complete in all respects and conforms to tender terms and conditions, BEC and the tender specifications in toto failing which their bids are liable to be rejected without seeking any clarifications on any exception/deviation taken by the bidder in their bid.

6.3 Bidders should depute their authorised representative who should be competent to take on the spot decisions.

## **C. PREPARATION OF BIDS**

### **7. LANGUAGE AND SIGNING OF BID**

7.1 The bid prepared by the bidder and all correspondence and documents relating to the bid exchanged by the Bidder and the ONGC shall be written in English language. Supporting documents and printed literature furnished by the Bidder may be in another language provided they are accompanied by an accurate translation of the relevant passages in English, in which case, for purposes of interpretation of the bid, the translation shall prevail.

7.2 Bids shall be submitted in the prescribed bid proforma as per appendices 1 to 9 of Annexure-I. The prescribed proforma at Appendices of Annexure I, duly filled in and signed should be returned intact whether quoting for any item or not. When items are not being tendered for, the corresponding space should be defaced by some such words as "Not Quoting".

7.3 In the event of the space on the bid proforma being insufficient for the required purpose, additional pages may be added. Each such additional page must be numbered consecutively, showing the tender number and should be duly signed. In such cases reference to the additional page(s) must be made in the bid.

7.4 The bid proforma referred to above, if not returned or if returned but not duly filled in will be liable to result in rejection of the bid.

7.5 The Bidders are advised in their own interest to ensure that all the points brought out in the check list are complied with in their bid failing which the offer is liable to be rejected.



7.6 The bids can only be submitted in the name of the Bidder in whose name the bid documents were issued by ONGC. The bid papers, duly filled in and complete in all respects shall be submitted together with requisite information and Annexures/Appendices. It shall be complete and free from ambiguity, change or interlineations.

7.7 The bidder should indicate at the time of quoting against this tender their full postal and telegraphic/telex /fax addresses and also similar information in respect of their authorised agents in India, if any.

7.8 The Bidder shall sign its bid with the exact name of the firm to whom the contract is to be issued. The bid shall be duly signed and sealed by an executive officer of the Bidder's organisation. Each bid shall be signed by a duly authorised officer and in the case of a Corporation the same shall be sealed with the corporation seal or otherwise appropriately executed under seal.

7.9 The bidder shall clearly indicate their legal constitution and the person signing the bid shall state his capacity and also source of his ability to bind the Bidder.

7.10 The power of attorney or authorisation, or any other document consisting of adequate proof of the ability of the signatory to bind the bidder, shall be annexed to the bid. ONGC may reject outright any bid not supported by adequate proof of the signatory's authority

7.11 The Bidder, in each tender, will have to give a certificate in its offer, that the terms and conditions (Annexure I and II), as laid down in this bidding document are acceptable to it in toto.

7.12 Any interlineations, erasures or overwriting shall be valid only if they are initialed by the person or persons signing the bid.

(circular No. 37/2009 dated 12.08.2009)

7.13 The original bid should be signed manually by the authorised signatory(ies) of the bidder. The complete bid including the prices must be written by the bidders in indelible ink. Bids and/or prices written in pencil will be rejected.

### **7.13 Joint venture/ consortium bids:-**

(a) In view of the complexity of nature of work involved as covered by the Bidding Documents, it is anticipated that some of the intending bidders may pool their resources and experiences to form Consortia/Joint Ventures. In their own interest, the bidders are advised to investigate the capabilities, availability of expertise and resources such as construction

equipment, experienced personnel, financial soundness, past experience and concurrent engagements of constituting partners/members of the consortium/joint venture.

(b) In the event that the successful bidder is a joint venture formed of two or more companies, the Company requires that the parties to the joint venture accept joint and several liability for discharging all obligations under the Contract.

(c) The leader of the Consortium/Indian leader can submit bid on behalf of consortium of bidders. Memorandum of Understanding between the Consortium members duly signed by the Chief Executives of the consortium members must accompany the bid which should clearly define role/scope of work of each partner/member and should clearly define the leader of consortium. Memorandum of Understanding (MOU) must also state that all the members of consortium shall be jointly and severally responsible for discharging all obligations under the Contract. ***In case of award, such MOU shall be kept valid through the entire contract period, including extensions, if any.*** The following provisions should also be incorporated in the MOU executed by the members of the Consortium/Joint Venture :-

- (i) The leader of the consortium/joint venture on behalf of the consortium / joint venture shall coordinate with ONGC during the period the bid is under evaluation as well as during the execution of works in the event contract is awarded and he shall also be responsible for resolving dispute/ misunderstanding/undefined activities, if any, amongst all the consortium/ joint venture members.
- (ii) Any correspondence exchanged with the leader of consortium/joint venture shall be binding on all the consortium/joint venture members.
- (iii) Payment shall be made by ONGC only to the leader of the consortium/joint venture towards fulfillment of contract obligations. (If direct payment to each member is required for their part of scope of works, the same should be clearly indicated in the bid along with member-wise details of price break-up).
- (d) The bid may be signed by all members of the Consortium/Joint Venture. Alternatively the leader may sign the bid. In such a case, the Power of Attorney from each member authorising the leader for signing and submission of Bid on behalf of individual member must accompany the Bid offer. Other members of the consortium may participate in techno-contractual discussions and sign the minutes of such discussions/meetings along with the leader.

- (e) Documents/details pertaining to qualification of bidder as per proforma of document attached with the bidding documents must be furnished by each partner/member of consortium/joint venture complete in all respects along with the bid clearly bringing up their experience especially in the form of work in their scope.
- (f) **Constitution of Consortium** : If during evaluation of bid, a consortium leader proposes any alterations/changes in the constitution or replacement or inclusion or expulsion of any partner(s)/ member(s) of the consortium which had originally submitted the bid, to derive some advantages/benefits based on any development(s) having come to his knowledge at any time, the bid of such a consortium shall be liable for rejection unless such a change is agreed to by ONGC in writing.
- (g) **Signing of Contract** : In the event of award of contract to the consortium/joint venture, the contract may be signed by the leader and members of the consortium/joint venture and the liability of each one of them shall be joint and several. Alternatively the contract may be signed by an authorised officer of the consortium/joint venture on its behalf as well as on behalf of each and every member separately with a valid power of attorney from each member duly notarised and thereafter every member should countersign the contract in token of having confirmed the contract.

(Circular No. 53/2009 dated 02.12.2009)

## **8.0 COMPLIANCE WITH THE REQUIREMENTS OF BID EVALUATION CRITERIA (BEC) AND ALL OTHER TENDER CONDITIONS:**

### **8.1 Advice to bidders for avoiding rejection of their offers:**

ONGC has to finalise its purchase within a limited time schedule. Therefore, it may not be feasible for ONGC to seek clarifications in respect of incomplete offers.

Prospective bidders are advised to ensure that their bids are complete in all respects and conform to ONGC's terms, conditions and bid evaluation criteria of the tender. Bids not complying with ONGC's requirement may be rejected without seeking any clarification.

### **8.2 Submission of 'Bid Matrix' duly filled-in, to re-confirm compliance with tender requirements:**

Bidders should submit the 'Bid Matrix' (as enclosed with the bid document) duly filled-in, so as to re-confirm compliance with each of the requirements of BEC and other important conditions of the tender. Each such

confirmation should be clearly stated in the 'Bid Matrix' indicating "Confirmed" or "Not Confirmed", as applicable. Further, against each such confirmation, bidders should also indicate the reference/location (page No. / Annexure etc.) of the respective detail(s)/document(s) enclosed in the bid, so as to easily locate the same in bid document. Each entry in the 'Bid Matrix' must be filled-in in indelible ink (entries written in pencil will be ignored). Further, each page of the 'Bid Matrix' and the corrections/overwriting/erasures (if any) should be signed manually by the person (or, persons) signing the bid.

Bidders are advised to ensure submission of the 'Bid Matrix', duly filled-in as per above requirements, for avoiding rejection of their offers.

## 9.0 DOCUMENTS COMPRISING THE BID

9.1 The bid prepared by the Bidder shall comprise the following components, duly completed:

a) Price schedule.

b) Documentary evidence establishing that the Bidder is eligible to bid and is qualified to perform the contract if its bid is accepted. The documentary evidence of the Bidder's qualifications to perform the Contract if its bid is accepted, shall establish to the ONGC's satisfaction:

(i) that the Bidder has the financial capability necessary **as per clause** \_\_\_\_ **of BEC** to perform the Contract;

(ii) that the Bidder meets ***all*** the criteria prescribed in the Bid Evaluation Criteria (Annexure-IV).

c) Documentary evidence that the services to be rendered by the Bidder conform to the requirements of bidding documents.

(i) The documentary evidence of conformity of the services to the bidding documents may be in the form of literature, drawings and data and shall consist of:

1) A detailed description of essential technical and performance characteristics of the services.

2) An item by item commentary on the ONGC's technical specifications demonstrating conformity to the provisions of the technical specifications of the bidding document.

d) Bid security.

e) Bid submitted by foreign Bidder shall include a detailed description of the relationship between the bidder and its Local Agent/ Consultant / representative/ retainer including specific services to be rendered, permanent income tax account number of agent/consultant/representative/retainer, permanent income tax account number of foreign bidder and amount of commission or other payments. ***If no such agent/consultant/representative/ retainer is involved, the same should be explicitly stated in the techno-commercial bid.***

(Circular No. 05/2013 dated 23.01.2013)

f) Integrity Pact(IP) (applicable for tenders above Rs 1 crore)

Proforma of Integrity Pact (which is issued along with the bidding document) shall be returned by the bidder along with technical bid, duly signed by the same signatory who signs the bid, i.e. who is duly authorized to sign the bid. All the pages of the Integrity Pact shall be duly signed by the same signatory.

(Circular No. 39/2008 dated 05.12.2008)

g) The bidder should submit a declaration to the effect that neither the bidder themselves, nor any of its allied concerns, partners or associates or directors or proprietors involved in any capacity, are currently serving any banning orders issued by ONGC debaring them from carrying on business dealings with ONGC.

## 10.0 PRICE SCHEDULE

10.1 The Bidder shall complete the appropriate price schedule furnished in the bidding document, indicating the services to be provided.

### 10.2 Bid Prices

10.2.1 The bidders shall indicate on the appropriate price schedule the net unit prices (wherever applicable) .

10.2.2 Prices quoted by the bidder shall be firm during the bidder's performance of the contract and not subject to variation on any account.

10.2.3 Discount: Bidders are advised not to indicate any separate discount. Discount, if any, should be merged with the quoted prices. Discount of any type, indicated separately, will not be taken into account for evaluation purpose. However, in the event of such an offer, without considering discount, is found to be lowest, ONGC shall avail such discount at the time of award of contract.

(Circular no. 25/2008 dated 05.08.2008)

### **10.3 (a) CONCESSIONS PERMISSIBLE UNDER STATUTES**

Bidder, while quoting against this tender, must take cognizance of all concessions permissible under the statutes including the benefit under Central Sales Tax Act, 1956, failing which it will have to bear extra cost where Bidder does not avail exemptions/concessional rates of levies like customs duty, excise duty, VAT/sales tax, etc. ONGC will not take responsibility towards this. However, ONGC may provide necessary assistance, wherever possible, in this regard.

Bidders must also consider benefits of CENVAT credit under the CENVAT Credit Rules 2008 as amended from time to time, for excise duty, service tax etc against their Input materials/Services, while quoting the prices. Similarly, the benefits of input VAT credit against their Input materials, under the relevant VAT Act of the State, should also be duly considered by the Bidders while quoting the prices.

10.3 (b) Undertaking to provide necessary documents, for enabling ONGC to avail Input VAT credit and CENVAT credit benefits (wherever applicable).

Further, the Bidders shall undertake to provide all the necessary certificates / documents for enabling ONGC to avail Input VAT credit and CENVAT credit benefits (wherever applicable), in respect of the payments of VAT, Excise Duty, Service Tax etc. which are payable against the contract (if awarded). The Contractor should provide tax invoice issued under rule-4A of Service Tax for the Services; and tax invoice issued under Central Excise rule-11 (indicating education cess and Secondary & Higher Education Cess) for Excise Duty and tax invoice under respective State VAT Act for VAT separately for the indigenous goods.

### **10.4 INCOME TAX LIABILITY**

The bidder will have to bear all Income Tax liability both corporate and personal tax.

(Circular No. 19/2012 dated 02.08.2012)

### **10.5 Service Tax Liability:**

10.5.1 The bidder will have to pay all Service Tax liability, as applicable except in case of services covered under Notification No. 30/2012-S.T. & 26/2012-S.T. dated 20<sup>th</sup> June, 2012 under reverse charge and abatement on value of services as per clause No. 10.5.2 and 10.5.3 below. In case of services covered under Notification No. 30/2012-S.T. & 26/2012-S.T. dated 20<sup>th</sup> June, 2012 under reverse charge and abatement on value of

services as per clause No. 10.5.2 and 10.5.3 below, either the applicable Service Tax amount shall be paid to the account of Govt of India partly by Service Provider and partly by service receiver (ONGC) or 100% Service Tax shall be paid by ONGC,

In case of Manpower supply services and Renting-or hiring any Motor Vehicle designed to carry passengers on non abated value, Service Tax shall be paid both by Service Provider and ONGC only if the Contractor (Service Provider) is an Individual, HUF, or Proprietary Firm, Partnership Firm whether registered or not, including association of persons (AOP). However, in case contractor is a company and registered under Companies Act, 1956, ONGC shall not pay any share of Service Tax and 100% Service Tax shall be paid by Contractor (Service Provider).

The Bidder should quote the applicable Service Tax, clearly indicating the rate and the amount of Service Tax included in the bid and the description of the respective service (as per Service Tax rules) under which the Service Tax is payable.

In the contracts involving multiple services or involving supply of certain goods or materials (which should be consumable in nature) alongwith the services, the Bidder should give separate break-up for cost of goods and cost of various services, and accordingly quote Service Tax as applicable for the taxable services. Contracts involving supply of goods / material which are not consumable in nature would be considered as Works Contract and not Service Contract.

In case the Services Tax is not quoted explicitly in the offer by the Bidder, the offer will be considered as inclusive of all liabilities of Service Tax. ONGC will not entertain any future claim in respect of Service Tax against such offers.

In case, the quoted information related to various taxes and duties subsequently proves wrong, incorrect or misleading:-

- a) ONGC will have no liability to reimburse the difference in the duty/tax, if the finally assessed amount is on the higher side.
- b) ONGC will have the right to recover the difference in case the rate of duty/tax finally assessed is on the lower side.

Notes: (Work Centre should delete the conditions mentioned below, which are not applicable for the particular tender)

(i) (Applicable for Indigenous tenders):

The Service Provider should have a valid Service Tax registration certificate with the concerned authorities of Service Tax department and a

copy of such registration certificate should be submitted alongwith the offer. In case the registration certificate is not available at the time of submission of offer, an undertaking should be furnished for submission of copy of requisite Service Tax registration certificate alongwith the first invoice under the contract.

(Applicable for ICB tenders):

The Service Provider (other than the Service Providers from outside the taxable territory of India, who do not have any fixed establishment or permanent address in India for providing services ) should have a valid Service Tax registration Certificate with the concerned authorities of Service Tax department and a copy of such registration certificate should be submitted alongwith the offer. In case the registration certificate is not available at the time of submission of offer, an undertaking should be furnished for submission of copy of requisite Service Tax registration certificate alongwith the first invoice under the contract.

Service to be provided from outside the taxable territory of India : As per Service Tax rules, for Services received by ONGC in Taxable Territory of India from a Service Provider from outside the taxable territory of India, who does not have any fixed establishment or permanent address for providing taxable services in India, the liability to pay Service Tax lies with ONGC. Therefore, such Bidder shall not include Service Tax in the quoted prices, but shall submit a declaration to the effect that they do not have any fixed establishment or permanent address for providing services in India. However, at the time of evaluation, Service Tax as applicable shall be loaded on the portion of services which attract Service Tax. In case the Bidder does not give break-up of the quoted prices, indicating the components of taxable services separately, the Service Tax will be loaded on entire quoted / Contract value for evaluation considering abatement, if any, as per the provisions of the statute.

10.5.2 For some of the Services received by ONGC, covered under Notification No. 30/2012-S.T. . dated 20th June, 2012, the liability to pay Service Tax shall be discharged partly by ONGC and the respective service provider as per clause No. 10.5.2.1 below. However, bidder shall include 100% Service Tax in their quoted prices but payment to the contractor shall be made after deducting the portion of Service Tax to be paid by ONGC directly to the tax authorities.

10.5.2.1 The services in which Service Tax liability is to be discharged by ONGC and the respective Service Provider(s) are mentioned below which shall be applicable only if the Service Provider is an Individual, HUF, or Proprietary Firm, Partnership Firm whether registered or not, including association of persons (AOP). However, if the Contractor (Service Provider) is a company and registered under Companies Act, 1956. In such cases, ONGC shall not be liable to pay Service Tax under reverse



charge mechanism for the services indicated below and in such situations the total Service Tax amount shall be paid by Contractor (Service Provider).

Sl. No.	Description of service	Percentage of Service Tax payable by Service provider	Percentage of Service Tax payable by ONGC
(i)	Services provided or agreed to be provided by way of renting or hiring any motor vehicle designed to carry passenger on non-abated value i.e. bidder is availing CENVAT credit on input/ Input services /Capital goods	60%	40%
Note: ONGC to pay 40% of Service Tax amount directly to service tax authorities , if contractor is an Individual, HUF, or Proprietary Firm, Partnership Firm whether registered or not, including association of persons (AOP).			
(ii)	Services provided or agreed to be provided by way of supply of manpower for any purpose.	25%	75 %
Note: ONGC to pay Service Tax on 75% of service tax amount directly to service tax authority, at applicable rate of tax, if contractor is an Individual, HUF, or Proprietary Firm, Partnership Firm whether registered or not, including association of persons (AOP).			

10.5.2.2 In case the Services Tax is not quoted explicitly in the offer by the Bidder, the offer will be considered as inclusive of all liabilities of Service Tax. ONGC will not entertain any future claim in respect of Service Tax against such. ONGC will pay service tax to the Govt as per the provisions mentioned at 10.5.2.1 above after deducting from contractor's invoice .

10.5.3 In accordance with the notification No. 30/2012-S.T. & 26/2012-S.T. dated 20th June, 2012, in the following situations, the liability to pay 100% Service Tax is on ONGC, hence the Bidder shall not include Service Tax in the quoted prices.

(i)	In respect of any taxable services provided or agreed to be provided by any person from his office located in a non-taxable territory [J&K(India) and Outside India] and received by ONGC in the taxable territory. Being import of service, ONGC to pay Service Tax.
(ii)	In respect of services provided or agreed to be provided by a goods transport agency (GTA) in respect of transportation of goods by road. However, ONGC shall pay Service Tax on 25% of invoice value under GTA services, subject to conditions that GTA will declare in the bid that he will not avail CENVAT credit. Further, GTA's invoice must indicate - "no CENVAT Credit for inputs, input services, capital goods has been taken under CENVAT Credit Rules, 2004 (CCR-2004)".
(iii)	In respect of services provided or agreed to be provided by way of support service by Government or Local Authority. ONGC to pay services tax on the gross value of service received from Govt or local authority such as security services from CISF etc.
(iv)	In respect of Services provided or agreed to be provided by way of renting or hiring any motor vehicle designed to carry passenger on abated value. ONGC shall pay 100% of Service Tax amount i.e. Service Tax calculated on 40% of invoice value, if contractor is an Individual, HUF, or Proprietary Firm, Partnership Firm whether registered or not, including association of persons (AOP). Bidder will declare in the bid that he will not avail CENVAT credit. Further Contractor's invoice must also indicate - "no CENVAT Credit for inputs, input services, capital goods has been availed under CCR-2004".

## 11.0 BID CURRENCIES (Applicable for ICB tenders only)

11.1 The Bidders are to quote firm prices. They may bid in any currency (including Indian Rupees). Payment will be made accordingly. However, the payment towards sales tax, if applicable (on the ultimate finished product) will be made by ONGC in Indian Rupees as per actuals. **For this purpose the amount of Sales tax paid as per the invoice signed by the officer duly authorized for the purpose will be taken into account.** In case of statutory changes in the rates of customs duty, the difference in amount of customs duty will be paid by ONGC to the Indian party (or vice versa) in Indian rupees, as per actuals against documentary evidence. The freight and insurance elements must be quoted by Indian bidders in Indian Rupees only and payment will be made accordingly.

Currency once quoted will not be allowed to be changed.

## 11.2 BID CURRENCIES (Applicable for Indigenous tenders only)

Bidders should quote firm prices in Indian rupee only. Prices quoted in any other currency shall not be considered.

(Circular no. 06/2008 dated 28.02.2008)

## 12.0 **MODE OF PAYMENT**

In all cases, except the cases involving payment through 'Letter of Credit' or payment in Foreign currency, ONGC shall make payments only through Electronic Payment mechanism (viz. NEFT/RTGS /ECS). Bidders should invariably provide the following particulars alongwith their offers:

1. Name & Complete Address of the Supplier / Contractor as per Bank records.
2. Name & Complete Address of the Bank with Branch details.
3. Type of Bank account (Current / Savings/Cash Credit).
4. Bank Account Number (indicate 'Core Bank Account Number', if any).
5. IFSC / NEFTCode (11 digit code) / MICR code, as applicable, alongwith a cancelled cheque leaf.
6. Permanent Account Number (PAN) under Income Tax Act;
7. TIN/Sales Tax Registration Number (for supply of Goods) and Service Tax Registration Number (for supply of Services), as applicable.
8. e-mail address of the vendor / authorized official (for receiving the updates on status of payments)."

(Circular no. 07/2008 dated 29.02.2008)

9. Confirmation as to whether the bidder belong to the category of Micro, Small and Medium Enterprises as defined in the "Micro, Small and Medium Enterprises Development Act, 2006 (MSMEDA)". If yes, specify the category of Micro, Small or Medium Enterprises and whether the enterprise is in manufacturing or service industry, alongwith valid documentary evidence.

For receiving payment through NEFT / RTGS, the bank/branch in which the bidder is having account and intends to have the payment should be either an NEFT enabled bank or SBI branch with core banking facility

**(Detailed payment terms to be framed by the work centers and be provided in the Special Conditions of Contract)**

(Circular No. 10/2010 dated 10.03.2010)

12.1 **Particulars to be furnished by foreign bidders** (non-residents as per Income Tax Act, 1961):

Foreign bidders should invariably submit (alongwith their bid) the following particulars, which are required to be furnished by ONGC 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 Dependant 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 ONGC and if, yes, address of the Fixed Place PE or name & address of the Dependant Agent?
- (ii) Whether by carrying on activities in relation to its engagement by ONGC, 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 ONGC are attributable to such PE?
- (iv) If the remittances to be made to the non-resident under his engagement by ONGC are attributable to a PE which it has in India, what quantum of the profits resulting to the non-resident from his engagement by ONGC, 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 ONGC 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).
- (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 Tax Residency Certificate from the tax authorities of that country or the non-resident's own certificate (only if it is not possible for the non-resident to obtain & submit Tax Residency Certificate to ONGC within a reasonable time).
- (ix) Country which can be called the non-resident's principal place of business. This could be the same as his country of tax residence or different depending on facts.

(x) Non-resident's e-mail address.

(xi) Non-resident's phone number with International Dialling code.

(xii) Whether the non-resident is constituted as a company, a partnership firm, or any other form of business organisation.

In addition to above particulars, the bidder 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 bidder shall be liable to intimate the subsequent changes (if any) to the information submitted against any of the above particulars, alongwith full details.

### **13.0 CONCESSIONAL RATE OF CUSTOMS DUTY/EXCISE DUTY/SALES TAX**

13.1 (a) In terms of notification No. 21 dated 1.3.2002, goods specified in list 12 imported in connection with Petroleum operations will attract zero Custom Duty. ONGC is in possession of valid PEL for the areas in which the work is to be executed. Hence, ONGC will issue recommendatory letter as per Government guidelines for issuance of Essentiality Certificate from Director General of Hydrocarbon (DGH), Ministry of P&NG so as to enable the contractor to import goods against zero Custom Duty provided these are specified in the list 12 of said Customs notification.

All imports and import clearance under the contract shall be done by the bidder and ONGC will not provide any assistance in this regard.

**Notwithstanding what is stated above, the bidders should also consider the position in regard to import of goods as specified in list No. 12 of above notification against zero Customs Duty. ONGC is not liable in whatsoever manner, for the rejection of their claims for zero Customs Duty by any of the authorities including the DGH.**

**Note: The recommendatory letter will be given *only* for those items which are either consumed during the execution of work or *for those equipment/tools which are undertaken to be re-exported by the bidder.* The recommendatory letter will not be issued when the bidder imports the equipment/tools on acquisition basis and does not undertake to re-export the same after the completion of the contract**

#### **13.2 Re-export of equipment, unutilised spares etc:**

The equipment, unutilized spares, accessories etc. imported to India for providing service needs to be re-exported by the bidder upon the completion of the terms of contract or any extended period thereof at their own expense. Bidder must furnish an undertaking that "the equipment

imported and also spares & accessories which remained unutilized after the expiry of contract, would be re-exported at his own cost after completion of contractual obligation after observing all the formalities/rules as per Customs Act or any other relevant Act of Govt. of India applicable on the subject". Immediately after re-export, bidder would furnish to ONGC, details and other relevant documents as a proof of re-export. In case of non-observance of formalities of any provisions of the Customs Act or any other act of Government of India, the contractor shall be held solely responsible for all the liabilities including the payment of Customs Duty and penalties to the Govt. on each issue. Non compliance of these provisions will be treated as breach of contract and their performance bond will be forfeited.

13.3 ONGC is registered under the Central Sale Tax Act and is entitled to avail concessional rate of Central Sales tax against form `C' in respect of inter-state purchases ***directly consigned to ONGC from the contractors in India provided the details of such cases are specifically mentioned in the bid and the contract.***

13.4 As the above statutory provisions are frequently reviewed by the Govt., the bidders are advised to check the latest position in their own interest and ONGC will not bear any responsibilities for any incorrect assessment of the statutory levies by any bidder.

#### 14.0 **VAGUE AND INDEFINITE EXPRESSIONS**

14.1 Bids qualified by vague and indefinite expressions such as "Subject to availability" etc. will not be considered.

#### 15.0 **AGENT/ CONSULTANT/ REPRESENTATIVE/ RETAINER/ ASSOCIATE (Applicable for ICB tenders only)**

15.1 ONGC would prefer to deal directly with the manufacturers/principals abroad but in case they decide to have their Agent/Consultant/Representative/ Retainer/Associate in India and pay commission for their services against a particular tender it should be bare minimum and the principal would have to certify that such a commission is commensurate with the services rendered to them by such an Agent/Consultant/ Representative/Retainer/ Associate in India. The principal will also have to broadly list out such services to be rendered by the Agent/Consultant/ Representative/ Retainer/ Associate in India.

15.2 In the event bidder is having an Agent/Consultant/Representative/ Retainer/ Associate/servicing facilities in India (who is not an employee of the bidder) the bidder should indicate in their offer the name of such an Agent/Consultant/Representative/Retainer/ Associate, they have for services in India. The bidder must also indicate clearly the

commission payable to the Agent/Consultant/ Representative/ Retainer/Associate in rupees in terms of Agreement (enclosing copy of the same). The bidder, in his bid will indicate the nature and extent of service to be provided by such an Agent/ Consultant/ Representative/ Retainer/ Associate on behalf of the bidder and also remuneration therefore provided in the price, as a separate item, quoted by the bidder to ONGC. Such remuneration/commission will be paid by ONGC in non-convertible Indian currency in India. Should it be established at any subsequent point of time that the above statement of the bidder is not correct or that any other amount of remuneration/commission either in India or abroad is being paid to any one (who is not an employee of the bidder), the bidder would be liable to be debarred from participating in the future tenders of ONGC. Failure to give such information will lead to rejection of the offer.

The following particulars will also be furnished by the bidder:

- (i) The precise relationship between the foreign manufacturer/principal and their Agent/Consultant/ Representative/ Retainer/Associate in India.
- (ii) The mutual interest which the manufacturer/principal and the Agent/Consultant/Representative/Retainer/Associate in India have in the business of each other.
- (iii) Any payment which the Agent/ Consultant/ Representative/ Retainer/ Associate receives in India or abroad from the manufacturer/principal whether as a commission for the contract or as a general retainer fee.
- (iv) Permanent Income Tax account number of Agent/ Consultant/ Representative/ Retainer/ Associate in India.
- (v) Permanent income tax account number of foreign supplier.
- (vi) All services to be rendered by the Agent/ Consultant/Representative/ Retainer/Associate.

Note: Tenders which do not comply with the above stipulations are liable to be ignored.

15.3 Overseas bidder should send their bids directly and not through Agent/Consultant/Representative/Retainer/Associate. Bids made by Agent/ Consultant/ Representative /Retainer/ Associate will not be recognised. Agent/Consultant/ Representative/Retainer/Associate of the overseas manufacturers/suppliers are, however, permitted to purchase bidding documents and attend bid opening provided such an Agent/Consultant/Representative/Retainer/Associate has a power of attorney/letter of authority setting out very clearly his role, which will be limited to such areas of activity as purchase of bidding documents, attending of bid opening and claiming of payment for their services, provided further that such a power of attorney/letter of

authority is submitted to ONGC in advance for scrutiny and acceptance or otherwise.

#### **16.0 PERIOD OF VALIDITY OF BIDS**

16.1 The Bid shall be valid for acceptance for the period as indicated in the "Invitation for Bid" (hereinafter referred to as validity period) and shall not be withdrawn on or after the opening of bids till the expiration of the validity period or any extension agreed thereof.

16.2 In exceptional circumstances, prior to expiry of the original bid validity period, the ONGC may request the bidder for a specified extension in the period of validity. The requests and the responses shall be made in writing. The Bidder will undertake not to vary/modify the bid during the validity period or any extension agreed thereof. Bidder agreeing to the request for extension of validity of offer shall be required to extend the validity of Bid Security correspondingly.

#### **17.0 BID SECURITY**

17.1 The Bid Security is required to protect the ONGC against the risk of Bidder's conduct which would warrant the security's forfeiture in pursuance to clause 17.7.

(Circular No. 28/2012 dated 05.10.2012)

17.2 Central Government Departments and Central Public Sector Undertakings are exempted from payment of Bid Security. MSEs units (and not their dealers/distributors) which are themselves registered with District Industry Centers or Khadi and Village Industries Commission or Khadi and Village Industries Board or Coir Board or National Small Industries Corporation or Directorate of Handicrafts and Handloom or any other body specified by Ministry of MSME are also exempted from payment of Bid Security irrespective of monetary limit mentioned in their registration certificate provided they are registered for the Services they intend to quote.

17.3 The Bidders not covered under Para 17.2 above must enclose with their offer ( in case of two bid systems, with techno-commercial bid) bid security. The amount for bid security has been indicated in the "Invitation For Bid" (to be supplied separately with each tender). The Bid Security shall be denominated by the foreign bidders in any foreign currency in which they quote prices.

17.4 The Bid Security shall be acceptable in any of the following forms:



- i) Bank Draft in favour of ONGC valid for 180 days from its date of issue.

(Circular No. 23/2013 dated 09.09.2013)

- ii) Bank Guarantee in the prescribed format as per Appendix 4 of Annexure-I, valid for 30 days beyond the date of required validity of offer. The bank guarantee by Indian bidder will have to be given on non-judicial stamp paper / franking receipt as per stamp duty applicable at the place from where the bid has emanated. The non-judicial stamp paper / franking receipt should be either in the name of the issuing bank or the bidder.

The bidders will give Bank Guarantee from any of the following categories of Banks:

- (a) Any Scheduled Bank incorporated in India, Bank Guarantee issued by foreign branches / foreign offices of such Scheduled Banks be counter guaranteed by the Indian Branch of any Scheduled Bank incorporated in India.

OR

- (b) Any Branch of an International Bank situated in India and registered with Reserve Bank of India as scheduled foreign bank.

OR

- (c) Any foreign Bank which is not a Scheduled Bank in India provided the Bank Guarantee issued by such Bank is counter guaranteed by any Branch situated in India of any Scheduled Bank incorporated in India.

- iii) Confirmed irrevocable Letter of Credit, as per prescribed format at Appendix 4A valid for 30 days beyond the validity of the bid, duly confirmed by Indian Nationalised/Scheduled bank will be acceptable only from foreign bidder.

- iv) Cashier's/Banker's cheque valid for 180 days from the date of issue of the same will be acceptable from foreign bidders only.

17.5 ONGC shall not be liable to pay any bank charges, commission or interest on the amount of Bid Security.

17.6 Subject to provisions in para 17.2 above, offers without Bid Security will be ignored.

17.7 The Bid Security shall be forfeited by ONGC in the following events:

- a) If Bid is withdrawn during the validity period or any extension thereof duly agreed by the Bidder.
- b) If Bid is varied or modified in a manner not acceptable to ONGC during the validity period or any extension of the validity duly agreed by the Bidder.
- c) If a Bidder, having been notified of the acceptance of its bid, fails to furnish Security Deposit/Performance Bank Guarantee (Performance Security) within 15 days of notification of such acceptance.

(Circular No. 08/2007 dated 07.06.2007)

- d) (Applicable for tenders above Rs. 1 crore) If the Bidder has been disqualified from the tender process prior to the award of contract according to the provisions under Section 3 of Integrity Pact. ONGC shall be entitled to demand and recover from bidder Liquidated damages amount by forfeiting the EMD/ Bid security(Bid Bond) as per section 4 of Integrity Pact

17.8 The Bid Security of unsuccessful Bidders will be returned on finalisation of the bid. The Bid Security of successful bidder will be returned on receipt of Security Deposit/Performance Bond (Performance Security).

(Circular No. 19/2011 dated 03.06.2011)

#### **17.9 Offers with fax bid bonds**

Normally offers received alongwith Fax Bid Bond shall not be considered. However, ONGC reserves the right to consider the offer, provided it is followed by confirmatory original Bid Bond executed in prescribed proforma and legally operative on or before the date fixed for opening of bids (techno-commercial bid opening date in case of Two Bid System) and received by tender inviting authority within 7 calendar days, after opening date of bids (techno-commercial bid opening date in case of Two Bid System),

If Bidder fails to submit original Bid Bond with the same content as in Fax Bid Bond and in accordance with bidding document, irrespective of their status/ranking in tender, the bid will be rejected and ONGC may consider to debar the Bidder from participating against its future tenders.

(Circular No. 37/2009 dated 12.08.2009)

**18.0 TELEX / TELEGRAPHIC / TELEFAX / e-MAIL / XEROX / PHOTOCOPY BIDS AND THE BIDS CONTAINING SCANNED SIGNATURE:**

18.1 Telex / Telegraphic / Telefax / e-mail / Xerox / Photocopy bids and bids with scanned signature will not be considered.

Original bids should be signed manually failing which they shall be rejected.

**D. SUBMISSION AND OPENING OF BIDS**

**19.0 SEALING AND MARKING OF BIDS.**

19.1 The original copy of the Bid is to be submitted in a double cover. The inner cover should be sealed and superscribed as "Tender Number and due for opening on.....". The outer cover should duly bear the tender number and date of closing/opening prominently underlined, alongwith the address of ONGC's office, as indicated in Invitation for Bids.

19.2 The inner cover shall also indicate the name and address of the Bidder to enable the bid to be returned unopened in case it is declared "late".

19.3 The right to ignore any offer which fails to comply with the above instructions is reserved. Only one bid should be included in one cover.

19.4.1 In case of "Two Bid System" offers are to be submitted in triple sealed covers. The first inner sealed cover will contain Techno-Commercial bids having all details but with price column blanked out. **However a tick mark ( ) shall be provided against each item of the price bid format to indicate that there is a quote against this item in the Priced Commercial bid** This cover will clearly be superscribed with "Techno-Commercial bid" alongwith tender number and item description. The second sealed inner cover will contain only the price schedule duly filled in and signed and will be clearly super scribed with "Price Bid" alongwith tender number. These two covers shall be put into outer cover and sealed. The outer cover should duly bear the tender number and date of closing/opening prominently underlined, alongwith the address of this office.

19.4.2 Price bids, which remain unopened with ONGC, will be **returned to the concerned bidders within 5 (five) working days of receipt of Performance Guarantee Bond(s) from the successful bidder(s).**

19.5 Any change in quotation after opening of the tender WILL NOT BE CONSIDERED.

19.6 ONGC will not be responsible for the loss of tender form or for the delay in postal transit.

## **20.0 DEADLINE FOR SUBMISSION OF BIDS**

20.1 The Bid must be received by the ONGC at the address specified in Invitation for Bids not later than 1400 Hrs (IST) on the notified date of closing of the tender. Offers sent by hand delivery should be put in the Tender Box at the specified office not later than 1400 Hrs. (IST) on the specified date. All out-station tenders, if sent by post, should be sent under registered cover.

## **21.0 LATE BIDS**

21.1 Bidders are advised in their own interest to ensure that bid reaches the specified office well before the closing date and time of the bid.

21.2 Any bid received after dead line for submission of bid, will be rejected and returned unopened.

## **22.0 MODIFICATION AND WITHDRAWAL OF BIDS**

22.1 No bid may be modified after the dead line for submission of bids.

## **23.0 OPENING OF BIDS**

23.1 The bid will be opened at 1500 Hrs. (IST) on the date of opening indicated in "Invitation for Bid". The Bidder or his authorised representative may be present at the time of opening of bid on the specified date, but a letter in the form annexed at Appendix- 7 hereto must be forwarded to this office alongwith bid and a copy of this letter must be produced in the office by the person attending the opening of bid. Unless this letter is presented by him, he may not be allowed to attend the opening of bid.

23.2 In case of unscheduled holiday on the closing/opening day of bid, the next working day will be treated as scheduled prescribed day of closing/opening of bid, the time notified remaining the same.

## **E. EVALUATION OF BIDS**

### **24.0 EVALUATION AND COMPARISON OF BIDS**

24.1 Evaluation and comparison of bids will be done as per provisions of Bid Evaluation Criteria at Annexure-IV (to be supplied separately alongwith bidding document against individual tenders.)

(Circular No. 05/2013 dated 23.01.2013)

## **24.2 CLARIFICATIONS OF BIDS:**

24.2.1 During evaluation of bids, Purchaser may at its discretion ask the Bidder for clarifications/ confirmations/ deficient documents of its bid. The request for clarification and the response shall be in writing and no change in the price of substance of the bid shall be sought or permitted.

## **25.0 UNSOLICITED POST TENDER MODIFICATIONS:**

25.1 Unsolicited post-tender modification will lead to straight away rejection of the offer.

(Circular No. 05/2013 dated 23.01.2013)

25.2 In case certain clarifications are sought by ONGC after opening of bid then the reply of the Bidder should be restricted to the clarification sought. Any bidder who modifies his bid (including all modifications which have the effect of altering his offer) after the closing date, without any specific reference by ONGC, shall render his bid liable to be ignored and rejected without notice and without reference to the bidder.

## **26.0 EXAMINATION OF BID**

26.1 The ONGC will examine the bids to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed and whether the bids are generally in order.

26.2 The ONGC will determine the conformity of each bid to the bidding documents. Bids falling under the purview of "Rejection Criteria" of the bid Evaluation Criteria of the bidding document will be rejected.

## **27.0 SPECIFICATIONS:**

27.1 The Bidder must note that its Bid will be rejected in case the tender stipulations are not complied with strictly or the services offered do not conform to the required specifications indicated therein. The lowest Bid will be determined from among those Bids which are in full conformity with the required specifications.

## **28.0 CONVERSION TO SINGLE CURRENCY (Applicable for ICB tenders only)**

To facilitate evaluation and comparison, the ONGC will convert all bid prices expressed in the amounts in various currencies in which bid prices are payable utilising the currency, source and date of exchange

rate specified in the Evaluation Criteria of Bid-Evaluation-Criteria at Annexure IV. (to be supplied separately against each individual tender)

(Circular No. 23/2011 dated 24.06.2011)

#### 29.0 Price preference applicable to domestic bidders in ICB

Domestic Bidders quoting against ICB tender for Oil Field Services and LSTK contracts would be entitled to a price preference of upto ten percent (10%) over the lowest acceptable (evaluated) foreign bid subject to value addition. For ensuring value addition and eligibility for price preference, domestic bidders should provide all evidence necessary to prove that they meet the following criteria:

be registered within India.

have majority ownership by nationals of India and

not subcontract more than 50% of the Works measured in terms of value to foreign contractors. (In case of oil field services where use of capital intensive services is involved like hiring of drilling rigs, not more than 80% of the works measured in terms of value should be sub-contracted to foreign contractors).

For meeting the criteria at (iii) above, domestic bidders should obtain a certificate in original from practicing Statutory Auditor engaged by them for auditing their annual accounts, which could established that not more than 50% (in case of oil field services where use of capital intensive services is involved like hiring of drilling rigs, not more than 80%) of the works measured in term of value has been subcontracted to foreign contractors. The original certificate indicating various sub-contracting details in percentage terms as well as in absolute value should be submitted in the price bid. However, copy of the Statutory Auditors certificate indicating sub-contracting details in percentage terms only and with price details blanked out should be submitted in the un-priced bid.

Consortium between domestic (Indian) and foreign firms but led by Indian firm shall also be eligible for the price preference provided they fulfil the conditions of price preference given for domestic bidder at i, ii, iii above.

However, consortium between domestic and foreign firms led by foreign firm shall not be eligible for price preference even though their domestic partner satisfies the conditions given for domestic bidder at i, ii, iii above.

It must be noted that above information so furnished, if at any stage, found wrong, incorrect or misleading, will attract action as per rule/law.

The bidders are requested to check the latest position on the subject on their own and ONGC does not accept any liability whatsoever, on this account.

(Provisions 29.2 & 29.3 deleted vide circular No. 22/2010 dated 09.07.2010)

(Circular No. 22/2010 dated 09.07.2010)

29.2 ONGC reserves its right to allow to the Indian Small Scale Sector purchase preference facility as admissible under the existing policy.

### **30. CONTACTING THE ONGC**

No bidder shall contact the ONGC on any matter relating to its bid, from the time of the opening to the time the contract is awarded.

## **F. AWARD OF CONTRACT**

### **31.0 AWARD CRITERIA.**

The purchaser will award the contract to the successful bidder whose bid has been determined to be **in full conformity to the bid documents** and has been determined as the lowest evaluated bid.

### **32. ONGC'S RIGHT TO ACCEPT ANY BID AND TO REJECT ANY OR ALL BIDS.**

32.1 ONGC reserves the right to reject, accept or prefer any bid and to annul the bidding process and reject all bids at any time prior to award of contract, without thereby incurring any liability to the affected Bidder or Bidders or any obligation to inform the affected Bidder or Bidders of the ground for ONGC's action. The ONGC also reserves to itself the right to accept any bid in part or split the order between two or more bidders.

### **33.0 NOTIFICATION OF AWARD (NOA)**

33.1 Prior to the expiration of the period of bid validity, the ONGC will notify the successful bidder in writing that its bid has been accepted.

33.2 The notification of award will constitute the formation of the contract.

(Circular No. 17/2008 dated 19.06.2008)

33.3 Upon the successful bidder's furnishing performance security, pursuant to clause 36, the contract shall be signed between the parties as per clause 35.0

.

#### 34.0 MOBILISATION PERIOD

Successful bidder shall be required to mobilise complete equipment alongwith crew (only crew in case of Operation and Maintenance Contracts) for commencement of services at the specified site within a maximum of ... days from the date of Fax order / LOI / NOA.

#### 35.0 SIGNING OF CONTRACT

35.1 The successful bidder is required to sign a **formal detailed** contract with ONGC within a maximum period of **30** days of date of Fax order / LOI / NOA. Until the contract is signed, the Fax order/ LOI /NOA shall remain binding amongst the two parties. In case of delay in signing the contract on the part of ONGC, contractor shall be paid 80% of the applicable rates falling due as per the contractual obligations on adhoc basis, till formal signing of the contact, after which the balance of due payments shall be released / adjusted against regular bills. However no payment will be made and mobilisation will not be deemed completed, when the delay is on the part of the contractor to sign the contract, as per draft contract at Annexure-II of the tender.

#### 36.0 PERFORMANCE SECURITY

(Circular No. 17/2008 dated 19.06.2008)

36.1 Within 15 (fifteen) days from the date of issue of LOA/NOA by ONGC, the successful Bidder shall furnish the Performance Security in accordance with the conditions of the contract, in the Performance Security Form provided at Appendix 1 of Annexure-II of the bidding documents, or another form acceptable to the ONGC.

36.2 Failure of the successful Bidder to comply with the requirement of clause 36.1 above shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security as per clause 17.7(c).

(BL/01/24 dated 20.10.03)

36.3 The Performance Guarantee will be returned within 60 days of completion of contract in all respect/delivery period as per contract / supply order.

#### 37.0 CORRESPONDENCE.

37.1 ONGC's Telex/ telegraphic/ fax/ cable address is \_\_\_\_\_ and Grams : \_\_\_\_\_

37.2 All correspondence from Bidders/ contractor shall be made to the office of the Purchase Authority from where this tender has emanated.



37.3 All correspondence shall bear reference to bid number.

#### **38.0 REPRESENTATION FROM THE BIDDER:**

The bidder(s) can submit representation(s) if any, in connection with the processing of the tender directly only to the Competent Purchase Authority (CPA) i.e. to \_\_\_\_\_  
(name, designation and address of the CPA in the tender to be mentioned by the concerned Work Center).

(BL amendment no. BL/03/8 dated 10.05.2005)

#### **39.0 UNSOLICITED COMMUNICATIONS:**

In case any bidder makes any unsolicited communication in any manner, after bids have been opened (for tenders processed either on single bid or on two bid basis), the bid submitted by the particular bidder shall be summarily rejected, irrespective of the circumstances for such unsolicited communication.

Further, if the tender has to be closed because of such rejection, and the job has to be re-tendered, then the particular bidder shall not be allowed to bid in the re-tender.

The above provision will not prevent any bidder from making representation in connection with processing of tender directly and only to the Competent Purchase Authority (CPA) as mentioned in the tender document. However, if such representation is found by CPA to be un-substantiative and / or frivolous and if the tender has to be closed because of the delays / disruptions caused by such representations and the job has to be re-tendered, then such bidder will not be allowed to participate in the re-invited tender.

In case, any bidder while making such representations to Competent Purchase Authority (CPA) also involves other officials of ONGC and / or solicits / invokes external intervention other than as may be permitted under the law and if the tender has to be closed because of the delays / disruptions caused by such interventions and has to be re-tendered, then the particular bidder will not be allowed to participate in the re-invited tender.

(Circular No. 39/2010 dated 04.10.2010)

#### **40. ONGC's Policy on Climate Change and Sustainability**

Bidders should simply confirm that they have read the ONGC's following "Policy on Climate Change & Sustainability" and they are working upon to develop their policy as well.

i. ONGC is committed to enhance contribution to sustainable development through a greater integration of economic, environmental and social dimensions.

- ii. ONGC shall endeavour for GHG emission mitigation from our operations and participate in Kyoto and other protocol where India is a signatory. We shall strive to achieve quantifiable milestones in these aspects.
- iii. ONGC shall partner with sustainability advocacy organizations where our strengths are complementary and also actively propagate the idea of GHG mitigation at national and international operations where we are business partner.
- iv. ONGC shall develop and invest in advanced low carbon technologies to meet growing demand for affordable energy products while improving security of supply and reducing environmental impacts.
- v. ONGC's aim shall be to achieve competitive business advantage from GHG abatement programmes, particularly through process efficiency, besides improving environmental performance.
- vi. ONGC shall endeavour to develop new business opportunities through investment in climate change.
- vii. ONGC shall try to adopt triple bottom line accounting and reporting to raise awareness of the true cost and benefits.
- viii. Above all, ONGC shall make sustainability a foundation of our business strategy.

**BIDDING DOCUMENT ACKNOWLEDGEMENT PROFORMA**

Dated:.....

Oil & Natural Gas Corporation Ltd.

.....  
.....

Dear Sirs,

We hereby acknowledge receipt of a complete set of Bidding Documents consisting of Four Annexures (alongwith their Appendices) enclosed to the "Invitation for Bid" pertaining to providing of \_\_\_\_\_ services against tender no. \_\_\_\_\_.

We have noted that the closing date for receipt of the tender by ONGC is \_\_\_\_\_ at 1400 hrs. (IST) and opening at 1500 hrs. (IST) on the same day.

We guarantee that the contents of the above said Bidding Documents will be kept confidential within our organization and text of the said documents shall remain the property of ONGC and that the said documents are to be used only for the purpose intended by ONGC.

Our address for further correspondence on this tender will be as under :

.....  
.....  
.....

**TELEX NO:**  
**FAX NO:**  
**TELEPHONE NO ;**  
**PERSONAL ATTENTION OF:**  
**(IF REQUIRED)**

Yours faithfully,  
**(BIDDER)**

Note : This form should be returned along with offer duly signed

**Appendix-2**

Tender No.....  
Telegraphic Address :

Contractor's

Oil & Natural Gas Corporation Ltd.

Telephone No.  
TELEX NO:  
FAX NO:

Dear Sirs,

1. I/We hereby offer to supply the services detailed in schedule hereto or such portion thereof as you specify in the Acceptance of Tender at the price given in the said schedule and agree to hold this offer open till \_\_\_\_\_.

2. I/We have understood and complied with the "Instructions to Bidders" at Annexure - I, "Bid Evaluation Criteria" at Annexure IV and accepted the "General Terms and Conditions" at Annexure II for providing services and have thoroughly examined and complied with the specifications, drawings, Special Conditions of Contract and/or pattern stipulated at Annexure III hereto and am/are fully aware of the nature of the service required and my/our offer is to provide services strictly in accordance with the requirements.

3. The following pages have been added to and form part of this tender:-

4. Agreement at Appendix 3 on purchase of Bidding documents and submission of Tender has been duly signed and returned herewith.

Yours faithfully,

Signature of Bidder

Address

Dated

Signature of witness

Address

Note : This form should be returned alongwith offer duly signed.

**AGREEMENT  
(Applicable for tenders upto Rs. 1 crore)**

No.

Dated

To,

Oil & Natural Gas Corporation Ltd.,  
\_\_\_\_\_  
\_\_\_\_\_

**Sub: PURCHASE OF BIDDING DOCUMENTS**

Ref: **TENDER No.** \_\_\_\_\_

ONGC and the Bidder agree that the Notice Inviting Tenders (NIT) is an offer made on the condition that the Bid would be kept open in its original form without variation or modification for a period of \_\_\_\_\_ (state the number of days from the last date for the receipt of tenders stated in the NIT) days AND THE MAKING OF THE BID SHALL BE REGARDED AS AN UNCONDITIONAL AND ABSOLUTE ACCEPTANCE of this condition of the NIT. They further agree that the contract consisting of the above conditions of NIT as the offer and the submission of Bid as the Acceptance shall be separate and distinct from the contract which will come into existence when bid is finally accepted by ONGC. The consideration for this separate initial contract preceding the main contract is that ONGC is not agreeable to sell the NIT to the Bidder and to consider the bid to be made except on the condition that the bid shall be kept open for \_\_\_\_\_ (so many) days after the last date fixed for the receipt of the bids and the Bidder desires to make a bid on this condition and after entering into this separate initial contract with ONGC. ONGC promises to consider the bid on this condition and the Bidder agrees to keep the bid open for the required period. These reciprocal promises form the consideration for this separate initial contract between the parties.

If Bidder fails to honour the above terms and conditions, ONGC shall have unqualified, absolute and unfettered right to encash/forfeit the bid security submitted in this behalf.

Yours faithfully

Yours faithfully

**(BIDDER)**

**(ONGC)**

(One copy of this agreement duly signed must be returned alongwith offer.)

(Circular No, 08/2007 dated 07.06.2007)

**Appendix - 3**

**AGREEMENT  
(Applicable for tenders above Rs. 1 crore)**

No.

Dated

To,

Oil & Natural Gas Corporation Ltd.,

\_\_\_\_\_  
\_\_\_\_\_

Sub: **PURCHASE OF BIDDING DOCUMENTS**

Ref: **TENDER No.** \_\_\_\_\_

ONGC and the Bidder agree that the Notice Inviting Tenders (NIT) is an offer made on the condition that the bidder will sign the Integrity Pact and the Bid would be kept open in its original form without variation or modification for a period of \_\_\_\_\_ (state the number of days from the last date for the receipt of tenders stated in the NIT) days AND THE MAKING OF THE BID SHALL BE REGARDED AS AN UNCONDITIONAL AND ABSOLUTE ACCEPTANCE of this condition of the NIT. They confirm acceptance and compliance with the Integrity Pact in letter and spirit. They further agree that the contract consisting of the above conditions of NIT as the offer and the submission of Bid as the Acceptance shall be separate and distinct from the contract which will come into existence when bid is finally accepted by ONGC. The consideration for this separate initial contract preceding the main contract is that ONGC is not agreeable to sell the NIT to the Bidder and to consider the bid to be made except on the condition that the bid shall be kept open for \_\_\_\_\_ (so many) days after the last date fixed for the receipt of the bids and the Bidder desires to make a bid on this condition and after entering into this separate initial contract with ONGC. ONGC promises to consider the bid on this condition and the Bidder agrees to keep the bid open for the required period. These reciprocal promises form the consideration for this separate initial contract between the parties.

If Bidder fails to honour the above terms and conditions, ONGC shall have unqualified, absolute and unfettered right to encash/forfeit the bid security submitted in this behalf.

Yours faithfully

Yours faithfully

**(BIDDER)**

**(ONGC)**

(One copy of this agreement duly signed must be returned alongwith offer.)

**Proforma of Bank Guarantee towards Bid Security  
BID BOND**

Ref. No.....

Bank Guarantee No.....

Dated .....

To,

Oil & Natural Gas Corporation Ltd.  
\_\_\_\_\_

Dear Sirs,

1. Whereas Oil & Natural Gas Corporation Ltd. incorporated under the Companies Act, 1956, having its registered office at Jeevan Bharti, Tower-II, 124 Connaught Circus, New Delhi - 110001 - India and one of its offices at \_\_\_\_\_ (hereinafter called 'ONGC' which expression shall unless repugnant to the context or meaning thereof include all its successors, administrators, executors and assignees) has floated a Tender No. \_\_\_\_\_ and M/s \_\_\_\_\_ having Head/Registered office at \_\_\_\_\_ (hereinafter called the 'Bidder' which expression shall unless repugnant to the context or meaning thereof mean and include all its successors, administrators, executors and permitted assignees) have submitted a bid Reference No..... and Bidder having agreed to furnish as a condition precedent for participation in the said tender an unconditional and irrevocable Bank Guarantee of Indian Rupees/US Dollars (in figures) \_\_\_\_\_ (Indian Rupees / US Dollars (in words) \_\_\_\_\_ only) for the due performance of Bidder's obligations as contained in the terms of the Notice Inviting Tender (NIT) and other terms and conditions contained in the Bidding documents supplied by ONGC which amount is liable to be forfeited on the happening of any contingencies mentioned in said documents.

2. We (name of the bank) \_\_\_\_\_ registered under the laws of \_\_\_\_\_ having head/registered office at \_\_\_\_\_ (hereinafter referred to as "the Bank" which expression shall, unless repugnant to the context or meaning thereof, include all its successors, administrators, executors and permitted assignees) guarantee and undertake to pay immediately on first demand by ONGC, the amount of Indian Rs. / US\$ (in figures) \_\_\_\_\_ (Indian Rupees/ US Dollars (in words) \_\_\_\_\_ only) in aggregate at any time without any demur and recourse, and without ONGC having to substantiate the demand. Any such demand made by ONGC shall be conclusive and binding on the Bank irrespective of any dispute or difference raised by the Bidder.

3. The Bank confirms that this guarantee has been issued with observance of appropriate laws of the country of issue.

4. The Bank also agree that this guarantee shall be irrevocable and governed and construed in accordance with Indian Laws and subject to exclusive jurisdiction of Indian Courts of the place from where tenders have been invited.

5. This guarantee shall be irrevocable and shall remain in force upto \_\_\_\_\_ which includes thirty days after the period of bid validity and any demand in respect thereof should reach the Bank not later than the aforesaid date.

6. Notwithstanding anything contained hereinabove, our liability under this Guarantee is limited to Indian Rs./US\$ (in figures) \_\_\_\_\_ (Indian Rupees/US Dollars (in words) \_\_\_\_\_ only) and our guarantee shall remain in force until (indicate the date of expiry of bank guarantee) \_\_\_\_\_.

Any claim under this Guarantee must be received by us before the expiry of this Bank Guarantee. If no such claim has been received by us by the said date, the rights of ONGC under this Guarantee will cease. However, if such a claim has been received by us by the said date, all the rights of ONGC under this Guarantee shall be valid and shall not cease until we have satisfied that claim. In witness whereof, the Bank, through its authorised officer, has set its hand and stamp on this ..... day of ..... at .....

**WITNESS NO. 1**

-----

(Signature)  
Full name and official  
address (in legible letters)

-----

(Signature)  
Full name, designation and  
official address (in legible  
letters) with Bank stamp.

Attorney as per Power of  
Attorney No.....

Dated .....

**WITNESS NO. 2**

\_\_\_\_\_  
(Signature)  
Full name and official address  
(in legible letters)



Note:

- (i) This Bank Guarantee/all further communications relating to the Bank Guarantee should be forwarded to .....  
(insert the address of the tender inviting work centre) only
- (ii) Bank guarantee, duly executed as per the above format, is to enclosed with the offer

## **INSTRUCTIONS FOR FURNISHING BANK GUARANTEE TOWARDS BID SECURITY**

(Circular No. 12/2009 dated 06.03.2009)

1. The Bank Guarantee by Indian Bidders will be given on non-judicial stamp paper/franking receipt as per stamp duty applicable at the place where the tender has emanated. The non-judicial stamp paper/franking receipt should be either in name of the issuing Bank or the bidder.
2. Foreign Bidders are requested to execute Bank Guarantee as per law in their country.
3. Please indicate the currency in which Bank Guarantee is being given Indian Rupees/US\$ have been mentioned only for illustration. Therefore, in case where Bank Guarantee is being given in a currency other than Rupees/US\$, these terms may be deleted and replaced by relevant currency.
4. The expiry date as mentioned in clause 5 & 6 should be arrived at by adding 30 days to the date of expiry of the bid validity unless otherwise specified in the bidding documents.

(Circular no. 23/2013 dated 09.09.2013)

5. The bidders will give Bank Guarantee from any of the following categories of Banks:
- (a) Any Scheduled Bank incorporated in India, Bank Guarantee issued by foreign branches / foreign offices of such Scheduled Banks be counter guaranteed by the Indian Branch of any Scheduled Bank incorporated in India.  

OR
  - (b) Any Branch of an International Bank situated in India and registered with Reserve Bank of India as scheduled foreign bank.  

OR
  - (c) Any foreign Bank which is not a Scheduled Bank in India provided the Bank Guarantee issued by such Bank is counter guaranteed by any Branch situated in India of any Scheduled Bank incorporated in India.

**Proforma for Irrevocable Letter of Credit  
(Applicable for ICB tenders only)**

(Advising Bank)  
State Bank of India

-----

-----

(India)

To,

(Beneficiary)

Oil & Natural Gas Corporation Ltd.

-----

------(India)

Irrevocable and confirmed Letter of Credit No.....

Amount : US\$

Validity of this Irrevocable : .....(in India)  
Letter of Credit (30 days beyond validity of offer)

Dear Sir,

You are hereby authorised to draw on .....(Name of Applicant with full address) for a sum not exceeding ..... available by your demand letter (draft) on them at sight drawn for .....US\$ accompanied by a certificate by ONGC Ltd., with the Tender No. duly incorporated therein, that one or more of the following conditions has/have occurred, specifying the occurred condition(s) :

- (i) The Bidder withdraws its Bid during the period of Bid validity or any extension thereof duly agreed by the Bidder.
- (ii) The Bidder varies or modifies its Bid in a manner not acceptable to ONGC Ltd. during the period of bid validity or any extension thereof duly agreed by the Bidder.
- (iii) The Bidder, having been notified of the acceptance of its Bid,
  - (a) Fails or refuses to execute the supply order/contract
  - (b) Fails or refuses to furnish the Security Deposit/Performance Bank Guarantee (Performance Security) within 30 days before expiry of Bid Security.

2. This Irrevocable Letter of Credit has been established towards Bid Security against Tender No..... for .....(item)

3. We hereby guarantee to protect the Drawers, Endorsers and bonafide holders from any consequences which may arise in the event of the non-acceptance or non-payment of Demand Letter (draft) in accordance with the terms of this credit.

4. This Credit is issued subject to the Uniform Customs and Practices for Documentary Credits (1993 Revised) International Chamber of Commerce brochure No. 500.

5. Please obtain reimbursement as under :

.....

.....

6. All foreign as well as Indian bank charges will be on the account of M/s ..... (Applicant)

FOR.....

Authorised Signature  
(Original Bank)

Counter Signature

**CHECK LIST**

The bidders are advised in their own interest to ensure that the following points/aspects in particular have been complied with in their offer failing which the offer is liable to be rejected.

1. Please tick whichever is applicable and cross whichever is/are not applicable.
2. Please sign each sheet.
3. The check-list duly filled in must be returned along with the offer.

**COMMERCIAL  
GROUP 'A'**

1.1 Whether requisite tender fee has been paid ?

Yes                      No                      Not applicable

1.2 If so, furnish the following :-

- (i) By IPO/Bank Draft/Cashier's cheque
- (ii) Name of the Bank/post office
- (iii) Value
- (iv) Number of IPO/Bank Draft/Cashier's cheque/Banker's cheque
- (v) Date of issue of IPO/Bank Draft/Cashier's cheque/Banker's cheque

2.1 Whether Bank Draft/Bank Guarantee/Banker's cheque/ cashier's cheque/ proof of opening of Letter of Credit for the requisite earnest money has been enclosed with the offer ?

Yes                      No                      Not applicable

2.2 If so furnish the following:-

- (i) Name of the Bank
- (ii) Value
- (iii) Number
- (iv) Date of issue
- (v) Period of validity of the Bank Draft/Bank Guarantee/Letter of Credit.

(The validity of Bank Draft should not be less than 180 days).

3. Have the rates, prices and totals, etc. been checked thoroughly before signing the tender?

Yes                      No

4. Has the bidder's past experience proforma (Appendix-6) been carefully filled and enclosed with the offer ?

Yes                      No

**Signature of the Bidder**

5. Whether charges for training of ONGC officers included in the prices? If not, whether these have been quoted separately.

Yes                      No                      Not applicable

6. Whether firm prices have been quoted

Yes                                      No

7. Whether the cost of installation/erection/commissioning at site is included in the prices? If not, whether it has been quoted separately ?

Yes                      No                      Not applicable

8. Whether rates have been quoted exactly as per the price bid format?

Yes                      No                      Not applicable

9. Whether the period of validity of the offer is as required in bidding document ? If not, mention the extent of variation.

Yes                      No      Extent of variation in days

10. Whether the offer has been signed indicating full name and clearly showing as to whether it has been signed as

Secretary	Manager	Partner
Sole Proprietor	Active Partner	Pre procuraterium

11. If the Bidder is seeking business with ONGC for the first time, has he given the details of the parties to whom the offered items/services have been provided in past alongwith their performance report ?

Yes                                      No

12. Whether the offer is being sent in double cover, both the covers duly sealed and superscribed with tender Number and closing/opening date?

Yes                                      No

**Signature of the Bidder**

13. Has the offer been submitted in triplicate ?

Yes No

14. Is the offer being sent by Registered post or proposed to be dropped in tender box ?

Sent by Registered Post Dropped in Tender Box

Yes No Yes No

15. Has it been ensured that there are no over-writings in the offer ? Have corrections been properly attested by the person signing the offer?

Yes No

16. Are the pages of the offer consecutively numbered and an indication given on the front page of the offer as to how many pages are contained in the offer ?

Yes No

17. Has the offer been prepared in sufficient details/ clarity so as to avoid post tender opening clarifications/ amendments?

Yes No

18. Whether Appendices 2 & 3 of Annexure-1 of the bidding document in original, duly filled in and a confirmation that clauses of Annexure I and II are complied / accepted, enclosed with the offer ?

Yes No

19. Whether required sample asked in bidding document has been submitted alongwith the offer ?

Yes No Not applicable

20. Whether all the clauses of the bidding document are accepted ?

Yes No

**Signature of the Bidder**

**GROUP `B'**

**(Applicable to indigenous bidders only)**

1. Whether a copy of latest income tax clearance certificate has been enclosed ?

Yes                  No                  Not applicable

2. Whether details of your registration under Sale Tax/Central Sales Tax/Works Contract Tax have been indicated in the offer ?

Yes                  No

3. Whether the Bidder has quoted after taking into account various incentives and concessions permissible under statutes ?

Yes                  No                  Not applicable

**Signature of the Bidder**



**GROUP 'C'**  
**(Applicable to foreign bidders only)**

1. Has the Bidder clearly indicated Income Tax Liability both for corporate and personal tax ?

Yes                      No                      Not applicable

2. Whether Bidder has Agent/Representative/Consultant/Retainer/Associate in India and if so whether the Bidder has indicated in the offer the commission/amount payable to him and scope of services to be rendered by him?

Yes                      No                      Not applicable

3. Whether the Bidder has enclosed with the offer/already sent to ONGC an authority letter/Agreement of his Agent/Representative/Consultant/Retainer /Associate in India spelling out clearly therein the scope of functions and services to be rendered by him and the commission/remuneration to be paid to him in rupees in terms of above referred Agreement on his behalf ?

Yes                      No                      Not applicable

4. Whether the percentage of total payment in non-convertible Indian currency acceptable to you has been indicated.

Yes                      No                      Not applicable

**Signature of the Bidder**

## **Technical**

**(Applicable to both foreign Bidders and indigenous Bidders)**

1. Whether necessary literature/catalogue of the equipment as well as spare parts thereof has been attached with the offer?

Yes                      No

2. Whether the materials/services being offered fully conform to the required technical specifications ?

Yes                      No

3. If not, specify the extent of deviation and how it is suitable to ONGC's requirement ?

Yes                      No

**(Signature of the Bidder)**

**Appendix - 6**

**BIDDERS PAST SERVICES (SIMILAR) PROFORMA**

SL.NO.	NAME & ADDRESS OF CLIENT	PERIOD FROM TO	DESCRIPTION OF SEVICES COMPLETED SUCCESSFULLY	REMARKS
--------	-----------------------------	-------------------	---	---------

NOTE: - CERTIFICATE FROM CLIENTS TO BE ENCLOSED  
ALONGWITH THIS PROFORMA

Signature of the Bidder

\_\_\_\_\_

Name \_\_\_\_\_

\_\_\_\_\_

Seal of the Company

\_\_\_\_\_

**Appendix - 7**

**AUTHORISATION LETTER FOR ATTENDING TENDER OPENING**

NO. \_\_\_\_\_ Date \_\_\_\_\_

To,

The \_\_\_\_\_  
Oil & Natural Gas Corporation Ltd.,  
\_\_\_\_\_  
\_\_\_\_\_ (India)

Subject : **Tender No.** \_\_\_\_\_ **due on** \_\_\_\_\_

Sir,

Mr..... has been authorised to be present at the time of opening of above tender due on..... at ....., on my/our behalf.

Yours faithfully

Signature of Bidder

**Copy to:** Mr.....for information and for production before the \_\_\_\_\_ (MM)\_\_\_\_\_ at the time of opening of bids.

**PROFORMA CERTIFICATE ON RELATIVES  
OF DIRECTORS OF ONGC**

**(Circular No. 06/2010 dated 29.01.2010)**

This has reference to our proposed contract regarding ..... to be entered into with Oil and Natural Gas Corporation Ltd. (ONGC).

For the purpose of Section 297/299 of the Companies Act, 1956, an extract enclosed at Appendix 11-A, we certify that to the best of my/our knowledge :

- (i) I am not a relative of any Director of ONGC ;
- (ii) We are not a firm in which a Director of ONGC or his relative is a partner ;
- (iii) I am not a partner in a firm in which a Director of ONGC or his relative is a partner;
- (iv) We are not a private company in which a Director of ONGC is a Member or Director;
- (v) We are not a company in which Directors of ONGC hold more than 2 % of the paid-up share capital of our company or vice-versa.

Authorised Signatory of  
The Contracting Party

Place...

Date...

**Appendix – 9****List of acceptable foreign banks for acceptance of Bank Guarantee****(Circular No. 38/2010 dated 24.09.2010)**

<b>Sl. No.</b>	<b>Name of Bank</b>	<b>Ranking</b>
1	77Bank, Japan	215
2	Aareal Bank, Germany	204
3	Abu Dhabi Commercial Bank, United Arab Emirates	167
4	Agricultural Bank of China, China	28
5	Akbank, Turkey	110
6	Al Rajhi Bank, Saudi Arabia	145
7	Alfa Bank, Russia	270
8	Allied Irish Banks, Ireland	84
9	Alpha Bank, Greece	115
10	American Express Company, US	95
11	Anglo Irish Bank Corporation <sup>4</sup> , Ireland	132
12	ANZ Banking Group, Australia	47
13	Aozora Bank, Japan	157
14	Arab Bank, Jordan	166
15	Arab Banking Corporation, Bahrain	262
16	Arab National Bank, Saudi Arabia	199
17	Attijariwafabank, Morocco	216
18	Awal Bank, Bahrain	258
19	Banca Carige SpA, Italy	289
20	Banca March, Spain	179
21	Banca Monte dei Paschi di Siena Italy	79
22	Banca Popolare dell'Emilia Romagna, Italy	173
23	Banca Popolare di Milano, Italy	182
24	Banco BPI, Portugal	211
25	Banco Bradesco, Brazil	40
26	Banco de Chile, Chile	252
27	Banco de la Nacion Argentina, Argentina	295
28	Banco do Brasil, Brazil	45
29	Banco do Estado do Rio Grande do Sul (Banrisul), Brazil	307
30	Banco Espirito Santo Group, Portugal	123
31	Banco Inbursa, Mexico	236
32	Banco Pastor, Spain	243
33	Banco Popolare di Sondrio, Italy	300
34	Banco Popolare di Vicenza, Italy	276
35	Banco Popolare, Italy	102
36	Banco Popular Espanol, Spain	86
37	Banco Sabadell, Spain	124
38	Banco Safra, Brazil	247
39	Banco Santander, Spain	9
40	Bancolombia, Colombia	248
41	Bangkok Bank, Thailand	168
42	Bank Central Asia, Indonesia	279
43	Bank Hapoalim, Israel.	143
44	Bank Leumi le-Israel BM, Israel.	149
45	Bank Nederlandse Gemeenten, Netherlands	225

Sl. No.	Name of Bank	Ranking
46	Bank of America Corp, USA	1
47	Bank of Ayudhya, Thailand	281
48	Bank of Beijing, China	155
49	Bank of China, China	14
50	Bank of Communications, China	49
51	Bank of Cyprus Public Company, Cyprus	222
52	Bank of Ireland, Ireland	61
53	Bank of Jiangsu, China	292
54	Bank of Montreal, Canada	57
55	Bank of Moscow, Russia	254
56	Bank of New York Mellon, USA	82
57	Bank of Shanghai, China	226
58	Bank of Taiwan, Taiwan	151
59	Bank of Yokohama, Japan	139
60	Bank Rakyat Indonesia, Indonesia	288
61	Bankinter, Spain	210
62	Banque Cantonale Vaudoise, Switzerland	240
63	Banque et Caisse d' Epargne de l'Etat Luxembourg, Luxembourg	303
64	Banque Saudi Fransi, Saudi Arabia	185
65	Barclays, United Kingdom	10
66	Basler Kantonalbank, Switzerland	263
67	Bayerische Landesbank, Germany	54
68	BB & T Corp, US	76
69	BBVA, Spain	30
70	Bilbao Bizkaia Kutxa, Spain	187
71	BNP Paribas, France	8
72	Caisse Centrale Desjardins Montreal, Canada	91
73	Caixa Catalunya, Spain	195
74	Caixa Economica Federal, Brazil	114
75	Caixa Galicia, Spain	177
76	Caixa Geral de Depositos, Portugal	113
77	Caixanova, Spain	251
78	Caja Mediterraneo, Spain	133
79	Caja de Ahorros de Murcia, Spain	277
80	Caja de Ahorros y Monte de Piedad de Madrid, Spain	64
81	Caja de Ahorros y Pen. de Barcelona - la Caixa, Spain	46
82	Caja Gipuzkoa San Sebastian, Spain	224
83	CajAstur, Spain	310
84	Canadian Imperial Bank of Commerce, Canada	78
85	Capital One Financial Corporation, USA	66
86	Cathay United Bank, Taiwan	272
87	Chang Hwa Commercial Bank, Taiwan	293
88	Chiba Bank, Japan	156
89	China CITIC Bank, China	67
90	China Construction Bank Corporation, China	15
91	China Everbright Bank, China.	136
92	China Merchants Bank, China	81
93	China Minsheng Banking Corp, China.	80
94	Chinatrust Commercial Bank, Taiwan	202
95	Chugoku Bank, Japan	201
96	Chuo Mitsui Trust Holdings, Japan	150
97	CIMB Group Holdings Berhad, Malaysia	176
98	Citigroup, USA	3

Sl. No.	Name of Bank	Ranking
99	Comerica, USA	125
100	Commercial Bank of Qatar, Qatar	284
101	Commerzbank <sup>6</sup> , Germany	27
102	Commonwealth Bank Group, Australia	58
103	Credit Agricole Group, France	13
104	Credit Mutuel, France	29
105	Credit Suisse Group, Zurich, Switzerland	31
106	Credito Emiliano, Italy	302
107	Daishi Bank, Japan	298
108	Danske Bank, Denmark	48
109	DBS Bank, Singapore	62
110	DekaBank Group, Germany.	186
111	Deutsche Apotheker und Arztebank, Germany	294
112	Deutsche Bank, Germany	20
113	Deutsche Postbank, Germany	130
114	Dexia, Belgium	41
115	Discover Financial Services, US	137
116	DnB NOR Group, Norway	60
117	Dubai Islamic Bank, United Arab Emirates	274
118	DZ Bank, Germany	75
119	East West Bancorp, US	304
120	EFG Group, Luxembourg	118
121	Emirates NBD, United Arab Emirates	128
122	Erste Group Bank AG, Austria	63
123	FCE Bank Plc, United Kingdom	170
124	Fifth Third Bancorp, USA	77
125	First Bank of Nigeria, Nigeria	285
126	First Commercial Bank, Taiwan	275
127	First Gulf Bank, United Arab Emirates	142
128	First Horizon National Corp, USA	203
129	FirstRand Bank Holdings, South Africa	158
130	Fortis Bank (Nederland), Netherlands	107
131	Franklin Resources, USA	163
132	Gazprombank, Russia	159
133	GMAC Inc., US	51
134	Goldman Sachs, US	16
135	Groupe Banques Populaire, Morocco	296
136	Groupe BPCE <sup>10</sup> , France	18
137	Grupo Bancaja, Spain	116
138	Grupo Financiero Banorte, Mexico	256
139	Guangdong Development Bank, China	218
140	Gunma Bank, Japan	220
141	Hachijuni Bank, Japan	190
142	Hamburger Sparkasse (Haspa), Germany	280
143	Hana Financial Group, Korea (South)	120
144	Harris Bankcrop, US	219
145	Helaba-Landesbank, Germany	121
146	Higo Bank, Japan	313
147	Hiroshima Bank, Japan	253
148	Hokuhoku Financial Group, Japan	183
149	HSBC Holdings, United Kingdom	5
150	HSH Nordbank, Germany	85
151	Hua Nan Financial Holdings, Taiwan	238



Sl. No.	Name of Bank	Ranking
152	Huaxia Bank, China	178
153	Hudson City Bancorp., USA	172
154	Huntington Bancshares, US	160
155	Hypo Alpe-Adria-Bank, Austria	235
156	Hypo Real Estate Holding, Germany	98
157	Ibercaja, Spain	207
158	ICBC, China	7
159	IKB Deutsche Industriebank, Germany	223
160	Industrial Bank of Korea, Korea (South)	122
161	Industrial Bank, China	97
162	ING Bank, Netherlands	21
163	Intesa Sanpaolo , Italy	25
164	Investec Limited, South Africa	212
165	Irish Life & Permanent <sup>12</sup> , Ireland	260
166	Israel Discount Bank, Israel	244
167	Itau Unibanco Holding SA, Brazil	33
168	Iyo Bank, Japan	242
169	Joyo Bank, Japan	194
170	JP Morgan Chase & Co, USA	2
171	Julius Baer Group, Switzerland	268
172	Jyske Bank, Denmark	266
173	Kagoshima Bank, Japan	297
174	Kasikornbank PCL, Thailand	221
175	Kazkommertsbank, Kazakhstan	261
176	KBC Group, Belgium	52
177	KeyCorp, US	99
178	Kookmin Bank, Korea (South)	69
179	Krung Thai Bank, Thailand	213
180	Kuwait Finance House, Kuwait	165
181	Land Bank of Taiwan, Taiwan	264
182	Landesbank Baden-Wurttemberg, Germany	53
183	Landesbank Berlin Holding, Germany	175
184	Landwirtschaftliche Rentenbank, Germany	230
185	LGT Group, Liechtenstein	286
186	Lloyds Banking Group <sup>11</sup> , United Kingdom	12
187	M&T Bank Corporation, US	152
188	Macquarie Group, Australia	233
189	Marfin Popular Bank, Cyprus	209
190	Marshall & Ilsley Corp, USA	154
191	Mashreqbank, United Arab Emirates	217
192	Maybank, Malaysia	134
193	Mega International Commercial Bank, Taiwan	174
194	Millenium bcp, Portugal	112
195	Mitsubishi UFJ Financial Group, Japan	11
196	Mizuho Financial Group, Japan	26
197	Morgan Stanley, US	22
198	National Agricultural Cooperative Federation, Korea(South)	105
199	National Australia Bank, Australia	32
200	National Bank of Abu Dhabi, United Arab Emirates	147
201	National Bank of Canada, Canada.	146
202	National Bank of Greece, Greece	100
203	National Bank of Kuwait, Kuwait	184
204	National Commercial Bank, Saudi Arabia.	126

Sl. No.	Name of Bank	Ranking
205	Nedbank Group, South Africa	181
206	New York Community Bancorp, USA	208
207	Nishi-Nippon City Bank, Japan	246
208	Nomura Holdings, Japan	70
209	Norddeutsche Landesbank, Germany	92
210	Nordea Group, Sweden	37
211	Norinchukin Bank, Japan	44
212	Northern Trust Corporation, USA	140
213	Nykredit Bank A/S, Denmark	101
214	OCBC, Singapore	96
215	OP Pohjola Group, Finland	127
216	Osterreichische Volksbanken, Austria	189
217	OTP Bank, Hungary	162
218	Ping An Bank, China	299
219	Piraeus Bank Group, Greece	164
220	PKO Bank Polski, Poland	148
221	PNC Financial Service Group <sup>13</sup> , USA	39
222	Popular, Puerto Rico	269
223	PSK Group, Austria	232
224	PT Bank Mandiri (Persero) TBK, Indonesia	267
225	Public Bank (PBB), Malaysia	191
226	Qatar National Bank, Qatar	193
227	Rabobank Group, Netherlands	24
228	Raiffeisen Zentralbank Osterreich, Austria	83
229	Raiffeisenlandesbank Niederosterreich-Wien, Austria	234
230	Raiffeisenlandesbank Oberosterreich, Aktiengesellschaft, Austria	237
231	Regions Financial Corp, USA	90
232	Resona Holdings, Japan	55
233	RHB Bank Berhad, Malaysia	306
234	Riyad Bank, Saudi Arabia.	138
235	Royal Bank of Canada	36
236	Royal Bank of Scotland, United Kingdom	4
237	Russian Agriculture Bank, Russia	196
238	Sal Oppenheim <sup>16</sup> , Germany	309
239	Samba Financial Group, Saudi Arabia.	144
240	San-In Godo Bank, Japan	273
241	Sapporo Hokuyo Holdings, Japan	283
242	Saudi British Bank, Saudi Arabia	250
243	Sberbank, Russia.	43
244	Schroders, UK	301
245	Schweizer Verbank der Raiffeisenbanken, Switzerland.	119
246	Scotiabank, Canada	38
247	SEB, Sweden	72
248	Shangai Commercial & Savings Bank, Taiwan	229
249	Shanghai Pudong Development Bank, China.	108
250	Shenzhen Development Bank, China	231
251	Shinhan Financial Group, Korea (South)	87
252	Shinkin Central Bank, Japan	93
253	Shizuoka Bank, Japan	141
254	Shoko Chukin Bank, Japan.	135
255	Siam Commercial Bank, Thailand	205
256	SNS Bank, Netherlands	188
257	Societe Generale, France	19

Sl. No.	Name of Bank	Ranking
258	Standard Bank Group, South Africa	106
259	Standard Chartered, United Kingdom	42
260	State Street Corp, US	89
261	Sumitomo Mitsui Financial Group, Japan	23
262	Sumitomo Trust & Banking Co, Japan	74
263	Suncorp-Metway, Australia	192
264	SunTrust Banks, USA	59
265	Swedbank, Sweden.	94
266	Sydbank Group, Denmark	311
267	Synovus Financial Corp, USA	255
268	Taipei Fubon Bank, Taiwan	278
269	Taiwan Cooperative Bank, Taiwan	228
270	TC Ziraat Bankasi, Turkey	131
271	The Bank of East Asia, Limited, Hong Kong	206
272	The Bank of Fukuoka, Japan	180
273	The Bank of Kyoto, Japan	241
274	The Co-operative Bank, UK	249
275	Toronto-Dominion Bank, Canada	56
276	Turkiye Garanti Bankasi, Turkey	117
277	Turkiye Halk Bankasi, Turkey	197
278	Turkiye Is Bankasi AS, Turkey.	103
279	UBI Banca, Italy	109
280	UBS, Switzerland	35
281	Unicaja, Spain	198
282	UniCredit, Italy	17
283	Union National Bank, United Arab Emirates	245
284	United Overseas Bank, Singapore	73
285	US Bancorp, US	50
286	VakifBank, Turkey	169
287	Van Lanschot NV, Netherlands	290
288	Veneto Banca Holding SCPA, Italy	282
289	Volkswagen Bank, Germany	161
290	VTB-Bank, Russia	65
291	Wells Fargo & Co, USA	6
292	WestLB, Germany	104
293	Westpac Banking Corporation, Australia	34
294	WGZ Bank, Germany	265
295	Woori Financial Group, Korea (South)	71
296	Wustenrot & Wurttembergische, Germany	200
297	Yamaguchi Bank, Japan	227
298	Zenith Bank, Nigeria	287
299	Zions Bancorporation,, US	153
300	Zurcher Kantonalbank, Switzerland	129

**Note:**

1. Bank Guarantee from Calyon Bank, which is a constituent of the Credit Agricole Group, France (ranked 13<sup>th</sup> and appearing at Sl.No. 103 in the enclosed Annexure-1) and the Bank of Tokyo Mitsubishi UFJ Ltd., commercial bank from Mitsubishi UFJ Financial group, Japan (ranked 11<sup>th</sup> and appearing at serial No. 195 in the enclosed Annexure-1) shall also be acceptable.

2. If any foreign bidder desires to furnish Bank Guarantee from a foreign bank other than those included in the above list, such bidders are advised to furnish collateral security/ guarantee/ confirmation either from any one of the acceptable foreign Banks listed above or the State Bank of India.

**PROFORMA FOR CHANGES/ MODIFICATIONS SOUGHT BY  
BIDDERS TO THE BIDDING CONDITIONS**

ONGC expects the bidders to fully accept the terms and conditions of the bidding documents. However, changes/ modifications to the terms and conditions of bidding documents, if any proposed, can be communicated in the following proforma, in case pre-bid is not held. This can be used even in cases where pre-bid is held, to inform about the proposals in advance to the pre-bid date.

Clause No. of Bidding Document	Full compliance/ not agreed	Changes/ modifications proposed by the Bidders	REMARKS
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Signature of the Bidder

.....

Name.....

Seal of the Company

.....

**Note:- Bids maintaining or taking exceptions/deviations shall be rejected straightaway**

## ANNEXURE - II

### MODEL CONTRACT AND GENERAL CONTRACT CONDITIONS

(To be signed with the successful bidder)

This CONTRACT is made and entered into on this .....day of ...Two thousand and .... by and between OIL & NATURAL GAS CORPORATION LIMITED, a CORPORATION registered under the Companies Act 1956, having its registered office at Jeevan Bharati, Tower-II, 124, Connaught Circus, New Delhi- 110 001, India and one of its work center at ..... (hereinafter referred to as "CORPORATION" which expression shall include its successors, administrators, executors and assignees) on the one part and M/s ....., a company registered under the companies Act with its Registered office at ..... referred to as the "CONTRACTOR" (which expression shall include its successors, administrators, executors and permitted assignees) on the other part.

Whereas CORPORATION is desirous of ..... (description of services) for carrying out CORPORATION's operations conforming to specifications as set forth in the Scope of Work at Annexure-III of this agreement.

And Whereas the CONTRACTOR represents that it has the necessary experience for carrying out CORPORATION's operations as referred to herein and has submitted a bid for providing the required services against CORPORATION's Tender No..... all in accordance with the terms and conditions set forth herein and any other reasonable requirements of the CORPORATION from time to time.

And Whereas CORPORATION's has accepted the bid of the CONTRACTOR and has placed Fax order / Letter of Intent / Notification Of Award vide its letter ..... dated.... On the CONTRACTOR.

Now it is hereby agreed to by and between the parties as under:

#### 1. DEFINITIONS:

1.0 Unless inconsistent with or otherwise indicated by the context, the following terms stipulated in this CONTRACT shall have the meaning as defined hereunder.

#### 1.1 CONTRACT

Shall mean a written CONTRACT signed between ONGC and the CONTRACTOR (the successful bidder) including subsequent amendments to the CONTRACT in writing thereto.

## 1.2 **CORPORATION/ONGC:**

Shall mean OIL & NATURAL GAS CORPORATION LTD., India and shall include its legal representatives, successors and permitted assignees.

## 1.3 **SITE**

Shall mean the place in which the operations/services are to be carried out or places approved by the ONGC for the purposes of the CONTRACT together with any other places designated in the CONTRACT as forming part of the site.

## 1.4 **CORPORATION'S SITE REPRESENTATIVE/ENGINEER**

Shall mean the person or the persons appointed by ONGC from time to time to act on its behalf at the site for overall co-ordination, supervision and project management at site.

## 1.5 **CONTRACTOR:**

Shall mean any person/ persons/ firm/ company etc. to whom work has been awarded and whose bid has been accepted by ONGC and shall include its authorised representatives, successors and permitted assignees.

## 1.6 **SUB-CONTRACT:** (Circular 55 / 2003)

Shall mean order/ contract placed by the CONTRACTOR for any portion of the CONTRACT or work sublet with necessary written consent of ONGC on third party. Such sub-letting shall not relieve the CONTRACTOR from any obligation, duty or responsibility under the CONTRACT.

## 1.7 **SUB-CONTRACTOR:**

Shall mean any person or persons or firm or their legal representatives, successors, assignees to whom part of CONTRACT has been sublet by the CONTRACTOR after necessary consent of ONGC.

## 1.8 **CONTRACTOR'S REPRESENTATIVE**

Shall mean such person/or persons duly appointed representative at the site and base as the CONTRACTOR may designate in writing to the ONGC as having authority to act for the CONTRACTOR in matters affecting the work and to provide the requisite services.

## 1.9 **CONTRACTPRICE**

Shall mean the sum accepted or the sum calculated in accordance with the rates accepted by ONGC and amendments thereof, and shall include all fees, registration and other charges paid to statutory authorities without any liability on ONGC for any of these charges. The prices will remain firm during currency of the CONTRACT unless specifically agreed to in writing by ONGC.

## 1.8 **DAY**

Shall mean a calendar day of twenty-four (24) consecutive hours beginning at 0000 hours with reference to local time at the site.

## 1.9 **EQUIPMENT/MATERIALS/GOODS:**

Shall mean and include any equipment, machinery, instruments, stores, goods which CONTRACTOR is required to provide to the ONGC for/under the CONTRACT and amendments thereto.

## 1.10 **WORKS / OPERATIONS:**

Shall mean all work to be performed by the CONTRACTOR as specified in the Scope of Work under this CONTRACT.

## 1.11 **GUARANTEE:**

Shall mean the period and other conditions governing the warranty/guarantee of the works as provided in the CONTRACT.

## 1.12 **MOBILISATION:**

Shall mean rendering the equipment fully manned and equipped as per CONTRACT and ready to begin work at site designated by ONGC after ONHIRE survey and ONGC's acceptance thereafter. The date and time of ONGC's acceptance of ONHIRE survey will be treated as the date and time of mobilisation.

## 1.13 **DEMOBILISATION:**

Shall mean the removal of all things forming part of the mobilisation from the site of ONGC. The date and time of OFFHIRE survey shall be treated as the date and time of demobilisation.

## 1.14 **DRAWINGS:**

Shall mean and include all Engineering sketches, general arrangements/layout drawings, sectional plans, all elevations, etc. related to the CONTRACT together with modification and revision thereto.



**1.15 SPECIFICATIONS:**

Shall mean and include detailed description, statements to technical data, performance characteristics, and standards (Indian as well as International) as applicable and as specified in the CONTRACT.

**1.16 INSPECTORS:**

Shall mean any person or outside Agency nominated by ONGC to inspect equipment, materials and services, if any, in the CONTRACT stagewise as well as final as per the terms of the **CONTRACT**.

**1.17 TESTS:**

Shall mean such process or processes to be carried out by the CONTRACTOR as are prescribed in the CONTRACT considered necessary by ONGC or their representative in CONTRACT to ascertain quality, workmanship, performance and efficiency of equipment or services thereof.

**1.18 FACILITY:**

Shall mean all property of the ONGC owned or hired by ONGC.

**1.19 THIRD PARTY**  
(Circular 55 / 2003)

Shall mean any group, corporation, person or persons who may be engaged in activity associated with the work specified but who shall remain at an arm's length from the work and who shall not have a direct responsibility or authority under the terms of this CONTRACT.

**1.20 APPROVAL:**

Shall mean and include the written consent duly signed by ONGC or their representative in respect of all documents, drawings or other particulars in relation to the CONTRACT

**1.21 SINGULAR/ PLURAL WORDS:**

Save where the context otherwise requires, words imparting singular number shall include the plural and vice versa and words imparting neutral gender shall include masculine or feminine gender and vice versa.

(Circular no. 16/2007 dated 10.10.2007)

**1.22 GROSS NEGLIGENCE**

Shall mean any act or failure to act (whether sole, joint or concurrent) by a person or entity which was intended to cause, or which was in reckless disregard of or wanton indifference to, avoidable and harmful consequences such person or entity knew, or should have known, would result from such act or failure to act. Notwithstanding the foregoing, Gross negligence shall not include any action taken in good faith for the safeguard of life or property,

**1.23 WILLFUL MISCONDUCT**

Shall mean intentional disregard of good and prudent standards of performance or proper conduct under the CONTRACT with knowledge that it is likely to result in any injury to any person or persons or loss or damage of property.

**2.0 SCOPE OF WORK/CONTRACT:**

Scope of the CONTRACT shall be as defined in the CONTRACT, specifications, drawings and annexures thereto at Annexure-...

**3.0 DURATION OF THE CONTRACT:**

This CONTRACT shall remain valid for a period of ..... years from ..... (the date and time of commencement).

**4.0 NOTICES AND ADDRESSES:**

For the purposes of this CONTRACT, the addresses of the parties will be as follows and all correspondence and notices in relations to the present CONTRACT sent to the parties at the addresses mentioned below shall be deemed to be sufficient service of notice on the parties. All such notices as will as reports, invoices and other relevant material shall be addressed to the parties as per the address given below:

**4.1 OIL & NATURAL GAS CORPORATION LIMITED**

For CONTRACT related communication  
The General Manager (MM)

.....

.....

.....

FAX:.....

For operations, reports and payments

The General Manager(                    )

.....

.....

.....

FAX:.....

#### 4.2 CONTRACTOR'S REGISTERED OFFICE AND ADDRESS

.....

.....

.....

Fax:.....

#### 5.0 DUTIES AND POWER /AUTHORITY :

5.1 The duties and authorities of the ONGC's site representative are to act on behalf of the ONGC for:

- (i) Overall supervision, co-ordination and Project Management at site
- (ii) Proper utilisation of equipment and services.
- (iii) Monitoring of performance and progress
- (iv) Commenting/ countersigning on reports made by the CONTRACTOR's representative at site in respect of works, receipts, consumption etc. after satisfying himself with the facts of the respective cases.
- (v) He shall have the authority, but not obligation at all times and any time to inspect/test/examine/ verify any equipment machinery, instruments, tools, materials, personnel, procedures and reports etc. directly or indirectly pertaining to the execution of the work. However this shall not construe to imply an acceptance by the inspector. Hence, the overall responsibility of quality of work shall rest solely with the CONTRACTOR.
- (vi) Each and every document emerging from site in support of any claim by the contractor has to have the countersignature/ comments of the ONGC's representative/engineer without which no claim will be entertained by the ONGC.

##### 5.2.1 CONTRACTOR's representative:

- (i) The CONTRACTOR's representative shall have all the powers requisite for the performance of the works.
- (ii) He shall liaise with ONGC's representative for the proper co-ordination and timely completion of the works and on any matter pertaining to the works.
- (iii) He will extend full co-operation to ONGC's representative/inspector in the manner required by them for supervision/inspection/observation of equipment, material, procedures, performance, reports and records pertaining to works.
- (iv) To have complete charge of CONTRACTOR's personnel engaged in the performance of the work and to ensure compliance of rules and regulations and safety practice.

## **6. CONTRACT DOCUMENT :**

### **6.1 Governing language:**

The governing language for the CONTRACT shall be English. All CONTRACT documents and all correspondence and communication to be given and all other documentation to be prepared and supplied under the CONTRACT shall be written in English and the CONTRACT shall be construed and interpreted in accordance with English language.

### **6.2 Entire Agreement :**

The CONTRACT constitutes the entire agreement between the ONGC and the CONTRACTOR with respect to the subject matter of the CONTRACT and supersedes all communication, negotiations and agreement (whether written or oral) of the parties with respect thereto made prior to the date of this agreement.

### **6.3 Modification in CONTRACT:**

All modifications leading to changes in the CONTRACT with respect to technical and/or commercial aspects, including terms of delivery, shall be considered valid only when accepted in writing by ONGC by issuing amendment to the **CONTRACT**. ONGC shall not be bound by any printed conditions, provisions in the CONTRACTOR's BID, forms of acknowledgement of **CONTRACT**, invoice, packing list and other documents which purport to impose any condition at variance with or supplement to **CONTRACT**.

### **6.4 Assignment:**

The CONTRACTOR shall not, save with the previous consent in writing of the ONGC, sublet/SUB-CONTRACT, transfer or assign the CONTRACT or any part thereof in any manner whatsoever. However, such consent shall not relieve the CONTRACTOR from any obligation, duty or responsibility under the CONTRACT and CONTRACTOR shall be fully

responsible for the services hereunder and for the execution and performance of the CONTRACT.

#### **6.5 Waivers and amendments :**

- a) Waivers: - It is fully understood and agreed that none of the terms and conditions of this CONTRACT shall be deemed waived by either party unless such waiver is executed in writing only by the duly authorised agents or representative 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.
- b) Amendments: - It is agreed that CONTRACTOR shall carry out work in accordance with the completion program (e.g. Drilling programme) to be furnished by the CORPORATION which may be amended from time to time by reasonable modifications as CORPORATION sees fit.

#### **7.0 REMUNERATION AND TERMS OF PAYMENT**

7.1 CORPORATION shall pay to CONTRACTOR for the services, to be provided by the CONTRACTOR as per the Scope of Work (Annexure-III), as per the price Schedule at Annexure-..... The rates payable, shall be firm during the entire CONTRACT period, including extension period, if any.

7.2 All Bills along with relevant supporting documents shall be submitted in triplicate addressed to the General Manager( ).....

(Circular No. 03/2010 dated 13.01.2010)

7.3 Invoices with original supporting documents duly countersigned by the CORPORATION's representative/ engineer wherever applicable will be submitted .....( indicate the periodicity) by the CONTRACTOR to CORPORATION and payment shall be made within 21 (twenty one) calendar days from the date of receipt of invoice at the above office.

The original invoice should also accompany the following documents/details:

***(An indicative list of documents is given below. Tender Committee should deliberate on the same and select the appropriate documents as applicable for the respective case and incorporate the same suitably in the Bid document / Contract, after making necessary additions/deletions.)***

- 1) Alongwith first invoice:

Following documents / details should be invariably furnished alongwith the first invoice:

- a) Copy of valid registration certificate under the Service Tax rules.
- b) Particulars required for making payments through 'Electronic Payment Mechanism', in accordance with the clause on 'MODE OF PAYMENT' appearing in Annexure-I (i.e. 'Instructions to bidders') of bid document.
- c) Mobile No. (Optional).
- d) e-mail ID.

2) Payment of Mobilization Charges:

- a) Invoice (In accordance with the relevant Service Tax rules).
- b) Insurance policies (As applicable).
- c) Inspection report (Pre-mob, as applicable).
- d) Notification Certificate of Acceptance of Mob.
- e) Certificate of 'Commencement of operation' under this contract.

(Circular No. 26/2010 dated 13.07.2010)

- f) Details / statement showing cost of services, service tax etc. as per clause 8.3.1 below (alongwith details of disclosure as per clause 21.7)

3) Periodical / Monthly payment:

- a) Invoice (i.e. Tax invoice as per relevant Service Tax rules, in original and duplicate, clearly indicating Service Tax registration number, Service Classification, Rate and amount of Service Tax shown separately).
- b) Insurance policies and proof of payment of premium (As applicable).
- c) Details of statutory payments like EPF and ESI (as per clause 7.6.1 below), etc., (As applicable). (Circular No. 57/2010 dated 22.12.2010)
- d) Undertaking by the contractor regarding compliance of all statutes.
- e) Certificate by the contractor stating that labour have been paid not less than minimum wages. (As applicable)
- f) Copy of Time sheet / Log Sheet /DPRs with summary showing non-operating period, operating period, Rig move period, idle period, breakdown of equipment, non deployment / short deployment etc (if any) and reasons thereof.
- g) Attendance Sheet (How many person on board) / Manpower deployment sheet [showing non deployment / short deployment etc (if any) and reasons thereof].
- h) Statement of persons travelled on chargeable basis (Recoverable), if applicable.

- i) Fuel charges (Daily consumption report of fuel) and statement of material/ consumption (incl. HSD, cement, mud chemicals, pot water, etc.) taken from ONGC on chargeable basis, if applicable.
- j) Catering Bill (Log Sheet).
- k) Telephone Bill (Log sheet).
- l) Any other document specifically mentioned in the Contract, or supporting documents in respect of other claims (if any), permissible under the Contract.

(Circular No. 26/2010 dated 13.07.2010)

- m) Details / statement showing cost of services, service tax etc. as per clause 8.3.1 below (alongwith details of disclosure as per clause 21.7)

4) Payment towards Indian Agent Commission (IAC):

- a) Invoice of IAC (stamped pre-receipted bill)
- b) Particulars required for making payments through 'Electronic Payment Mechanism', in accordance with the clause on 'MODE OF PAYMENT' appearing in Annexure-I (i.e. 'Instructions to bidders') of bid document.
- c) Copy of payment advice (if applicable) against which IAC is claimed.
- d) e-mail ID.

(Circular No. 10/2010 dated 10.03.2010)

7.4 **Particulars required before releasing payments to (foreign CONTRACTOR (non-resident as per Income Tax Act, 1961):**

The particulars as per clause 12.1 of Annexure-I are invariably required before releasing payments to foreign CONTRACTOR, in accordance with the requirements for making remittances to non-residents as per Income Tax Act, 1961 (as amended from time to time).

In addition to the said particulars submitted alongwith the bid, the CONTRACTOR should also provide any other information as may be required for determining the taxability of the amount to be remitted to the non-resident. Further, the CONTRACTOR shall be liable to intimate the subsequent changes (if any) to the information submitted against any of the said particulars, alongwith full details.

7.5 In the event of any dispute in a portion or whole of any invoice, the CORPORATION shall make payment of undisputed portion and shall promptly notify the CONTRACTOR's representative in writing for the remaining portion in CONTRACT to mutually resolve the dispute and if

resolved in part or full, payment shall be made to the CONTRACTOR within 30 days of such settlement.

(Circular No. 34/2009 dated 27.07.2009)

#### **7.6 ONGC's right to question the amounts claimed**

Payment of any invoice shall not prejudice the right of the Corporation to question the allowability under this Agreement of any amounts claimed therein, provided ONGC, within one year beyond the expiry of each CONTRACT year, delivers to CONTRACTOR, written notice identifying any item or items which it questions and specifying the reasons therefor. Should ONGC so notify CONTRACTOR, such adjustment shall be made as the parties shall agree. These provisions shall be reciprocal for similar rights to the CONTRACTOR.

The CONTRACTOR shall provide on demand a complete and correct set of records pertaining to all costs for which it claims reimbursement from ONGC and as to any payment provided for hereunder, which is to be made on the basis of CONTRACTOR's costs.

##### **7.6.1 Details of statutory payments like EPF and ESI etc.**

(Circular No. 06/2012 dated 02.02.2012)

Wherever applicable, the Contractor (including those engaging 'International Workers') shall have itself registered under Employees' Provident Fund and Miscellaneous Provisions Act, 1952 and Employees' State Insurance Act, 1948 and follow the relevant statutory provisions including Rules made there-under concerning contractual workers. The contractor shall be required to submit the following documents/details to the Corporation:

- (i) Dully filled in "Proforma-PFD", as per Appendix-3 of this Annexure, alongwith the monthly bills and copies of challan for payment of EPF and ESI etc.
- (ii) Copy of 'Form-12' submitted by the Contractor to the PF Commissioner regarding "statement of Contributions " on monthly basis.(Blank Format enclosed at Appendix-4)
- (iii) Copy of 'Form-6A' submitted by the Contractor to the PF Commissioner on an annual basis/ on expiry of contract.(Blank Format enclosed at Appendix-5)

Corporation shall maintain these records and verify the deposit of statutory contribution made by the contractors with the EPFO/ESI authorities, where deemed necessary. However, before making payment of the last bill/invoice of the Contractor, the appropriate authority (i.e. Payment Making Authority etc.) in the Corporation, shall verify from the EPF/ESI authorities the details/status of the payment made by the Contractor. In case the information furnished by the



Contractor is found to be incorrect the Corporation shall take appropriate action against the Contractor.

**Note: Conditions for applicability of above provisions**

Above clause w.r.f. submission of details on EPF and ESI payments shall not be applicable in following types of contracts:

(a) In those Contracts wherein the services/jobs has been performed exclusively in the premises of the contractor. Certificate to the effect is to be submitted by the Contractor that services/jobs to be executed under the contract have been performed exclusively in his premises.

OR

(b) In those contracts also wherein contractor has employed only their full time regular employees for execution of the contract. Certificate to the effect is to be submitted by the contractor that for execution of the contract, no contractual labour has been employed and only full time regular employees of the contractor have been employed.

OR

(c) Fulfillment of conditions at (i) on EPF and (ii) on ESI mentioned below:

(i) Information sought in above clause pertaining to only EPF shall not be required to be submitted in those contracts wherein the contractor has employed only those of his employees whose pay exceeds Rs. 6500/- per month. Certificate to the effect is to be submitted by the contractor that for execution of the contract, the monthly wages of all employees who have been employed, exceeds to Rs. 6500/- per month.

(ii) Information sought in above clause pertaining to only ESI shall not be required to be submitted in those contracts wherein the contractor has employed only those of his employees whose pay exceeds Rs. 15000/- per month as in terms of the current provisions of the ESI Act, 1948 an employee whose monthly pay exceeds Rs. 15000/- is outside the purview of the ESI Act. Certificate to the effect is to be submitted by the contractor that for execution of the contract, the monthly wages of all employees who have been employed, exceeds to Rs. 15000/- per month. Further, ESI Act, 1948 is applicable only areas where it has been made applicable by Gazette Notification in this regard. (In the areas of ONGC operation, the ESI Act is currently applicable in all areas except the NE States. However, the Act is applicable in Guwahati. Applicability in new areas of operation is to be verified from the office of the ESI Corporation concerned.)

In case a contractor falling under the provisions of the Note mentioned above does not submit the required details on EPF and ESI payments, then in that case, the Contractor shall be required to indemnify ONGC for any liabilities arising out of declarations made by him in future on violation or provisions of the EPF Act 1952 and ESI Act 1948.

**7.7(Applicable in ICB tenders only) Payment of commission / fee / remuneration of Indian agent / consultant / representative / retainer / associate of foreign principal.**

The commission/ fee/ remuneration of the Indian agent/ consultant/ representative/ retainer/associate will be paid within 15 days of the payment of first invoice made to the CONTRACTOR provided installation/commissioning of equipment by such agent/ consultant/ representative/ retainer/ associate is not involved. In such cases, the amount of commission/fee/remuneration will be deducted by ONGC from payment of first invoice of the CONTRACTOR and paid to the Indian agent/consultant/ representative/ retainer/ associate in non-convertible Indian rupees at the closing market rate of exchange declared by SBI on the day prior to price bid/ revised price bid (if any) opening.

Where, as a condition of CONTRACT, the equipment is to be installed/ commissioned satisfactorily by Indian agent/ consultant/ associate/ representative/ retainer/, the payment of commission/fee/remuneration shall be made within 30 days of satisfactory installation/commissioning and issue of a certificate to the effect by the authorised officer of ONGC. The payment of Indian agent/ consultant/representative/ retainer/associate will be subject to the condition that he sends stamped pre-receipted bill for the commission/fee/remuneration.

The closing market rate of exchange declared by SBI on the day prior to the price bid/ revised price bid (if any) opening will be taken into consideration for working out the commission/fee/remuneration of Indian agent/ consultant/ representative/ retainer/ associate.

**8.0 CLAIMS, TAXES & DUTIES, FEES AND ACCOUNTING :**

**8.1 CLAIMS:-**

CONTRACTOR agrees to pay all claims, taxes and fees for equipment, labour, materials, services and supplies to be furnished by it hereunder and agrees to allow no lien or charge resulting from such claims to be fixed upon any property of CORPORATION. CORPORATION may, at its option, pay and discharge any liens or overdue charges for CONTRACTOR's equipment, labour, materials, services and supplies under this CONTRACT and may thereupon deduct the amount or amounts so paid from any sum due, or thereafter become due, to CONTRACTOR hereunder.

**8.2 NOTICE OF CLAIMS:-**

CONTRACTOR or CORPORATION, as the case may be, shall promptly give the other, notice in writing of any claim made or proceeding

commenced for which that party is entitled to indemnification under the CONTRACT. Each party shall confer with the other concerning the defense of any such claims or proceeding, shall permit the other to be represented by counsel in defense thereof, and shall not effect settlement of or compromise any such claim or proceeding without the other's written consent.

### 8.3 TAXES:-

(Circular No. 26/2010 dated 13.07.2010)

CONTRACTOR, unless specified otherwise in the CONTRACT, shall bear all tax liabilities, duties, Govt. levies etc. including Service tax, customs duty, Corporate and personnel taxes levied or imposed on the CONTRACTOR on account of payments received by it from the CORPORATION for the work done under this CONTRACT. It shall be the responsibility of the CONTRACTOR to submit to the concerned Indian authorities, the returns and all other concerned documents required for this purpose and to comply in all respects with the requirements of the laws in this regard, in time.

CONTRACTOR shall provide all the necessary certificates / documents for enabling ONGC to avail Input VAT credit and CENVAT credit benefits in respect of the payments of VAT, Excise Duty, Service Tax etc. which are payable against the CONTRACT. The CONTRACTOR should provide tax invoice issued under rule-4A of Service Tax Rules for the Services (indicating service tax, education cess and Secondary & Higher Education Cess) and tax invoice issued under Central Excise rule-11 for Excise Duty (indicating excise duty education cess and Secondary & Higher Education Cess) and tax invoice under respective State VAT Act for VAT separately for the indigenous goods. Payment towards the components of Excise Duty, VAT, CVD, SAD, Service Tax etc shall be released by ONGC only against appropriate documents ie tax invoice/Bill of entry for availing CENVAT / VAT credit (as applicable).

The tax invoices as per above provisions should invariably contain the following particulars:

- (i) Name, Address and the Registration Number (under the relevant Tax Rules) of the Service Provider (Contractor)
- (ii) Name and Address of the Service Receiver (Address of ONGC)
- (iii) Description, Classification and Value of taxable service / goods and the amount of applicable tax (i.e. Service tax / Excise Duty / VAT – separately indicating education cess and Secondary & Higher Education Cess, wherever applicable)

In case of imported goods, contractor/supplier is required to provide original Bill of entry or copy of Bill of Entry duly attested by Custom authority which is required for availing CENVAT Credit.

### 8.3.1

While submitting the invoice for payment, CONTRACTOR should submit the following details / statement as an attachment to the invoice:

- |   |           |
|---|-----------|
| a. Cost of Service  | Rs. _____ |
| b. Service Tax/Excise Duty(Central Levy)/VAT(State Levy), as applicable   | Rs. _____ |
| c. Total amount including Service Tax/Excise Duty/VAT (i.e. a+b)  | Rs. _____ |
| d. Less: CENVAT Credit / VAT Credit, legally becomes available due to Change in Law (alongwith details of disclosure as per clause 21.7 below). | Rs. _____ |
| e. Net payable by ONGC  | Rs. _____ |

(Circular No. 10/2009 dated 04.03.2009)

**8.4 CUSTOMS DUTY:** - (applicable for Charter hire services using CONTRACTOR's capital equipment like rigs/equipments/tools etc and for PEL/ML areas issued or renewed after 1.4.1999 and NELP areas, where Customs duty is not payable as per the policy of Govt. of India in vogue).

For import of rigs/equipments/tool in these areas, Corporation will provide Recommendatory Letter (RL) to the contractor so that they obtain Essentiality Certificate (EC) from DGH for availing concessional rate of Customs duty for import of rigs/equipments/tools for deployment in PEL/ML/NELP areas where Customs duty is not applicable. For spares, consumables and accessories required during the execution of the contract for operation and maintenance of equipment/rigs and equipments, Corporation shall also issue Recommendatory Letter to the contractor for obtaining EC for availing concessional rate of Customs duty. Accordingly, the Customs duty for neither rigs/equipments/tools nor for spares, consumables and accessories required for operation and maintenance of equipment/rigs and equipments is to be built in the quoted price. As no Customs duty is payable, no duty draw back would be available in this category. As regards, re-export of rigs/equipments/tools (owned or on lease basis) brought by the contractor (whether Indian or foreign) for deployment in PEL/ML/NELP area is concerned, as the rigs/equipments/tools would be imported by the contractor without payment of CUSTOMS DUTY after expiry of the contract with ONGC, the contractor would have to either re-export the rigs/equipments/tools or deploy the rigs/equipments/tools in areas where Customs Duty is not applicable (PEL/ML/NELP areas) after getting a fresh EC from DGH. In case the contractor deploys the rigs/equipments/tools in an area where the Customs duty is applicable, then the contractor has to get his rigs/equipments/tools cleared from Customs Authorities after payment of Customs duty. The contractor shall also have to indemnify the Corporation against any claim that may arise due to violation of the Customs Act or the Foreign Trade Policy by them. In case any rigs/equipments/tools are required to be replaced by the contractor during the execution of the contract, the Corporation shall issue a fresh RL so that contractor can obtain a fresh EC from the DGH and bring the rigs/equipments/tools without payment of Customs Duty.

All imports under the contract shall be done with Corporation's prior approval only. The Contractor shall be responsible to carry out all the formalities. In case of any mis-

declarations or offences committed under the Customs rules and regulations and also allied rules, fine, penalty or any other charges levied by the concerned authorities on Corporation shall be borne by the Contractor including the element of interest on Corporation's funds blocked under such circumstances. Corporation shall be indemnified by the Contractor against all actions by Govt. or any other agency for acts of commission and omission.

Contractor shall be responsible to import the rigs/equipments/tools for execution of the contract. The contractor shall undertake to complete all the formalities as required under the Customs Act / Foreign Trade Policy (FTP) and indemnify ONGC from all the liabilities of Customs in this regard.

The rigs/equipments/tools imported by the Contractor for deployment in PEL/ML/NELP shall not be used / deployed by the Contractor for any purpose other than the jobs arising out of the contract awarded by Corporation and in the event of the rigs/equipments/tools being misused or put to use other than specified use, the Contractor shall be liable to pay fine, penalty and other actions taken by the Customs department and other authorities for violation of the customs rules and regulations and other allied roles. Contractor should also compensate Corporation for the duty element in such cases.

**CUSTOMS DUTY:** - (applicable for Charter hire services using Contractor's capital equipment like rigs/equipments/tools etc. and for non-PEL/ML areas where Customs Duty is payable).

In case of service contracts using Contractors capital equipment like rigs/equipments/tools etc, the applicable Customs duty will be considered in evaluation and will be paid directly by ONGC to the customs authorities. However, the contractor shall be required to submit a Bank Guarantee (as per proforma attached at Appendix-2 of Annexure-II) to ONGC for the amount equivalent to the amount of Customs Duty, which has been paid by ONGC to the Customs Deptt. on behalf of the contractor. The BG shall be valid till the expiry of the contract period.

Contractor shall be required to indicate the cost of rigs/equipments/tools as well as the equipment (in case of charter hire of rigs) on which Customs duty is payable. Customs duty, wherever applicable, for the rigs/equipments/tools shall be calculated at the applicable rate of Customs duty as on the date of opening of the price bid or revised price bid as the case may be and shall be taken into account for evaluation of EDR. If Customs authorities assess that the cost of the rigs/equipments/tools on which Customs duty is payable is higher than what has been indicated in the bid, then Corporation would restrict payment of Customs duty, upto the amount calculated based on the cost of the rigs/equipments/tools indicated by the bidder in their bid only. In case the Customs authorities assess that the cost of the rigs/equipments/tools on which the Customs duty is payable is lower than what has been indicated in the bid, then, Corporation would pick up the duty at actual.

Customs duty on spares, consumables and accessories shall not be added to above and shall be paid directly by the Contractor. For availing of concessional rate of Customs duty, if any, on the spares, consumables, accessories, explosives etc. Contractor will make his or her own arrangement to apply to Directorate General of Hydrocarbons, New Delhi. Corporation will provide necessary certification on application that the spares, consumables, accessories, explosives etc. imported for the Contract are for oil field services.

All imports under the contract shall be done with Corporation's prior approval only. The Contractor shall be responsible to carry out all the formalities including payment of dues wherever applicable except for the payment of customs duty, which shall be paid by Corporation as above. In case of any mis-declarations or offences committed under the Customs rules and regulations and also allied rules, fine, penalty or any other charges

levied by the concerned authorities on Corporation shall be borne by the Contractor including the element of interest on Corporation's funds blocked under such circumstances. Corporation shall be indemnified by the Contractor against all actions by Govt. or any other agency for acts of commission and omission.

Contractor shall be responsible to import the rigs/equipments/tools for execution of the contract. The contractor shall undertake to complete all the formalities as required under the Customs Act / Foreign Trade Policy (FTP) and indemnify ONGC from all the liabilities of Customs in this regard.

The Contractor shall be responsible to ensure that only the items authorised by operating department of Corporation are consigned to the Corporation for the purpose of payment of Customs duty. In case of shipment of any item for which Corporation is not responsible to pay Customs duty, the Contractor shall pay such Customs duty to Corporation directly and if such transactions delay final payment of Customs duty to customs authorities, interest/ penalty if any levied by customs authorities shall be borne by the Contractor.

The rigs/equipments/tools on which the duty is paid by Corporation shall not be used / deployed by the Contractor for any purpose other than the jobs arising out of the contract awarded by Corporation and in the event of the rigs/equipments/tools being misused or put to use other than specified use, the Contractor shall be liable to pay fine, penalty and other actions taken by the Customs department and other authorities for violation of the customs rules and regulations and other allied roles. Contractor should also compensate Corporation for the duty element in such cases.

If there is any change in the rate of duty due to misleading nomenclature of the rigs/equipments/tools, the additional duty element shall have to be borne by the Contractor.

Any statutory variation (both plus and minus) in the rate of Custom duty within the contractual completion period shall be to the account of Corporation. Any increase in Customs duty during the period between the stipulated date of deployment of rigs/equipments/tools and actual date of deployment, in case of late deployment, with the prior approval of Corporation, will be to Contractor's account. However any decrease in Customs duty during such period will be to the account of Corporation. This is without prejudice to any other clause including Liquidated Damages clause.

If duty drawback is available, i.e in case of premature termination of the contract (before a period of 18 months) or if contract duration is less than 18 months, then in that case ONGC would be entitled to receive the benefit of duty drawback and the Contractor shall pass on the amount of duty drawback to the Corporation. All the necessary documents as regards the Customs duty paid by the contractor and the amount of duty draw back received by them shall also have to be submitted by the Contractor to the Corporation.

The Bank Guarantee submitted by the contractor as per the above provisions for the amount equivalent to the amount of Customs Duty, which has been paid by ONGC to the Customs Deptt. on behalf of the contractor, shall be forfeited by ONGC, in the following situations:

- (i) If the contractor fails to avail and / or pass on the benefit of duty drawback to ONGC, whenever applicable, the Bank Guarantee shall be forfeited to the extent of an amount equivalent to the duty drawback eligible.
- (ii) If the contractor fails to fulfill any of the contractual obligations or violates any of the contractual conditions, resulting into premature termination of the contract, then ONGC shall invoke the Bank Guarantee to recover an amount paid by it towards Customs Duty on behalf of the contractor in

proportion to the period of the contract for which the services have not been rendered by the contractor to ONGC.

**Note: Financial evaluation methodology should be framed by the Work center accordingly by subtracting the Duty draw back if the same is available in case the contract period is less than 18 months.**

(Circular No. 10/2010 dated 10.03.2010)

## **8.5 CORPORATE TAXES:-**

**8.5.1** The CONTRACTOR shall bear all direct taxes, levied or imposed on the CONTRACTOR under the laws of India, as in force from time to time.

The CONTRACTOR shall also be responsible for ensuring compliance with all provisions of the direct tax laws of India including, but not limited to, the filing of appropriate Returns and shall promptly provide all information required by the CORPORATION for discharging any of its responsibilities under such laws in relation to or arising out of the CONTRACT.

**8.5.2** Tax shall be deducted at source by ONGC from all sums due to an Indian tax resident Contractor in accordance with the provisions of the Income Tax Act, 1961, as in force at the relevant point of time.

**8.5.3** A non-resident Contractor i.e., a Contractor who is not an Indian tax resident according to the Indian Income Tax Act, 1961, has the option to obtain on its own either (A) an Order u/s. 195(3) of the Income Tax Act, 1961, or (B) an order u/s. 197 of the Income Tax Act, 1961, and furnish the said Order u/s. 195(3) or the Order u/s.197, as the case may be, to ONGC along with each of its Invoices. In case the non resident Contractor wishes to exercise this option, it should convey the same in writing to ONGC at the time of signing the Contract and an option so exercised shall be final and cannot be changed during the currency of this Contract. In case an option is so exercised, ONGC shall deduct tax at source in accordance with the directions contained in the Order u/s. 195(3) or the Order u/s. 197, as the case may be, as in force at the point in time when tax is required to be deducted at source.

**8.5.4** In case the non resident Contractor does not exercise the option in clause 8.5.3 above, an Order u/s. 195(2) of the Income Tax Act,1961, for the purpose of deduction of tax at source will be obtained by ONGC from the Deputy Director of Income Tax (International Taxation), Aaykar Bhawan, Subhash Road, Dehradun – 248001, India, and tax shall be deducted at source by ONGC as directed in the said Order u/s. 195(2).

**8.5.5** In case the non resident Contractor does not exercise the option in clause 8.5.3 above, it shall furnish a Tax Residency Certificate (Certificate

from the income tax authorities of the country of which it is a tax resident, to the effect that, the Contractor is liable to tax in that country by reason of it being a tax resident under the relevant tax laws of that country) within 30 days from entering into the Contract and, in any event, at least 30 days before the first Invoice is furnished to ONGC.

8.5.6 As per the provisions of Section 206AA of Indian Income Tax Act, 1961, effective from 01.04.2010, any person entitled to receive any sum or income or amount, on which tax is deductible under the provisions of Act, is required to furnish his Permanent Account Number (PAN) to the person responsible for deducting tax at source. Therefore, in case the Contractor does not furnish its PAN, CORPORATION shall deduct tax at source as provided in the Income Tax Act, 1961, or in the relevant Finance Act, or as directed in the orders u/s 195(3) or 197 or 195(2), as the case may be, or at such higher rate as may be required by Section 206AA of Indian Income Tax Act, 1961, from time to time.

8.5.7 The employees of such foreign companies/concerns/Joint Ventures, their SUB-CONTRACTOR and assignees are also required to comply with various Direct tax laws of India, as applicable.

8.5.8 For the lapses, if any, on the part of the CONTRACTOR and consequential penal action taken by the Income Tax department, the CORPORATION shall not take any responsibility whether financial or otherwise.

(Circular No.17/2010 Dated 04.06.2010)

Notes in respect of Tax Residency Certificate :

- (i) The Tax Residency Certificate (TRC) should be in original or a photocopy duly attested either from a notary public in India or from the Indian Embassy/High Commission/Consulate in the country whose authorities have issued such TRC.
- (ii) During the currency of the Contract / Purchase Order, for the income accrued in different financial years, the Contractor/Supplier should submit separate TRCs for each financial year, based on the period for which the foreign income tax authorities issue the TRC as per the financial year followed in the respective country (viz.- the calendar year or the financial year commencing from 1<sup>st</sup> April to 31<sup>st</sup> March of succeeding year).

## 8.6 PERSONNEL TAXES:-

The CONTRACTOR shall bear all personnel taxes levied or imposed on its personnel, SUB-CONTRACTOR's personnel, vendors, consultants etc. on account of payment received under this CONTRACT.



## 9.0 PERFORMANCE:-

The CONTRACTOR shall undertake to perform all services under this CONTRACT with all-reasonable skill, diligence and care in accordance with sound industry practice to the satisfaction of the CORPORATION and accept full responsibility for the satisfactory quality of such services as performed by them. Any defect, deficiencies noticed in the CONTRACTOR's service will be promptly remedied by the CONTRACTOR within 10 days upon the receipt of written notice from the CORPORATION to improve their performance failing which the CORPORATION may terminate the CONTRACT by giving the CONTRACTOR 30 (thirty) days written notice.

(Circular No. 08/2007 dated 07.06.2007)

## 10.0 PERFORMANCE BOND (Applicable for tenders upto Rs. 1 crore):-

The CONTRACTOR shall furnish to the CORPORATION within 15 days from the date of fax CONTRACT/ Letter of Intent(LOI), security deposit in the form of a Bank draft or an irrevocable Bank Guarantee (as per the proforma enclosed at Appendix-I of this Annexure II) or an irrevocable Letter of Credit (as per the proforma enclosed at Appendix-4A of Annexure-I) for the period specified in the bid document/ Notification of Award/ LOI, towards performance under this CONTRACT.

In the event CONTRACTOR fails to honour any of the commitments entered into under this agreement, and /or in respect of any amount due from the CONTRACTOR to the CORPORATION, the CORPORATION shall have unconditional option under the guarantee to invoke the above bank guarantee and claim the amount from the bank. The bank shall be obliged to pay the amount to the CORPORATION on demand.

## PERFORMANCE BOND (Applicable for tenders above Rs. 1 crore):-

The CONTRACTOR shall furnish to the CORPORATION within 15 days from the date of fax CONTRACT/ Letter of Intent(LOI), security deposit in the form of a Bank draft or an irrevocable Bank Guarantee (as per the proforma enclosed at Appendix-I of this Annexure II) or an irrevocable Letter of Credit (as per the proforma enclosed at Appendix-4A of Annexure-I) for the period specified in the bid document/ Notification of Award/ LOI, towards performance under this CONTRACT.

In the event CONTRACTOR fails to honour any of the commitments entered into under this agreement or in the event of termination of the contract under provisions of Integrity Pact and /or in respect of any amount due from the CONTRACTOR to the CORPORATION, the

CORPORATION shall have unconditional option under the guarantee to invoke the above bank guarantee and claim the amount from the bank. The bank shall be obliged to pay the amount to the CORPORATION on demand.

**11.0 IMPORT AND IMPORT CLEARANCE:-**

All imports and clearance under this CONTRACT shall be done by the CONTRACTOR and CORPORATION will not provide any assistance in this regard.

**12.0 DISCIPLINE:-**

CONTRACTOR shall carry out operations hereunder with due diligence and in a safe and workman like manner according to good international oilfield practice. CONTRACTOR shall maintain strict discipline and good CONTRACT among its employees and its SUB-CONTRACTOR's employees and shall abide by and conform to all rules and regulations promulgated by the CORPORATION governing the operations. Should CORPORATION feel that the conduct of any of CONTRACTOR/SUB-CONTRACTOR's employees is detrimental to CORPORATION's interest, the CORPORATION shall have the unqualified right to request for the removal of such employee either for incompetence, unreliability, misbehavior, security reasons etc. while on or off the job. The CONTRACTOR shall comply with any such request to remove such personnel at CONTRACTOR's expense unconditionally. The CONTRACTOR will be allowed a maximum of \_\_\_\_\_ working days to replace the person by competent qualified person at CONTRACTOR's cost.

**13. SAFETY AND LABOUR LAWS:-**

CONTRACTOR shall comply with the provision of all laws including Labour Laws, rules, regulations and notifications issued thereunder from time to time. All safety and labour laws enforced by statutory agencies and by ONGC shall be applicable in the performance of this CONTRACT and CONTRACTOR shall abide by these laws.

CONTRACTOR shall take all measures necessary or proper to protect the personnel, work and facilities and shall observe all reasonable safety rules and instructions. No smoking shall be permitted outside the living quarters, and welding jobs will be carried out with full safety precautions. ONGC's employee also shall comply with safety procedures/policy.

The CONTRACTOR shall report as soon as possible any evidence which may indicate or is likely to lead to an abnormal or dangerous situation and shall take all necessary emergency control steps to avoid such abnormal situations.

(Circular no. 28/2008 dated 11.08.2008)

### **13.1 Verification of character and antecedents of Contractual Manpower**

In all contracts involving deployment of Contractor's manpower within ONGC's premises like plants, offices, installations, rigs, stock yards etc., the Contractor shall submit the following documents to ONGC prior to start of work:

- (i) Undertaking from the Contractor that the character and antecedents of the person(s) proposed to be deployed by them is/are impeccable.
- (ii) Undertaking from the Contractor that they have scrutinized the previous working of the person(s) proposed to be deployed by them and there is nothing adverse as regards his/her character and antecedent.
- (iii) Along with the above mentioned undertakings, the Contractor will provide certified photocopies of Police verification certificates for inspection by the authorized representative of ONGC. The Contractor has to obtain Police verification report (signed by an officer equivalent to DSP rank of higher) from the area where the person(s) to be deployed has/have been residing since the last five years. In case the person concerned has not resided at a place for five years at a stretch, Police verification reports should be obtained from that area where the person(s) has/ have stayed earlier.

### **14. SECRECY:-**

CONTRACTOR shall during the tenure of the CONTRACT and at anytime thereafter maintain in the strictest confidence all information relating to the work and shall not, unless so authorised in writing by corporation, divulge or grant access to any information about the work or its results and shall prevent anyone becoming acquainted with either through CONTRACTOR or its personnel or authorised SUB-Contractors or agents. CONTRACTOR shall not avail of the information obtained in the course of work hereunder in any manner, whatsoever, nor shall CONTRACTOR divulge any information about the location of the work area of part thereof. CONTRACTOR shall not also destroy any report, note and technical data relating to the operation/ work and not required by the CORPORATION. The obligation is continuing one and shall survive after the completion/ termination of this agreement.

### **15. STATUTORY REQUIREMENTS:-**

During the tenure of this CONTRACT nothing shall be done by the CONTRACTOR in contravention of any law, act and/or rules/regulations,

thereunder or any amendment thereof governing interalia customs stowaways, foreign exchange etc.

**16. INSURANCE:-**

(Circular 18/2004 dtd. 29.03.04)

A) CONTRACTOR shall, at his own expense, arrange appropriate insurance to cover all risks assumed by the CONTRACTOR under this CONTRACT in respect of its personnel deputed under this CONTRACT as well as CONTRACTOR's equipment, tools and any other belongings of the CONTRACTOR or their personnel during the entire period of their engagement in connection with this CONTRACT. ONGC will have no liability on this account.

However, CONTRACTOR shall not be required to take insurance cover for their equipment, tools when these are in the custody of ONGC.

(Circular no. 16/2007 dated 10.10.2007)

B) Entire clause 16(B) deleted

C) Waiver of subrogation: All insurance policies of the CONTRACTOR with respect to the operations conducted hereunder as set forth in clause 13 hereof, shall be endorsed by the underwriter in accordance with the following policy wording:-

“ The insurers hereby waive their rights of subrogation against any individual, CORPORATION, affiliates or assignees for whom or with whom the assured may be operating to the extent of the Contractual indemnities undertaken by the CONTRACTOR”.

D) Certificate of Insurance: Before commencing performance of the CONTRACT, CONTRACTOR shall upon request furnish CORPORATION with certificates of insurance indicating (1) kinds and amounts of insurance as required herein (2) insurance CORPORATION or companies carrying the aforesaid coverage (3) effective and expiry dates of policies (4) that CORPORATION shall be given thirty (30) days written advance notice of any material change in the policy (5) waiver of subrogation endorsement has been attached to all policies and (6) the territorial limits of all policies. If any of the above policy expire or/ are cancelled during the term of this CONTRACT and CONTRACTOR fails for any reason to renew such policies, then CORPORATION may replace same and charge the cost thereof to CONTRACTOR. Should there be lapse in any insurance required to be carried out by CONTRACTOR hereunder for any reason, losses resulting therefrom shall be to the sole account of the CONTRACTOR. Such insurance shall be effected within Insurance Company incorporated and registered in India or jointly with a Company of

International repute and an Insurance Company incorporated and registered in India.

E) Deductible:- That portion of any loss not covered by insurance provided for in this article solely by reason of deductible provision in such insurance policies shall be to the account of the CONTRACTOR.

F) CONTRACTOR shall require all of its SUB-Contractors to provide such of the foregoing insurance cover as the CONTRACTOR is obligated to provide under this CONTRACT.

**Note:- Work centers depending upon the specific work requirements may add suitable clauses for additional insurance coverage in the Special Conditions of CONTRACT).**

## **17. INDEMNITY AGREEMENT:**

### **17.1 INDEMNITY BY CONTRACTOR:**

(Circular no. 16/2007 dated 10.10.2007)

Unless otherwise specified elsewhere in this CONTRACT, CONTRACTOR shall indemnify and keep indemnified CORPORATION, its CONTRACTORS (other than the CONTRACTOR) and/or sub-CONTRACTORS and its/their employees from all actions, proceedings, suits, claims, demands, liabilities, damages, losses, costs, charges, expenses (including without limitation, wreck or debris, removal costs, where wreck or debris removal is ordered by a competent authority) judgements and fines arising out of or in the course of or caused by the execution of work under the CONTRACT or other obligations hereunder directly or indirectly associated herewith and or arising from :

(Circular 55/2003)

- a) personal injury, illness or death of :
  - i) any of CONTRACTOR's or subCONTRACTOR's personnel (even if caused by or contributed to by the negligence or fault of CORPORATION); and
  - ii) subject to clause 17.2 (a) (I) any other person to the extent the injury, illness or death is caused by the negligence or fault of the CONTRACTOR or CONTRACTOR's personnel or subCONTRACTORS or subCONTRACTOR's personnel and
  
- b) loss or damage to :
  - i) any property owned, hired or supplied by CONTRACTOR or CONTRACTOR's personnel or subCONTRACTORS or

- subCONTRACTOR's personnel including Constructional Plant (even if caused by, or contributed to by, the negligence or fault of CORPORATION); or
- ii) subject to clause 17.2 (b) (I) any other property to the extent the loss or damage is caused by the negligence or fault of the CONTRACTOR or CONTRACTOR's personnel or subCONTRACTORs or subCONTRACTOR's personnel.

## **17.2 INDEMNITY BY CORPORATION :**

(Circular no. 16/2007 dated 10.10.2007)

Unless otherwise specified elsewhere in this CONTRACT, CORPORATION shall indemnify and keep indemnified CONTRACTOR (which expression in this clause includes, unless the context otherwise requires. SubCONTRACTORs of any tier and their employees) from all actions, proceedings, suits, claims, demands, liabilities, damages, losses, costs, charges, expenses and fines arising from :

- a) personal injury, illness or death of
  - i) any employee of the CORPORATION (even if caused by or contributed to by the negligence or fault of CONTRACTOR);
  - ii) subject to clause 17.1 (a) (I) any other person to the extent that the injury, illness or death is caused by the negligence or fault of CORPORATION ; and
- b) any loss or damage to :
  - i) any property owned, hired or supplied by CORPORATION (even if caused by or contributed to by the negligence or fault of CONTRACTOR); except to the extent that such property is in the care or custody of CONTRACTOR in connection with the work under the CONTRACT.
  - ii) Subject to clause 17.1 (b) (I) any loss or damage to any other property to the extent the loss or damage is caused by the negligence or fault of CORPORATION.

## **18. TERMINATION**

### **18.1 Termination on expiry of the CONTRACT**

This Agreement shall be deemed to have been automatically terminated on the expiry of the CONTRACT period unless the ONGC has exercised its option to extend this CONTRACT in accordance with the provisions, if any, of this CONTRACT.

## 18.2 Termination on account of force majeure

Either party shall have the right to terminate this CONTRACT on account of Force Majeure, as set forth in clause \_\_\_\_\_

## 18.3 Termination on account of insolvency

In the event the CONTRACTOR or its collaborator at any time during the term of this Agreement becomes insolvent or makes a voluntary assignment of its assets for the benefit of creditors or is adjudged bankrupt, then the ONGC shall, by a notice in Writing have the right to terminate this CONTRACT and all the CONTRACTOR's rights and privileges hereunder, shall stand terminated forthwith.

## 18.4 Termination for unsatisfactory performance

If the ONGC considers that the performance of the CONTRACTOR is unsatisfactory or, not upto the expected standard, the ONGC shall notify the CONTRACTOR in writing and specify in detail the cause of such dissatisfaction. The ONGC shall have the option to terminate this Agreement by giving 30 days notice in writing to the CONTRACTOR, if, CONTRACTOR fails to comply with the requisitions contained in the said written notice issued by the ONGC.

(Circular No. 41/2008 dated 24.12.2008)

## 18.5 Termination for delay in mobilisation

Successful bidder shall be required to mobilise complete equipment alongwith crew (only manpower / crew in case of Operation and Maintenance Contracts) for commencement of services at the specified site within a maximum number of ... days from the date of Fax order / LOA/ NOA. If the CONTRACTOR (successful bidder) fails to mobilise as above, ONGC shall have, without prejudice to any other clause of the CONTRACT, the right to terminate the contract.

(Circular No. 23/2010 dated 09.07.2010)

## 18.6 Consequences of termination

In all cases of termination herein set forth, the obligation of the ONGC to pay shall be limited to the period upto the date of termination. Notwithstanding the termination of this Agreement, the parties shall continue to be bound by the provisions of this Agreement that reasonably require some action or forbearance after such termination.

In case of termination of Contract herein set forth, except under 18.1 and 18.2, and / or annulment of the contract due to non-submission of Performance Security (as per clause 36 of Annexure-I), following actions shall be taken against the Contractor:

- i. ONGC shall conduct an inquiry against the Contractor and consequent to the conclusion of the inquiry, if it is found that the fault is on the part of the Contractor, then they shall be put on holiday [i.e neither any tender enquiry will be issued to such a Contractor by ONGC against any type of tender nor their offer will be considered by ONGC against any ongoing tender(s) where contract between ONGC and that particular Contractor (as a bidder) has not been concluded] for a period of two years from the date the order for putting the Contractor on holiday is issued. However, the action taken by ONGC for putting that Contractor on holiday shall not have any effect on other ongoing contract(s), if any with that Contractor which shall continue till expiry of their term(s).
- ii. Pending completion of the enquiry process for putting the Contractor on holiday, ONGC shall neither issue any tender enquiry to the defaulting Contractor nor shall consider their offer in any ongoing tender.

(Circular No. 10/2012 dated 03.05.2012)

19. **DELAY IN MOBILISATION AND LIQUIDATED DAMAGES**

- (a) CONTRACTOR (successful bidder) shall mobilize and deploy the required manpower and the complete equipments so as to commence the services at the specified site (s) within a maximum of .....days from the date of Fax order / LOA / NOA (***Work center should specify the period depending upon nature of the services***).
- (b) If the CONTRACTOR fails to mobilize and deploy the required manpower / equipment and / or fails to commence the services within the period specified in sub clause (a) above, ONGC shall have, without prejudice to any other right or remedy in law or contract including sub clause (c) below, the right to terminate the contract.
- (c) If the contractor is unable to mobilize / deploy and commence the services within the period specified in sub clause (a) above, it may request ONGC for extension of the time with unconditionally agreeing for levy and recovery of LD. Upon receipt of such a request, ONGC may at its discretion, extend the period of mobilization and shall recover from the contractor, as an ascertained and agreed Liquidated Damages, a sum equivalent to 1/2 % of annual contract value, for each week of delay or part thereof, subject to a maximum of 10% of the annual contract value.



(d) The parties agree that the sum specified above is not a penalty but a genuine pre-estimate of the loss/damage which will be suffered by ONGC on account of delay on the part of the CONTRACTOR and the said amount will be payable without proof of actual loss or damage caused by such delay.

(e) LD will be calculated on the basis of annual contract value excluding duties and taxes, where such duties/taxes have been shown separately in the contract..

**20. 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.

20. (Clause on "Consequential Damages" deleted vide Circular No. 41/2008 dated 24.12.2008, as the provisions are covered under clause 35(a) below.)

**21. CHANGE IN LAW:**

(Circular No. 47/2009 dated 27.10.2009)

21.1 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 date of submission of Price Bid or revised price bid, if any, for this CONTRACT and which results in increased cost of the works under the CONTRACT through increased liability of taxes, (other than personnel and Corporate taxes), duties, the CONTRACTOR shall be indemnified for any such increased cost by the CORPORATION subject to the production of documentary proof to the satisfaction of the CORPORATION 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 CORPORATION.

21.2 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 date of submission of Price Bid or revised price bid, if any, for this CONTRACT and which results in any decrease in the cost of the works through reduced liability of taxes, (other than personnel and Corporate taxes) duties, the CONTRACTOR shall pass on the benefits of such reduced cost, taxes or duties to the

CORPORATION, to the extent which is directly attributable to such introduction of new legislation or change or amendment as mentioned above.

(Circular No. 26/2010 dated 13.07.2010)

21.3 All duties, taxes (except where otherwise expressly provided in the Contract) as may be levied / imposed in consequences of execution of the Works/Services or in relation thereto or in connection therewith as per the Acts, Laws, Rules, Regulations in force on the date of submission of Price Bid or revised price bid, if any, for the this CONTRACT shall be to CONTRACTOR's account. Any increase / decrease in the net amount of such duties, taxes (i.e. the amount of taxes/duties payable minus eligible credit of taxes / duties paid on input services / input) after the date of submission of price bid or revised price bid, if any, but within the contractual completion / mobilization date as stipulated in the CONTRACT will be to the account of CORPORATION.

21.4 Any increase in net amount of the duties and taxes (i.e. the amount of taxes/duties payable minus eligible credit of taxes / duties paid on input services / inputs) after the contractual completion / mobilization date during the extended period will be to the contractor's account, where delay in completion /mobilization period is attributable to the CONTRACTOR. However, any decrease in net amount of the duties and taxes (i.e. the amount of taxes/duties payable minus eligible credit of taxes / duties paid on input services / inputs) after the contractual completion / mobilization date will be to CORPORATION's account.

(Circular No. 47/2009 dated 27.10.2009)

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

21.6 Notwithstanding the provision contained in clause 21.1 to 21.4 above, the CORPORATION shall not bear any liability in respect of :

- (i) Personal taxes on the personnel deployed by CONTRACTOR, his sub-contractor / sub-sub contractors and Agents etc.
- (ii) Corporate taxes and Fringe benefit tax in respect of contractor and all of their sub-contractors, agents etc.

- (iii) Other taxes & duties including Customs Duty, Excise Duty and Service Tax in addition to new taxes etc. in respect of sub-contractors, vendors, agents etc of the CONTRACTOR.

(Circular No. 26/2010 dated 13.07.2010)

21.7 In order to ascertain the net impact of the revisions / enactment of various provisions of taxes / duties, the CONTRACTOR is liable to provide following disclosure to CORPORATION:

- (i) Details of each of the input services used in relation to providing service to CORPORATION including estimated monthly value of input service and service tax amount.
- (ii) Details of Inputs (material/consumable) used/required for providing service to ONGC including estimated monthly value of input and excise duty/CVD paid/payable on purchase of inputs.

## **22. LIABILITY OF THE GOVERNMENT OF INDIA:-**

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

## **23. FORCE MAJEURE:**

In the event of either party being rendered unable by Force Majeure to perform any obligation required to be performed by them under the CONTRACT, the relative obligation of the party affected by such Force Majeure shall be suspended for the period during which such cause lasts.

The term " Force Majeure" as employed herein shall mean acts of God, War, Civil Riots, Fire directly affecting the performance of the CONTRACT, Flood and Acts and Regulations of respective government of the two parties, namely ONGC and the CONTRACTOR.

Upon the occurrence of such cause and upon its termination, the party alleging that it has been rendered unable as aforesaid thereby, shall notify the other party in writing, the beginning of the cause amounting to Force Majeure as also the ending of the said clause by giving notice to the other party within 72 hours of the ending of the cause respectively. If deliveries are suspended by Force Majeure conditions lasting for more than 2 (two) months, ONGC shall have the option of canceling this CONTRACT in whole or part at his discretion without any liability at his part.

Time for performance of the relative obligation suspended by Force Majeure shall then stand extended by the period for which such cause lasts.

#### **24. EMPLOYMENT BY FIRMS TO OFFICIALS OF ONGC**

Firms/companies who have or had business relations with ONGC are advised not to employ serving ONGC employees without prior permission. It is also advised not to employ ex-personnel of ONGC within the initial two years period after their retirement/resignation/severance from the service without specific permission of ONGC. The ONGC may decide not to deal with such firm(s) who fail to comply with the above advice.

#### **25. PREFERENCE TO LOCAL COMPANIES:-**

CONTRACTOR agrees to give priority and preference to locally owned companies, when hiring Sub CONTRACTOR, SUBJECT TO price, quality and delivery being equivalent.

(Circular no. 06/2006 dated 28.04.2006)

25.1 Contractor shall source the fuels like petrol, diesel etc., if required for carrying out the works / services covered under this contract, from M/s. Mangalore Refinery & Petrochemicals Limited, Mangalore (a subsidiary of ONGC), wherever feasible.

#### **26. JURISDICTION AND APPLICABLE LAW:-**

This Agreement including all matter connected with this Agreement, 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 the Indian Courts (the place where the CONTRACT is signed in India).

Foreign companies, operating in India or entering into Joint ventures in India, shall have to obey the law of the Land and there shall be no compromise or excuse for the ignorance of the Indian legal system in any way.

## 27. ARBITRATION

### **(Circular No. 05/2011 dated 01.03.2011)**

**27.1 ARBITRATION (Applicable in case of supply orders/Contracts with firms, other than Public Sector Enterprises) (Not applicable in cases valuing less than Rs 5 lakhs)**

Except as otherwise provided elsewhere in the contract, 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 contract or breach thereof which parties are unable to settle mutually, the same shall be referred to Arbitration as provided hereunder:

1. A party wishing to commence arbitration proceeding shall invoke Arbitration Clause by giving 60 days notice to the other party. The notice invoking arbitration shall specify all the points of disputes 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.
2. The number of the arbitrators and the appointing authority will be as under:

<b>Claim amount (excluding claim for interest and counter claim, if any)</b>	<b>Number of arbitrator</b>	<b>Appointing authority</b>
Upto Rs. 50 lakhs	Sole Arbitrator to be appointed from a panel of retired officers from ONGC/other PSU/Non-PSU organizations.	ONGC [Note: ONGC will forward a list containing names of five retired officers from ONGC/other PSU/Non-PSU organizations for selecting one from the list who will be appointed as sole arbitrator by ONGC]
Above Rs. 50 lakhs to Rs.5 crores	Sole Arbitrator to be appointed from a panel of retired Jurists	ONGC [Note: ONGC will forward a list containing names of five jurists to the other party for selecting one from the list who will be appointed as sole arbitrator by ONGC]
Above Rs. 5 crores	3 Arbitrators	One arbitrator by each party and the

<b>Claim amount (excluding claim for interest and counter claim, if any)</b>	<b>Number of arbitrator</b>	<b>Appointing authority</b>
		3rd arbitrator, who shall be the presiding arbitrator, by the two arbitrators. ONGC will appoint its arbitrator from the panel of jurists.

3. The parties agree that they shall appoint only those persons as arbitrators who accept the conditions of this arbitration clause, including the fees schedule provided herein. No person shall be appointed as arbitrator or presiding arbitrator who does not accept the conditions of this arbitration clause.

4. Parties agree that there will be no objection if the Arbitrator appointed holds equity shares of ONGC and/or is a retired officer of ONGC / any other PSU. However, neither party shall appoint its serving employee as arbitrator.

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 proceed de novo.

6. Parties agree that neither party shall be entitled for any pre-reference or pendent-lite interest on its claims. Parties agree that any claim for such interest made by any party shall be void.

7. The arbitral tribunal shall make and publish the award within time stipulated as under:

Amount of Claims and Counter Claims (excluding interest)	Period for making and publishing of the award (counted from the date of first meeting of the arbitrators):
Upto Rs. 5 crores	Within 8 months
Above Rs. 5 crores	Within 12 months

The above time limit can be extended by the arbitrator(s), for reasons to be recorded in writing, with the consent of the parties.

8. Arbitrators shall be paid fees at the following rates:

<b>Amount of Claims and Counter Claims (excluding interest)</b>	<b>Lump sum fees (including fees for study of pleadings, case material, writing of the award, secretarial charges etc.) payable to each arbitrator (to be shared equally by the parties)</b>
Upto Rs 50 lakhs	Rs. 10,000 per meeting subject to a ceiling

	of Rs. 1,00,000/-.
Above Rs 50 lakhs to Rs 1 crore	Rs. 1,35,000/- plus Rs. 1,800/- per lakh or a part there of subject to a ceiling of Rs. 2,25,000/-.
Above Rs. 1 crore and upto Rs. 5 Crores	Rs. 2,25,000/- plus Rs. 33,750 per crore or a part there of subject to a ceiling of Rs. 3,60,000/-.
Above Rs. 5 crores and upto Rs. 10 crores.	Rs. 3,60,000/- plus Rs. 22,500/- per crore or a part there of subject to a ceiling of Rs. 4,72,500/-.
Above Rs. 10 crores	Rs. 4,72,500 plus Rs. 18,000/- per crore or part thereof subject to a ceiling of Rs. 15,00,000/-.

9. 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. Where the proceedings are put in abeyance or terminated on account of mutual settlement of dispute by the parties, the fees payable to the arbitrators shall be determined as under:

- (i) 20% of the fees if the claimant has not submitted statement of claim.
- (ii) 40% of the fees if the pleadings are complete.
- (iii) 60% of the fees if the hearing has commenced.
- (iv) 80% of the fees if the hearing is concluded but the award is yet to be passed.

10. Each party shall pay its share of arbitrator's fees in stages as under:

- (i) 20% of the fees on filing of reply to the statement of claim.
- (ii) 40 % of the fees on completion of pleadings.
- (iii) 20% of the fees on conclusion of the final hearing.
- (iv) 20% at the time when award is given to the parties.

11. Each party shall be responsible to make arrangements for the travel and stay etc of the arbitrator appointed by it. Claimant shall also be responsible for making arrangements for travel / stay arrangements for the Presiding Arbitrator and the expenses incurred shall be shared equally by the parties.

In case of sole arbitrator, ONGC shall make all necessary arrangements for his travel/ stay and the expenses incurred shall be shared equally by the parties.

12. The Arbitration shall be held at the place from where the contract has been awarded. However, parties to the contract can agree for a different place for the convenience of all concerned.

13. The Arbitrator(s) shall give reasoned and speaking award and it shall be final and binding on the parties.

14. Subject to the aforesaid conditions, 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.

#### 27.2 (Applicable in case of CONTRACT on Public Sector Enterprises)

In the event of any dispute or difference relating to, arising from or connected with the CONTRACT, such dispute or difference shall be referred by either party to the arbitration of one of the Arbitrators in the Department of Public Enterprises, to be nominated by the Secretary to the Government of India, In-charge of the Bureau of Public Enterprises. The Arbitration and Conciliation Act 1996 shall not be applicable to the Arbitration under this clause. The award of the Arbitrator shall be binding upon the parties to the dispute, provided however, any party aggrieved by such award may make a further reference for setting aside or revision of the award to the Law Secretary, Deptt. of Legal Affairs, Ministry of Law and Justice, Government of India. Upon such reference, the dispute shall be decided by the Law Secretary or the Special Secretary / Additional Secretary, whose decision shall bind the parties finally and conclusively. The parties in the dispute will share equally the cost of the arbitration as intimated by the Arbitrator.

(Circular No. 05/2011 dated 01.03.2011)

#### 27.3 **Resolution of disputes through conciliation by OEC** (Not applicable in cases valuing less than Rs 5 lakhs):

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 contract or breach thereof which parties are unable to settle mutually, the same may first be referred to conciliation through Outside Expert Committee ("OEC") to be constituted by CMD, ONGC as provided hereunder:

1. 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.
2. CMD, ONGC shall nominate three outside experts, one each from Financial/commercial, Technical and Legal fields from the Panel of Outside Experts maintained by ONGC who shall together be referred to as OEC (Outside Experts Committee).
3. 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.

4. The Proceedings of the OEC shall be broadly governed by Part III of the Arbitration and Conciliation Act, 1996 including any modifications thereof.
5. 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. Parties shall be at liberty to accept the OEC recommendation with any modification they may deem fit.
6. 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 and authenticated by all the OEC members either in person or through circulation. 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.
7. The parties shall keep confidential all matters relating to the conciliation proceedings. Confidentiality shall extend also to the settlement agreement, except where its disclosure is necessary for purposes of implementation and enforcement.
8. The parties shall not rely upon or introduce as evidence in any further arbitral or judicial proceedings, whether or not such proceedings relate to the dispute that is the subject of the conciliation proceedings,
  - (a) views expressed or suggestions made by the other party in respect of a possible settlement of the dispute;
  - (b) admissions made by the other party in the course of the OEC proceedings;
  - (c) proposals made by the OEC;
  - (d) the fact that the other party had indicated his willingness to accept a proposal for settlement made by the OEC.
9. The parties shall present their case before OEC only through their in-house executives. Neither party shall be represented by a lawyer unless OEC specifically desires that some issue of legal nature is in dispute that needs to be clarified / interpreted by a lawyer.
10. OEC members shall be entitled for the following fees and facilities:

Sl. No	Fees/ Facility	Entitlement	To be paid by
1.	Fees	Rs. 10,000 per meeting subject to maximum of Rs. 1,00, 000 for the whole case. In addition, one OEC member chosen by OEC	Claimant

		shall be paid an additional amount of Rs. 10,000 towards secretarial expenses in writing minutes / OEC recommendations.	
2.	Additional Fee for attending meeting to authenticate the settlement agreement	Rs. 10,000/-.	Claimant
3.	Transportation in the city of the meeting	Luxury car or Rs. 1,500 per day.	Claimant
4.	Venue for meeting	ONGC conference rooms/Hotels	ONGC
<b>Facilities to be provided to the out -stationed member</b>			
5.	Travel from the city of residence to the city of meeting	Business class air tickets/ first class train tickets/ Luxury car/ reimbursement of actual fare. However, entitlement of air travel by Business class shall be subject to austerity measures, if any, ordered by Govt of India.	Claimant
6.	Transport to and from airport / railway station in the city of residence	Luxury car or Rs. 2,000/-.	Claimant
7.	Stay for out stationed members	5 Star Hotel.	ONGC
8.	Transport in the city of meeting	Luxury car or Rs. 1500 per day.	Claimant

11. 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.

12. 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.

**28. CONTINUANCE OF THE CONTRACT: -**

Notwithstanding the fact that settlement of dispute(s) (if any) under arbitration may be pending, the parties hereto shall continue to be governed by and perform the work in accordance with the provisions under this CONTRACT.

## 29. **INTERPRETATION: -**

The titles and headings of the sections in this CONTRACT are inserted for convenient reference only and shall not be construed and limiting or extending the meaning of any provisions of this CONTRACT.

## 30.0 **ENTIRE AGREEMENT: -**

This Agreement supersedes all prior Agreements and commitments, whether oral or in writing between the parties concerning the subject matters thereof. The right of either party to require strict performances will not be affected by any previous waiver or course of dealing. Neither this Agreement nor any modification will be binding on a party unless signed by an authorised representative of CONTRACTOR and ONGC.

(Circular no. 16/2007 dated 10.10.2007)

## 31.0 **PATENT INDEMNITY**

31.1. The CONTRACTOR shall, subject to the CORPORATION'S compliance with Sub-Clause below, indemnify and hold harmless the CORPORATION and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the CORPORATION may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract by reason of:

- (a) the installation of the Items by the CONTRACTOR or the use of the Items in the country where the Site is located; and
- (b) the sale in any country of the products produced by the Items.

Such indemnity shall not cover any use of the Items or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, neither any infringement resulting from the use of the Items or any part thereof, or any products produced thereby in association or combination with any other equipment, plant, or materials not supplied by the CONTRACTOR, pursuant to the Contract.

31.2. If any proceedings are brought or any claim is made against the CORPORATION arising out of the matters referred to in GCC above Sub-Clause, the CORPORATION shall promptly give the CONTRACTOR a notice thereof, and the CONTRACTOR may at its own expense and in the CORPORATION'S name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

31.3. If the CONTRACTOR fails to notify the CORPORATION within twenty-eight (28) days after receipt of such notice that it intends to conduct

any such proceedings or claim, then the CORPORATION shall be free to conduct the same on its own behalf.

31.4. The CORPORATION shall, at the CONTRACTOR's request, afford all available assistance to the CONTRACTOR in conducting such proceedings or claim, and shall be reimbursed by the CONTRACTOR for all reasonable expenses incurred in so doing.

31.5. The CORPORATION shall indemnify and hold harmless the CONTRACTOR and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the CONTRACTOR may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the CORPORATION.

#### **32.0 INDEPENDENT CONTRACTOR STATUS:**

The CONTRACTOR shall act as an independent contractor performing the CONTRACT. The Contract does not create any agency, partnership, joint ventures or joint relationship between the parties.

Subject to all compliance with the CONTRACT, the CONTRACTOR shall be solely responsible for the manner in which works are performed. All employees, representatives or sub-CONTRACTORS engaged by the CONTRACTOR in performing the CONTRACT shall be under the complete control of the CONTRACTOR and shall not be deemed to be employees of the CORPORATION and nothing contained in the CONTRACT or in any sub-CONTRACT awarded by the CONTRACTOR shall be construed to create any contractual relationship between any such employees or representative or Sub-CONTRACTOR and the CORPORATION. CONTRACTOR shall be responsible for the acts, defaults or negligence of the CONTRACTOR, his agencies, servant or workmen.

#### **33.0 EXPORT/RE-EXPORT CONTROL RESTRICTIONS:**

In case there are certain export / re-export control restrictions imposed by parent country of the Contractor(s) w.r.t the items (i.e. goods, equipment, services, or technology) offered by them to Corporation regarding their end use or the end user or regarding their usage in certain other countries, then the Contractor can intimate about same while quoting in the Corporation's tender(s). Such intimation by the Contractor about the items (i.e. goods, equipment, services, or technology) being covered under export control regulations will not lead to rejection of the offer(s) in Corporation's tenders. Further, in case of award of Contract on such

bidder(s), it should be stipulated therein that the items (i.e. goods, equipment, services, or technology) being procured against this CONTRACT would be used by Corporation for exploration and exploitation of hydrocarbons in India only. However, if for any reasons whatsoever the end use or end user of these items are required to be changed or if these goods are to be taken for use in countries out side India, then Corporation would request the Contractor to obtain consent from the concerned authority in their country.

(Circular No. 08/2007 dated 07.06.2007)

**34.0 INTEGRITY PACT** (applicable for tenders above Rs 1 Crores):

The Integrity pact, duly signed by the authorized official of ONGC and the Contractor, will form part of this contract / supply order.

(Circular no. 17/2006 dated 24.07.2006)

**35.0 Limitation of Liability**

Notwithstanding any other provisions, except only in cases of willful misconduct and / or criminal acts,

a) Neither the Contractor nor the Company (ONGC) 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 Contractor to pay Liquidated Damages to the Company and

b) Notwithstanding any other provisions incorporated elsewhere in the contract, the aggregate liability of the Contractor in respect of this contract, whether under the Contract, in tort or otherwise, shall not exceed 50% of the annualized Contract Price, provided however that this limitation shall not apply to the cost of repairing or replacing defective equipment by the Contractor, or to any obligation of the Contractor to indemnify the Company with respect to Intellectual Property Rights.

c) Company shall indemnify and keep indemnified Contractor 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.

**Proforma of Bank Guarantee towards Performance Security.  
PERFORMANCE GUARANTEE**

Ref. No. \_\_\_\_\_ Bank Guarantee No \_\_\_\_\_  
Dated \_\_\_\_\_

To,

Oil & Natural Gas CORPORATION

\_\_\_\_\_  
\_\_\_\_\_  
India

Dear Sirs,

1. In consideration of Oil & Natural Gas CORPORATION Limited, incorporated under the Companies Act, 1956, having its Registered Office at Jeevan Bharti, Tower-II, 124 Connaught Circus, New Delhi-110001, India and one of its offices at \_\_\_\_\_ (hereinafter referred to as `ONGC', which expression shall, unless repugnant to the context or meaning thereof, include all its successors, administrators, executors and assignees) having entered into a CONTRACT No. \_\_\_\_\_ dated \_\_\_\_\_ (hereinafter called 'the CONTRACT' which expression shall include all the amendments thereto) with M/s \_\_\_\_\_ having its registered/head office at \_\_\_\_\_ (hereinafter referred to as the 'CONTRACTOR') which expression shall, unless repugnant to the context or meaning thereof include all its successors, administrators, executors and assignees) and ONGC having agreed that the CONTRACTOR shall furnish to ONGC a performance guarantee for Indian Rupees/US\$ ..... for the faithful performance of the entire CONTRACT.

2. We (name of the bank) \_\_\_\_\_ registered under the laws of \_\_\_\_\_ having head/registered office at \_\_\_\_\_ (hereinafter referred to as "the Bank", which expression shall, unless repugnant to the context or meaning thereof, include all its successors, administrators, executors and permitted assignees) do hereby guarantee and undertake to pay immediately on first demand in writing any /all moneys to the extent of Indian Rs./US\$ (in figures) \_\_\_\_\_ (Indian Rupees/US Dollars (in words) \_\_\_\_\_) without any demur, reservation, contest or protest and/or without any reference to the CONTRACTOR. Any such demand made by ONGC on the Bank by serving a written notice shall be conclusive and binding, without any proof, on the bank as regards the amount due and payable, notwithstanding any

dispute(s) pending before any Court, Tribunal, Arbitrator or any other authority and/or any other matter or thing whatsoever, as liability under these presents being absolute and unequivocal. We agree that the guarantee herein contained shall be irrevocable and shall continue to be enforceable until it is discharged by ONGC in writing. This guarantee shall not be determined, discharged or affected by the liquidation, winding up, dissolution or insolvency of the CONTRACTOR and shall remain valid, binding and operative against the bank.

3. The Bank also agrees that ONGC at its option shall be entitled to enforce this Guarantee against the Bank as a principal debtor, in the first instance, without proceeding against the CONTRACTOR and notwithstanding any security or other guarantee that ONGC may have in relation to the CONTRACTOR's liabilities.

4. The Bank further agrees that ONGC shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said CONTRACT or to extend time of performance by the said CONTRACTOR(s) from time to time or to postpone for any time or from time to time exercise of any of the powers vested in ONGC against the said CONTRACTOR(s) and to forbear or enforce any of the terms and conditions relating to the said agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said CONTRACTOR(s) or for any forbearance, act or omission on the part of ONGC or any indulgence by ONGC to the said CONTRACTOR(s) or any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have effect of so relieving us.

5. The Bank further agrees that the Guarantee herein contained shall remain in full force during the period that is taken for the performance of the CONTRACT and all dues of ONGC under or by virtue of this CONTRACT have been fully paid and its claim satisfied or discharged or till ONGC discharges this guarantee in writing, whichever is earlier.

6. This Guarantee shall not be discharged by any change in our constitution, in the constitution of ONGC or that of the CONTRACTOR.

7. The Bank confirms that this guarantee has been issued with observance of appropriate laws of the country of issue.

8. The Bank also agrees that this guarantee shall be governed and construed in accordance with Indian Laws and subject to the exclusive jurisdiction of Indian Courts of the place from where the purchase CONTRACT has been placed.

9. Notwithstanding anything contained herein above, our liability under this Guarantee is limited to Indian Rs./US\$ (in figures) \_\_\_\_\_

(Indian Rupees/US Dollars (in words) \_\_\_\_\_) and our guarantee shall remain in force until \_\_\_\_\_.(indicate the date of expiry of bank guarantee)

Any claim under this Guarantee must be received by us before the expiry of this Bank Guarantee. If no such claim has been received by us by the said date, the rights of ONGC under this Guarantee will cease. However, if such a claim has been received by us within the said date, all the rights of ONGC under this Guarantee shall be valid and shall not cease until we have satisfied that claim.

In witness whereof, the Bank through its authorised officer has set its hand and stamp on this ..... day of .....20\_\_ at .....

WITNESS NO. 1

-----

(Signature)  
Full name and official  
address (in legible letters)

-----

(Signature)  
Full name, designation and  
address (in legible letters)  
with Bank stamp

Attorney as per power of  
Attorney No.....  
Dated .....

WITNESS NO. 2

-----

(Signature)  
Full name and official  
address (in legible letters)



## **INSTRUCTIONS FOR FURNISHING PERFORMANCE GUARANTEE**

(Circular No. 12/2009 dated 06.03.2009)

1. The Bank Guarantee by Indian Bidders will be given on non-judicial stamp paper /franking receipt as per stamp duty applicable at the place from where the CONTRACT has been placed. The non-judicial stamp paper /franking receipt should be either in name of the issuing bank or the contractor.
2. Foreign parties are requested to execute bank guarantee as par law in their country.
3. Foreign bidders will give guarantee either in the currency of the offer or US \$ (US Dollar) i.e. Indian Rs/US \$ have been mentioned only for illustration. Therefore, in case where bank guarantee is being given in currency other than 'Rupees' or U.S.\$, indicate the relevant currency of the offer.
4. The expiry date as mentioned in clause 9 should be arrived at by adding 60 days to the CONTRACT completion date unless otherwise specified in the bidding documents.

(Circular no. 23/2013 dated 09.09.2013)

5. The bidders will give Bank Guarantee from any of the following categories of Banks:
  - (a) Any Scheduled Bank incorporated in India, Bank Guarantee issued by foreign branches / foreign offices of such Scheduled Banks be counter guaranteed by the Indian Branch of any Scheduled Bank incorporated in India.

OR
  - (b) Any Branch of an International Bank situated in India and registered with Reserve Bank of India as scheduled foreign bank.

OR
  - (c) Any foreign Bank which is not a Scheduled Bank in India provided the Bank Guarantee issued by such Bank is counter guaranteed by any Branch situated in India of any Scheduled Bank incorporated in India.

(Circular No. 10/2009 dated 04.03.2009)

**Appendix - 2**

Proforma for Irrevocable Bank Guarantee to be submitted by the contractor in lieu of payment of Customs Duty made by ONGC, on behalf of Contractor.

Bank Guarantee No. \_\_\_\_\_

Date \_\_\_\_\_

Ref. \_\_\_\_\_

To

Oil & Natural Gas Corporation Limited,

\_\_\_\_\_  
\_\_\_\_\_.

Dear Sir,

1. In consideration of Oil & Natural Gas Corporation Limited, incorporated under the Companies Act, 1956, having its Registered Office at Jeevan Bharti, Tower-II , 124 Connaught Circus, New Delhi-110001, India and one of its offices at \_\_\_\_\_ (hereinafter referred to as 'ONGC', which expression shall, unless repugnant to the context or meaning thereof, include all its successors, administrators, executors and assignees) having entered into a contract No. \_\_\_\_\_ dated \_\_\_\_\_ (hereinafter called 'the Contract' which expression shall include all the amendments thereto) with M/s \_\_\_\_\_ having its registered/head office at \_\_\_\_\_ (hereinafter referred to as the 'Contractor') which expression shall, unless repugnant to the context or meaning thereof include all its successors, administrators, executors and assignees) and the contract having been unequivocally accepted by the Contractor for \_\_\_\_\_ (nature of work) and ONGC having agreed to make a **payment of Rs. \_\_\_\_\_** (Rupees \_\_\_\_\_) **directly to Customs Authorities, on behalf of the Contractor, towards Customs Duty for importing the rigs/equipments/tools etc. which are required to be deployed for the performance of the Contract** against the Bank Guarantee to be furnished by the Contractor.

2. We (name of the bank) \_\_\_\_\_ registered under the laws of \_\_\_\_\_ having head/registered office at \_\_\_\_\_ (hereinafter referred to as "the Bank", which expression shall, unless repugnant to the context or meaning thereof, include all its successors, administrators, executors and permitted assignees) do hereby guarantee and undertake to pay immediately on first demand in writing any /all moneys to the extent of Indian Rs./US\$ (in figures) \_\_\_\_\_ (Indian Rupees/US Dollars (in words) \_\_\_\_\_) without any demur, reservation, contest or protest and/or without any reference to the Contractor. Any such demand made by ONGC on the Bank by serving a written notice shall be conclusive and binding, without any proof, on the bank as regards the amount due and payable, notwithstanding any dispute(s) pending before any Court, Tribunal, Arbitrator or any other authority and/or any other matter or thing whatsoever, as liability under these presents being absolute and unequivocal. We agree that the guarantee herein contained shall be irrevocable and shall continue to be enforceable

until it is discharged by ONGC in writing. This guarantee shall not be determined, discharged or affected by the liquidation, winding up, dissolution or insolvency of the Contractor and shall remain valid, binding and operative against the bank.

3. The Bank also agrees that ONGC at its option shall be entitled to enforce this Guarantee against the Bank as a principal debtor, in the first instance, without proceeding against the Contractor and notwithstanding any security or other guarantee that ONGC may have in relation to the Contractor's liabilities.

4. The Bank further agrees that ONGC shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said contract or to extend time of performance by the said Contractor(s) from time to time or to postpone for any time or from time to time exercise of any of the powers vested in ONGC against the said Contractor(s) and to forbear or enforce any of the terms and conditions relating to the said agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Contractor(s) or for any forbearance, act or omission on the part of ONGC or any indulgence by ONGC to the said Contractor(s) or any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have effect of so relieving us.

5. The Bank further agrees that the Guarantee herein contained shall remain in full force during the period that is taken for the performance of the contract and all dues of ONGC under or by virtue of this contract have been fully paid and its claim satisfied or discharged or till ONGC discharges this guarantee in writing, whichever is earlier.

6. This Guarantee shall not be discharged by any change in our constitution, in the constitution of ONGC or that of the Contractor.

7. The Bank confirms that this guarantee has been issued with observance of appropriate laws of the country of issue.

8. The Bank also agrees that this guarantee shall be governed and construed in accordance with Indian Laws and subject to the exclusive jurisdiction of Indian Courts of the place from where the purchase order has been placed.

9. Notwithstanding anything contained herein above, our liability under this Guarantee is limited to Indian Rs./US\$ (in figures) \_\_\_\_\_ (Indian Rupees/US Dollars (in words) \_\_\_\_\_) and our guarantee shall remain in force until \_\_\_\_\_.(indicate the date of expiry of bank guarantee)

Any claim under this Guarantee must be received by us before the expiry of this Bank Guarantee. If no such claim has been received by us by the said date, the rights of ONGC under this Guarantee will cease. However, if such a claim has been received by us within the said date, all the rights of ONGC under this Guarantee shall be valid and shall not cease until we have satisfied that claim.

In witness whereof, the Bank through its authorised officer has set its hand and stamp on this ..... day of .....200\_\_ at .....

WITNESS NO. 1

-----  
(Signature)  
Full name and official  
address (in legible letters)

-----  
(Signature)  
Full name, designation and  
address (in legible letters)  
with Bank stamp

Attorney as per power of  
Attorney No.....  
Dated .....

WITNESS NO. 2  
-----  
(Signature)  
Full name and official  
address (in legible letters)

**INSTRUCTIONS FOR FURNISHING BANK GUARANTEE IN LIEU OF PAYMENT OF CUSTOMS DUTY, ON BEHALF OF CONTRACTOR, AGAINST SERVICE CONTRACTS/CHARTER HIRING OF SERVICES / LSTK CONTRACTS ETC.**

(Circular No. 13/2009 & BL amendment No. BL/03/14 dated 19.03.2009)

1. The Bank Guarantee by Indian Contractors will be given on non-judicial stamp paper / franking receipt as per stamp duty applicable at the place from where the contract has been finalized. The non-judicial stamp paper / franking receipt should be either in name of the issuing bank or the contractor.

2. Foreign parties are requested to execute bank guarantee as per law in their country.

3. Foreign bidders will give bank guarantee either in the currency of the offer or US \$ (US Dollar).i.e. Indian Rs/US \$ have been mentioned only for illustration. Therefore, in case where bank guarantee is being given in currency other than 'Rupees' or U.S.\$, indicate the relevant currency of the offer. For determining the equivalent amount of Customs duty (payable in Indian Rupees), in other currencies, the rate of exchange prevailing on the date of issue of Bank Guarantee would be applicable.

4. The expiry date as mentioned in clause 9 should be arrived at by adding 60 days to the contract completion date unless otherwise specified in the bidding documents.

(Circular no. 23/2013 dated 09.09.2013)

5. The bidders will give Bank Guarantee from any of the following categories of Banks:

(a) Any Scheduled Bank incorporated in India, Bank Guarantee issued by foreign branches / foreign offices of such Scheduled Banks be counter guaranteed by the Indian Branch of any Scheduled Bank incorporated in India.

OR

(b) Any Branch of an International Bank situated in India and registered with Reserve Bank of India as scheduled foreign bank.

OR

(c) Any foreign Bank which is not a Scheduled Bank in India provided the Bank Guarantee issued by such Bank is counter guaranteed by any Branch situated in India of any Scheduled Bank incorporated in India.

5.(a) The Bank Guarantee by Indian contractor will be given from Nationalized/ Scheduled Banks only. The Foreign contractor will give Bank Guarantee from an Indian bank situated in their country.

(b) In case no Indian Bank is situated in foreign contractor's country, then Bank Guarantee from foreign Bank acceptable to ONGC as per the list of acceptable foreign banks (as enclosed in the bidding documents) will also be considered.

(c) If any foreign contractor desires to furnish bank guarantee from a bank other than those acceptable to ONGC, such contractor should furnish collateral security/ guarantee/ confirmation from any of the acceptable foreign banks or the State Bank of India.



(Circular No. 57/2010 dated 22.12.2010)

**Appendix – 3**  
**Proforma – “PFD”**

SUB: PARTICULARS OF PF CONTRIBUTION FOR THE MONTH OF MONTH 200

(1) Name of the Firm/ Agency/ Contractor \_\_\_\_\_ Nature of Contract : Job/ Service contract, AMC,  
O&M, Petty contract, Security,  
Seasonal

<p>(2) Postal address of the Contractor _____</p> <p>(3) Phone No. of the Contractor _____</p> <p>(4) Fax No. of the Contractor _____</p> <p>(5) Address of PF office from where EPF Code No. has been allotted: _____</p> <p>(6) EPF Code No. allotted by PF office _____</p> <p>(7) Address of ESIC office from where ESI Code No. has been allotted: _____</p> <p>(8) ESI Code No. allotted by ESIC Office _____</p> <p>(9) Period of Contract : From _____ to _____</p> <p>(a) Extension period of contract, if any From _____ to _____</p> <p>(b) Place where contract workmen are working _____</p> <p>(10) Labour Licence No. _____ dtd. _____</p> <p>(11) Validity period of Labour Licence From _____ To _____</p> <p>(12) Details of Deposition of contribution towards EPF</p> <p>(a) EPF Challan No. _____ Amount _____ Date _____</p> <p>(13) Details of Deposition of contribution towards ESI</p> <p>(a) ESI Challan No. _____ Amount _____ Date _____</p>	<p>(14) Details of contract labour engaged by the contractor</p> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th style="width: 30%;">Category</th> <th style="width: 30%;">No. of Workers</th> <th style="width: 40%;">Prevailing Min. wages</th> </tr> </thead> <tbody> <tr> <td>Unskilled</td> <td></td> <td></td> </tr> <tr> <td>Semi skilled</td> <td></td> <td></td> </tr> <tr> <td>Skilled</td> <td></td> <td></td> </tr> <tr> <td>Highly skilled</td> <td></td> <td></td> </tr> <tr> <td>Total</td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Category	No. of Workers	Prevailing Min. wages	Unskilled			Semi skilled			Skilled			Highly skilled			Total					
Category	No. of Workers	Prevailing Min. wages																				
Unskilled																						
Semi skilled																						
Skilled																						
Highly skilled																						
Total																						



Sl. No.	Full Name of the Contractual Workmen	Sub EPF Code No. of the Contractual Workman	No. of days present during the month	Amount paid		Total Amount paid	Employees PF Contribution @ 12%	Employers PF Contribution @ 3.67%	Employers EPS Contribution @ 8.33%	Total Contribution deposited (Col No.8 + Col.9 + Col.10)	Employees ESI contribution @ 1.75%	Employers ESI contribution @ 4.75%	Total Contribution deposited (Col No. 13 + Col no. 14)
				Mini Wage	Plus any other pay								
1	2	3	4	5	6	7	8	9	10	11	12	13	14

**CERTIFIED THAT**

- a) I have paid the notified minimum wages to my contractual workers as per the agreement.
- b) The above information is correct to the best of my knowledge.
- c) In case nay discrepancies or irregularities is /are noticed in this agreement, then ONGC is free to inform the PF/ESIC Authorities.
- d) Within one month on completion/expiry of the contract, I shall fill up the prescribed Forms for withdrawal or transfer of PF/Pension Account in favour of my contractual workmen under control and intimate to Principal Employer.
- e) Before the completion of contract, I shall serve one month notice to all my contractual workers, informing that their services will be terminated.
- f) Within one month on completion/expiry of the contract, I shall pay all the dues/ terminal dues such as leave with wages, bonus (if applicable), Gratuity (if applicable), to all my contractual workmen, failing which my Bank Guarantee/ Security Deposit may be withheld by ONGC.

Date:

Place:

Signature & Seal of the Contractor

The Employees' Provident Funds Scheme 1952

**FORM 12** (Revised)

THE EMPLOYEES' PROVIDENT FUND SCHEME, 1952

[Para 38(2)]

**STATEMENT OF CONTRIBUTION FOR THE MONTH OF**

.....

Wage Period From..... To .....

Name and Address of the Establishment ..... Code No.....

Sl. No.	A/C No.	Name of the member (in block Capitals)	Wages, retaining allowance (if any) and D.A. including cash value of food concession paid to the member during the wage period.	Amount of member's contribution deducted from the wages			Employer's contribution			Remarks
				EPF (a)	EPF 1.1/4% (b)	Total (c)	EPF (a)	EPF 1.1/4% (b)	Total (c)	
1	2	3	4	5			6			7

Total amount of contributions including refund of advances .....

Administrative charges .....

Total amount deposited in

(i) Account No. 1 Rs. ....

(ii) Account No. 10 Rs. ....

Bank in which deposited .....

No. and date of Bank Draft/Cheque Reserve Bank of India .....

Signature of the Employer or  
Other Authorised Officer  
Stamp of the Establishment

Dated .....

Note:- (1) The names of existing members should be shown in the list of each month in the consecutive serial order of the account numbers. New members whose names are shown in the return for the first time should be shown at the end with a heading "New Members". In the case of members transferred from another factory/establishment the name of the factory/establishment from which transferred should be given in the 'Remarks' column.

(2) Mention should be made in column No.8 above, about member's rate of voluntary contribution.

- (3) Variation in wages/contribution with that of previous month should be explained suitably in the remarks column.

**FROM 12A (Revised)**  
(For Unexempted Establishments only)  
THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952  
[Proviso to paragraph 38(2)]  
**STATEMENT OF CONTRIBUTION FOR THE MONTH OF .....**

Name and address of the establishment .....

Code No. of the establishment .....

**FORM 6A**  
 (For unexempted establishments only)  
 THE EMPLOYEES' PROVIDENT FUNDS SCHEME 1952  
 [Paragraph 30 and 38(3) and  
 THE EMPLOYEES' PENSION SCHEME, 1995  
 [Paragraphs 20(3)]  
**CONSOLIDATED ANNUAL CONTRIBUTION STATEMENT**

Annual statement of contribution for the Currency Period from 1<sup>st</sup> ..... 20.... to ..... 20 .....

Name and address of the Establishment ..... Statutory rate of contribution.

Code No. of the Establishment..... No. of members voluntarily contributing at a higher rate

Sl. No.	Account No.	Name of the member (in block capitals)	Wages, Retaining allowance (if any) and D.A. including cash value of food concession paid during the currency period	Amount of worker's contributions deducted from the wages	Employer's Contribution		Refund of Advance	Rate of higher voluntary contribution (if any)	Remarks
					EPF difference between 12% and 10%	Pension fund 10%			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	10

**FORM 6A (Continued)**

**RECONCILIATION OF REMITTANCES**

Sl. No	Month	AMOUNT REMITTED		ADMINISTRATION CHARGES Rs. At 1.10% of wages			Aggregate Contributions Cols 5+6+7 (Rs.)
		EPF Contributions including refund of advances A/c no. 1	Pension Fund contributions A/c No.10	DLI Contribution A/c No. 21 Rs.	Admn. Charges A/c No.2 Rs.	EDLI Admn. Charges 0.001% Rs.	Remarks
1	March paid in April	Rs.	Rs.	Rs.			(1) Total number of contribution cards enclosed (Form 3A Revised)  (2) Certified that Form 3A, duly completed, of all the members listed in this statement are enclosed, except those already send during the course of the currency period for the final settlement of the concerned members account vide Remarks furnished against the names of the respective members above.
2	April	Rs.	Rs.	Rs.			
3	May	Rs.	Rs.	Rs.			
4	June	Rs.	Rs.	Rs.			
5	July	Rs.	Rs.	Rs.			
6	Aug.	Rs.	Rs.	Rs.			
7	Sept.	Rs.	Rs.	Rs.			
8	Oct.	Rs.	Rs.	Rs.			
9	Nov.	Rs.	Rs.	Rs.			
10	Dec.	Rs.	Rs.	Rs.			
11	Jan.	Rs.	Rs.	Rs.			
12	Feb. paid in March	Rs.	Rs.	Rs.			
13	Arrear, If any	Rs.	Rs.	Rs.			
Total		Rs.	Rs.	Rs.			

Signature of employer with official seal

- NOTE:- (1) The names of all members, including those who had left service during the currency period, should be included in this statement. Where the Form 3A in respect of such members had left service were already sent to the Regional Office for the purpose of final settlement of their accounts, the fact should be stated against the members in the 'Remarks' column above thus "form 3A already sent in the month of ....."
- (2) In case of substantial variation in the wages/contributions of any member as compared to those shown in previous statement, the reason should be explained adequately in the 'Remarks' column.
- (3) In respect of those members who have not opted for Pension Fund their entire employers contribution @ 8.1/3% or 10% as the case may be shown under column no.6.

## BID EVALUATION CRITERIA [Services- ICB]

### A. Vital criteria for acceptance of bids:-

Bidders are advised not to take any exception/deviations to the bid document. Exceptions/ deviations, if any, should be brought out during the Pre-bid conference. In case Pre-bid conference is not held, the exceptions/ deviations along with suggested changes are to be communicated to ONGC within the date specified in the NIT and bid document. ONGC after processing such suggestions may, through an addendum to the bid document, communicate to the bidders the changes in its bid document, if any. Still, if exceptions /deviations are maintained in the bid, such conditional/ non-conforming bids shall not be considered and shall be outrightly rejected.

### B. REJECTION CRITERIA

#### B.1 Technical rejection criteria

The following vital technical conditions should be strictly complied with failing which the bid will be rejected:

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.

2.0 Eligibility and experience of the bidder:- **(Work centers to choose and fill up the blanks as per the requirement of the individual tender )**

(Circular No. 18/2009 dated 17.04.2009)

2.1(a) **(Work centers to choose and fill up the blanks as per the requirement of the individual tender, wherever required)**

The bidder should have minimum ...years of experience in providing *(similar)\** services.

Bidder should have executed at least ... *number* of contracts of *(similar)\** nature in the last ...years.

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.

***[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:***

***(\*) The word (similar)\* should be defined with specific reference to the nature of required Services;***

***Above details should be specified without restricting competition and also taking into account the nature and criticality of the Service.]***

2.1(b) In case the bidder is an Indian company/ Indian Joint venture company, either the Indian company/ Indian Joint venture company or its technical collaborator/ joint venture partner should meet the criteria laid down at 2.1(a).

2.2 Details of experience and past performance of the bidder and the collaborator (in case of collaboration) or of joint venture partner (in case of a joint venture), on works/ jobs done of similar nature in the past and details of current work in hand and other contractual commitments, indicating areas and clients are to be submitted along with the techno-commercial bid, in support of the experience laid down at para 2.1(a) and 2(b) above.

2.3 In case the bidder is a consortium of companies, the following requirement should be satisfied by the bidder:

- a) The leader of the consortium should satisfy the minimum experience requirement as per para 2.1(a) above.
- b) The leader of the consortium should confirm unconditional acceptance of full responsibility of executing the ' Scope of work' of this tender. This confirmation should be submitted along with the techno-commercial bid.
- c) All the members of the consortium must undertake in their MOU that each party shall be jointly and severally liable to ONGC for any and all obligations and responsibilities arising out of this contract.

2.4 (a) Indian companies/ Joint Venture companies :- Indian bidders whose proposal for technical collaboration/ Joint Venture involves foreign equity participation or payment of royalty and / or lumpsum for technical know-how and wherever Govt. approval is necessary, are required to submit copy of Govt. approval, on their application submitted to SIA, prior to the date price bid opening.

2.4 (b) Bidders should submit Memorandum Of Understanding (MOU) / Agreement with their technical collaborator/joint venture partner ( in case of Joint venture) clearly indicating their roles under the scope of work.

2.4 (c) MOU/ Agreement concluded by the bidder with technical collaborator/ joint venture partner (in case of joint venture), should also be addressed to ONGC, clearly stating that the MOU /Agreement is applicable to this tender and shall be binding on them for the contract period. Notwithstanding the MOU/Agreement, the responsibility of completion of job under this contract will be with the bidder.

(Circular No. 32/2011 dated 15.12.2011)

**2.5 Eligibility criteria in case bid is submitted on the basis of technical experience of the parent/subsidiary company (Applicable in ICB tenders only):**

Offers of those bidders who themselves do not meet the technical experience criteria as stipulated in the BEC can also be considered provided the bidder is a subsidiary company of the parent company in which the parent company has 100% stake or parent company can also be considered on the strength of its 100% subsidiary. However, the parent/subsidiary company of the bidder should on its own meet the technical experience as stipulated in the BEC and should not rely for meeting the technical experience criteria on its sister subsidiary/co-subsidiary company or through any other arrangement like Technical collaboration agreement. In that case as the subsidiary company is dependent upon the technical experience of the parent company or vice-versa with a view to ensure commitment and involvement of the parent/subsidiary company for successful execution of the contract, the participating bidder should enclose an Agreement **(as per format enclosed at Appendix A-1)** between the parent and the subsidiary company or vice-versa and Parent/Subsidiary Guarantee **(as per format enclosed at Appendix A-2)** from the parent/subsidiary company to ONGC for fulfilling the obligation under the Agreement, along with the techno-commercial bid.

**2.6 Eligibility criteria in case bid is submitted on the basis of technical experience of sister subsidiary/co-subsidiary company: (Applicable in ICB Tenders only):**

Offers of those bidders who themselves do not meet the technical experience criteria stipulated in the BEC can also be considered based on the experience criteria of their Sister subsidiary/Co-subsidiary company within the ultimate parent/holding company subject to meeting of the following conditions;

- i. Provided that the sister subsidiary/co-subsidiary company and the bidding company are both 100% subsidiaries of an ultimate



parent/holding company either directly or through intermediate 100% subsidiaries of the ultimate parent/holding company or through any other 100% subsidiary company within the ultimate/holding parent company. Documentary evidence to this effect to be submitted by the ultimate parent/holding company along with the techno-commercial bid.

- ii. Provided that the sister subsidiary/co-subsidary company on its own meets and not through any other arrangement like Technical collaboration agreement meets the technical experience criteria stipulated in the BEC.
- iii. Provided that with a view to ensure commitment and involvement of the ultimate parent/holding company for successful execution of the contract, the participating bidder shall enclose an agreement **(as per format enclosed at Appendix A-3)** between them, their ultimate parent/holding company and the sister subsidiary/co-subsidary company.
- iv. Provided that the turnover of the ultimate/holding parent company in the last financial year is more than US\$ 1 billion. Copy of the latest published Audited Annual Report to be submitted by the ultimate/holding parent company, along with the techno-commercial bid.
- v. 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 their multiple subsidiary sister company(ies)/co-subsidary company(ies) specializing in each sphere of activity, i.e. (a) manufacturing/supply (b) installation and commissioning (c) servicing and maintenance. However, all the sister subsidiary company(ies)/co-subsidary company(ies) and the bidding company should be 100% subsidiary company(ies) of an ultimate parent/holding company either directly or through intermediate 100% subsidiaries of the ultimate parent/holding company or through any other 100% subsidiary company within the ultimate/holding parent company. Documentary evidence to the effect that all the sister subsidiary company(ies)/ co-subsidary company(ies) are 100% subsidiaries of the ultimate/holding parent company should be submitted along with the techno-commercial bid.

3. **(OPTIONAL )** Training of ONGC engineers, if required in Bid document, should be confirmed.

(Circular No. 23/2010 dated 09.07.2010)

~~4. Rejection of offer of bidders on account of their poor performance in past performance w.r.t timely mobilization of the rigs, equipment and/or manpower: (Entire provision deleted vide Circular No. 49/2010 dated 29.10.2010)~~

## **B.2 Commercial rejection criteria**

The following vital commercial conditions should be strictly complied with failing which the bid will be rejected:

### **1.0 Proof of the sale/issue of bid document**

(Circular No. 28/2012 dated 05.10.2012)

The forwarding letter, in original, as a proof of issue of the tender document (purchased against payment of requisite tender fee), duly signed by tender issuing officer, must be sent by the bidder along with offer. In case the Bid document has been received free of cost, bidder must also submit the forwarding letter along with valid Registration certificate.

2.0 Bid should be submitted in Two Bid system in two separate envelopes. The Techno Commercial bid shall contain all details but with the price column of the price bid format blanked out. However a tick mark ( ✓ ) shall be provided against each item of the price bid format to indicate that there is a quote against this item in the Priced Commercial bid. The Priced bid shall contain only the prices duly filled in as per the price bid format.

Offers with techno commercial bid containing prices shall be rejected outright.

### **3.0 Acceptance of terms & conditions :**

The bidder must confirm unconditional acceptance of General Conditions of Contract at Annexure II, Special Conditions of Contract at Annexure III and Instruction to Bidders at Annexure I.

### **4.0 Offers of following kinds will be rejected:**

(a) Offers made without Bid Security/Bid Bond/Bank Guarantee alongwith the offer (Refer clause 17 of Instruction to Bidders at Annexure I).

(Circular No. 37/2009 dated 12.08.2009)

(b) Telex / Telegraphic / Fax / e-Mail / Xerox / Photo copy offers and bids with scanned signature. Original bids which are not signed manually.

(c) Offers made by Agents/Consultants/Retainers/Representatives/Associates of foreign principals.

- (d) Offers which do not confirm unconditional validity of the bid for 90 /120 (Work centers to choose which ever is applicable) days from the date of opening of bid.
- (e) Offers where prices are not firm during the entire duration of the contract and/or with any qualifications.
- (f) Offers which do not conform to ONGC's price bid format.
- (g) Offers which do not confirm to the mobilisation period indicated in the bid.
- (h) Offers which do not confirm to the contract period indicated in the bid.

(Circular no. 15/2007 dated 14.09.2007)

- (i) Offers of those bidders who quote mobilization charges which are higher than the limit specified in the BEC (wherever such limit is specified).

(Circular No. 05/2013 dated 23.01.2013)

- (j) Non-submission of Integrity Pact along with the bid, duly signed by the same signatory who signs the bids even after giving an opportunity after opening of techno-commercial bids. (applicable for tenders above Rs. 1 crore)

(Circular no. 03/2005 dated 18.02.2005)

- (k) (Applicable for Charter Hire of vessels such as Survey Vessels/OSV/MSV/PSV) The bidder not confirming availability of offered vessel at least one day prior to opening of price bids.

(Circular no. 25/2008 dated 05.08.2008)

- (l) Offers not accompanied with a copy of valid registration certificate under Service Tax Rules or an undertaking for submission of copy of requisite service tax registration certificate alongwith the first invoice under the contract. (Not Applicable for Service providers from outside India, who do not have any fixed establishment or permanent address in India).

Offers not accompanied with a declaration to the effect that the bidder do not have any fixed establishment or permanent address in India. **(Applicable for Service providers from outside India, who do not have any fixed establishment or permanent address in India).**

- (m) **(The underlined portions which are not applicable, or the full clause, to be deleted, if ONGC is in not a position to avail the Input VAT credit, or CENVAT credit, or both)**

Offers not accompanied with an undertaking to provide all the necessary certificates / documents for enabling ONGC to avail Input VAT credit and CENVAT credit benefits (wherever applicable), in respect of the payments of VAT, Excise Duty, Service Tax etc. which are payable against the

contract (if awarded), alongwith documentary evidence for payment of Excise Duty and Service Tax.

(Circular No. 39/2008 dated 05.12.2008)

(n) Offers not accompanied with a declaration that neither the bidders themselves, nor any of its allied concerns, partners or associates or directors or proprietors involved in any capacity, are currently serving any banning orders issued by ONGC debarring them from carrying on business dealings with ONGC.

(Circular No. 54/2010 dated 10.12.2010)

(o) Offers of those bidders who quote standby day rates/non-operating day rates higher than 95% of the quoted operating day rates.

(Circular no. 14/2008 dated 15.05.2008)

4.1 The offers of the bidders indicating/disclosing prices in techno-commercial (un-priced bid) or at any stage before opening of price-bid shall be straightaway rejected.

5.0 Bidder shall bear, within the quoted rates, the Personnel Tax as applicable in respect of their personnel and their sub-contractor's personnel, arising out of this contract. Bidder shall also bear, within the quoted rates, the Corporate Tax, as applicable, on the income arising out of this contract.

(Circular No. 01/2011 dated 04.01.2011)

## **6.0 Financial Criteria for Turnkey / Service Contracts and Supply of Goods:**

(To be incorporated in cases above Rs. 10 Crores only)

1. Turnover of Bidders : 30% of annualized bid value or more.
2. Net-worth of Bidder : Positive (as per latest audited **annual accounts**).

### **Notes:**

i. The basis of bid value shall be the price quoted by the bidder including duty and taxes, if any, which is taken into consideration for evaluation. However, in case Customs duty in respect of foreign bidders is not a part of their quotation, it shall not form basis for determining the bid value.

(Circular No. 07/2013 dated 19.02.2013)

ii. For the purpose of ascertaining parameter of Turnover of the bidder, average turnover of the bidder for the previous two financial years shall be

considered. Average turnover of the bidder for the previous 2 financial years shall be calculated by dividing the total turnover of previous two (2) years by two (2), irrespective of the fact that quoted turnover for one particular year is for a period of less than 12 months or complete 12 months. The bidder will provide a copy each of audited annual accounts of previous two financial years for ascertaining their turnover. The date (i.e the financial period closing date) of the immediate previous year's audited annual accounts should not be older than eighteen (18) months from the bid closing/un-priced bid opening date. In case of Two Bid System, in the un-priced bid, the bidder will submit a 'certificate of compliance' to the effect that the Turnover of the bidder is equal to or more than the required value as applicable.

iii. In case the information contained in the 'certificate of compliance', as in (ii) above, is found to be incorrect later on after opening of price bids, then their bids will be rejected in case the bidder is not actually meeting the required financial criteria.

(Circular No. 33/2011 dated 15.12.2011)

iv. In case the bidder is a newly formed company (i.e. one which has been incorporated in the last 5 years from the date of un-priced bid opening of the tender) who does not meet financial criteria (i.e. Turnover for 30% annualized bid value) by itself and submits his bid based on the financial strength of his promoter company, then following documents need to be submitted;

i. Turnover of the promoter company should be more than 30% of the annualized bid value.

ii. Net worth of the promoter company should be positive.

iii. Corporate Guarantee on promoter company's company letter head signed by an authorized official undertaking that they would financially support the newly formed company for executing the project/job in case the same is awarded to them, and

v. The bidder is a newly formed company i.e. one which has been incorporated in the last 5 years from the date of un-priced bid opening of the tender.

**iv-(a)** In case the bidder is a subsidiary company (should be a 100% subsidiary of the parent/ultimate parent/holding company) who does not meet financial criteria (i.e. Turnover for 30% annualized bid value) by itself and submits his bid based on the financial strength of his parent/ultimate parent/holding company, then following documents need to be submitted:

i. Turnover of the parent/ultimate parent /holding company should be more than 30% of the annualized bid value.

ii. Net worth of the parent/ultimate parent company should be positive.

iii. Corporate Guarantee on parent/ultimate parent/holding company's company letter head signed by an authorized official undertaking that they would financially support their 100% subsidiary company for executing the project/job in case the same is awarded to them, and

iv. The bidder is a 100% subsidiary company of the parent/ultimate/holding parent company.

v. If the bid is from a Consortium, then the net worth of all the consortium partners individually should be positive. Further, the consortium partners should individually meet the turnover limit in proportion to the percentage of work to be performed by them respectively in terms of the limit of turnover specified in the tender. For this purpose, the bidder should indicate in the un-priced bid, the percentage of work to be performed by the respective consortium members. However, the financial capability of sub-contractors will not be taken into consideration.

vi. In the tender, if there is specific provision allowing bidders to quote part quantity for each item/category/group (evaluation in that case being done item wise/category wise/ group wise), then for ascertaining the turnover, proportionate value to 30% of their annualized bid price for that part quantity which has been quoted, will be considered.

vii. In case delivery/contract period for supply of goods/services/turnkey projects is less than one year, then annual turn-over should be equivalent to 30% or more of the bid value.

**7.0 Indian agent is not permitted to represent more than one foreign bidder (Supplier/ Manufacturer/ Contractor) in a particular tender. In case an Indian agent represents more than one foreign bidder (Supplier/ Manufacturer/ Contractor) in a particular tender, then offers of such foreign bidders (Suppliers/ Manufacturers/ Contractors ) shall be rejected in that tender.**

### **C. Price Evaluation Criteria**

(Circular no. 25/2008 dated 05.08.2008)

While evaluating the bids, the closing B.C. Selling market rates of exchange declared by the State Bank of India on the day prior to the price bid opening will be taken into account for conversion of foreign currency into Indian Rupees. Where the time lag between opening of price bid and final decision exceeds three months, the B.C. selling market rate of exchange declared by SBI on the day prior to date of final decision will be adopted for conversion of foreign currency into Indian Rupees.

(Circular No. 19/2012 dated 02.08.2012)

2.1 Evaluation of bids:- " As per requirement" (Work center to clearly indicate the evaluation methodology as per requirements of the tender)

2.2 (applicable where at the time of invitation of tender, it is known that Service Tax would be applicable): Bidders are required to ascertain themselves, the prevailing rates of Service tax and all other taxes and duties as applicable (alongwith rates of all related levies viz. Surcharges, Cess, etc.,) on the scheduled date of submission of Price Bids/ revised Price Bids (if any) and ONGC would not undertake any responsibility whatsoever in this regard.

Accordingly, bidders (excluding the Service providers covered under clause 2.2.1 below) should quote the prices, clearly indicating the applicable rate of Service Tax, / description of service as per Service Tax rules (under which the respective service is covered) alongwith all other taxes and duties applicable. Details of abatements / deductions available, if any, should also be indicated specifically.

Total price inclusive of all taxes and duties (including Service Tax) as applicable shall be taken for evaluation.

In case the Services Tax and other taxes / duties are not quoted explicitly in the offer, the offer will be considered as inclusive of all liabilities of the same ( Tax & Duties).

In the contracts involving multiple services or involving supply of certain goods / materials alongwith the services, the Bidder should give separate break-up for cost of goods and cost of various services, and accordingly quote Service Tax as applicable for the taxable services. In case the Bidder does not give break-up of the quoted prices, separately indicating the components of taxable services and material to be supplied (if any), the Service Tax will be loaded on entire quoted / contract value for evaluation considering abatement, if an, as per statute.

Service Tax, if any applicable, on input services required to meet the scope of work will be borne by the Bidder within their quoted prices. The bidder must avail eligible CENVAT/VAT credit of tax/ duty paid on input services /capital goods/ Inputs and benefit of CENVAT/VAT credit should be passed on to ONGC by way of quoting rate(s) net of CENVAT/VAT credit i.e. gross value of service adjusted by CENVAT/VAT credit available to the bidder.

2.2.1 For Services received by ONGC in taxable Territory of India from a Service provider located outside the taxable territory of India, who does not have any fixed establishment or permanent address for providing taxable service in India, or as per relevant provisions of tender document, where the liability to pay 100% Service Tax is on ONGC, the Bidder should not include the Service Tax in his quoted price. However, the Service Tax as applicable will be loaded for evaluation on the portion of services which attract Service Tax. In case the Bidder does not give break-up of the quoted price, separately indicating the component for the

taxable services and material to be supplied (if any), the Service Tax will be loaded on entire quoted / Contract value.

2.2.2 For Services received by ONGC, where liability to pay Service Tax shall be partly on ONGC and partly on respective service provider as per clause No. 10.5.1 and 10.5.2 of Annexure-I, bidder should include 100% Service Tax in their quoted prices. However, payment to the contractor shall be made after deducting portion of Service Tax to be paid by ONGC directly to the tax authorities.

**Or**

**(Circular No. 24/2010 dated 13.07.2010, applicable where at the time of invitation of tender, it is known that Service Tax would not be applicable**

2.2 Bidders shall quote the prices exclusive of Service Tax as the same will not be taken into consideration for evaluation. However, in the contracts involving multiple services or involving supply of certain goods / materials alongwith the services, the Bidder should give separate break-up for cost of goods and cost of various services.

At present, Service Tax is not payable for the tendered services for the specified location. In case, Service Tax becomes applicable and levied later on, ONGC shall bear the Service Tax and interest, if any, imposed by Tax Authorities due to non-payment of service tax by the Bidder. In that case, the Bidder (Indian bidder and foreign bidder having permanent establishment in India) must avail eligible CENVAT credit of tax/ duty paid on input services /capital goods/ Inputs and benefit of CENVAT credit should be passed on to ONGC. Service Tax, if any applicable, for input services required to meet the scope of work will be borne by the Bidder within their quoted prices.

(Circular no. 25/2008 dated 05.08.2008)

2.3 If Customs Duty/Excise Duty/Sales Tax/Service Tax are being taken into account for the purpose of evaluation of bids then the rate of Customs Duty/Excise Duty/Sales Tax Service Tax as prevailing on the date of bid closing/date of revised price bid closing as the case may be will be taken into consideration for the propose of evaluation of bids. However, if there is any change in the rate of Customs Duty/Excise Duty /Sales Tax Service Tax after the date of bid closing/date of revised price bid closing but prior to award of the contract due to which there is any change in the original ranking of Bidders, then the Bidder who has emerged lowest based on the rate of Customs Duty/Excise Duty/Sales Tax Service Tax as prevailing on the date of bid closing/bid submission/opening of revised prices would be considered for award of contract but



subject to matching his prices with the Bidder who has emerged lowest as a result of modification in duties & taxes. In case originally evaluated L-1 Bidder fails to match the price (with the Bidder who emerges L-1 due to change in Duties) then the award of contract will go to the Bidder who subsequently emerges L-1 due to change in Duties

(Circular No. 23/2011 dated 24.06.2011)

### **3. Price preference applicable to domestic bidders in ICB**

Domestic Bidders quoting against ICB tender for Oil Field Services and LSTK contracts would be entitled to a price preference of upto ten percent (10%) over the lowest acceptable (evaluated) foreign bid subject to value addition. For ensuring value addition and eligibility for price preference, domestic bidders should provide all evidence necessary to prove that they meet the following criteria:

be registered within India.

have majority ownership by nationals of India and

not subcontract more than 50% of the Works measured in terms of value to foreign contractors. (In case of oil field services where use of capital intensive services is involved like hiring of drilling rigs, not more than 80% of the works measured in terms of value should be sub-contracted to foreign contractors).

For meeting the criteria at (iii) above, domestic bidders should obtain a certificate in original from practicing Statutory Auditor engaged by them for auditing their annual accounts, which could established that not more than 50% (in case of oil field services where use of capital intensive services is involved like hiring of drilling rigs, not more than 80%) of the works measured in term of value has been subcontracted to foreign contractors. The original certificate indicating various sub-contracting details in percentage terms as well as in absolute value should be submitted in the price bid. However, copy of the Statutory Auditors certificate indicating sub-contracting details in percentage terms only and with price details blanked out should be submitted in the un-priced bid.

Consortium between domestic (Indian) and foreign firms but led by Indian firm shall also be eligible for the price preference provided they fulfil the conditions of price preference given for domestic bidder at i, ii, iii above.

However, consortium between domestic and foreign firms led by foreign firm shall not be eligible for price preference even though their domestic partner satisfies the conditions given for domestic bidder at i, ii, iii above.

It must be noted that above information so furnished, if at any stage, found wrong, incorrect or misleading, will attract action as per rule/law.

The bidders are requested to check the latest position on the subject on their own and ONGC does not accept any liability whatsoever, on this account.

(Provisions at para 4.1 and 4.2 deleted vide Circular No. 22/2010 dated 09.07.2010)

(Circular no. 15/2007 dated 14.09.2007)

**D. Criteria for loading of bids (Work centers to add as per the requirement of the individual tender )**

Loading on account of higher service fee than permitted, higher break down time than permitted etc.

**E. General:**

1. The BEC over-rides all other similar clauses operating anywhere in the Bid Documents.
2. **The bidder/contractor is prohibited to offer any service / benefit of any manner to any employee of ONGC and that the contractor may suffer summary termination of contract / disqualification in case of violation.**
3. **On site inspection will be carried out by ONGC's officers / representative /Third Parties at the discretion of the ONGC.**

**Note:- Work centres depending on the individual tender requirement, may add clauses to this BEC to suit the specific need of the individual tender.**

(Appendix No. A-1)

**FORMAT OF AGREEMENT BETWEEN BIDDER AND THEIR PARENT COMPANY /  
100% SUBSIDIARY COMPANY (As the case may be)**

(TO BE EXECUTED ON STAMP PAPER OF REQUISITE VALUE AND NOTORISED)  
This agreement made this \_\_\_ day of \_\_\_ month \_\_\_ year by and between M/s. \_\_\_\_\_ (Fill in the Bidder's full name, constitution and registered office address) hereinafter referred to as bidder on the first part and M/s. \_\_\_\_\_ (Fill in full name, constitution and registered office address of Parent Company/Subsidiary Company, as the case may be) hereinafter referred to as "Parent Company/Subsidiary Company (Delete whichever not applicable)" of the other part:

WHEREAS

M/s. Oil & Natural Gas Corporation Limited (hereinafter referred to as ONGC) has invited offers vide their tender No. \_\_\_\_\_ for \_\_\_\_\_ and

M/s. \_\_\_\_\_ (Bidder) intends to bid against the said tender and desires to have technical support of M/s. \_\_\_\_\_ [Parent Company/Subsidiary Company-(Delete whichever not applicable)] and whereas Parent Company/Subsidiary Company (Delete whichever not applicable) represents that they have gone through and understood the requirements of subject tender and are capable and committed to provide the services as required by the bidder for successful execution of the contract, if awarded to the bidder.

Now, it is hereby agreed to by and between the parties as follows:

1. M/s. \_\_\_\_\_ (Bidder) will submit an offer to ONGC for the full scope of work as envisaged in the tender document as a main bidder and liaise with ONGC directly for any clarifications etc. in this context.
2. M/s. \_\_\_\_\_ (Parent Company/Subsidiary Company (Delete whichever not applicable)) undertakes to provide technical support and expertise, expert manpower and procurement assistance and project management to support the bidder to discharge its obligations as per the Scope of work of the tender / Contract for which offer has been made by the Parent Company/Subsidiary Company (Delete whichever not applicable) and accepted by the bidder.
3. This agreement will remain valid till validity of bidder's offer to ONGC including extension if any and till satisfactory performance of the contract in the event the contract is awarded by ONGC to the bidder
4. It is further agreed that for the performance of work during contract period bidder and Parent Company/Subsidiary Company (Delete whichever not applicable) shall be jointly and severally responsible to ONGC for satisfactory execution of the contract.
5. However, the bidder shall have the overall responsibility of satisfactory execution of the contract awarded by ONGC.

In witness whereof the parties hereto have executed this agreement on the date mentioned above.

For and on behalf of  
(Bidder)

For and on behalf of  
(Parent Company/Subsidiary Company (Delete whichever not applicable))

whichever not

M/s.  
Witness:  
1)  
2)

M/s.  
Witness:  
1)  
2)

**PARENT COMPANY/ SUBSIDIARY COMPANY GUARANTEE (~~Delete whichever not applicable~~)**

(TO BE EXECUTED ON STAMP PAPER OF REQUISITE VALUE AND NOTORISED)

**DEED OF GUARANTEE**

THIS DEED OF GUARANTEE executed at ..... this ..... day of ..... by M/s ..... (mention complete name) a company duly organized and existing under the laws of ..... (insert jurisdiction/country), having its Registered Office at ..... hereinafter called "the Guarantor" which expression shall, unless excluded by or repugnant to the subject or context thereof, be deemed to include its successors and permitted assigns.

WHEREAS

M/s Oil & Natural Gas Corporation Limited, a company duly registered under the Companies Act 1956, having its Registered Office at 8<sup>th</sup> floor, Jeevan Bharti, Tower-II, 124, Indira Chowk (Connaught Circus), New Delhi, India, and having an office, amongst others, at ..... (insert purchase centre address) hereinafter called "the Corporation" which expression shall unless excluded by or repugnant to the context thereof, be deemed to include its successor and assigns, invited tender number ..... for ..... on .....

M/s ..... (mention complete name), a company duly organized and existing under the laws of ..... (insert jurisdiction/country), having its Registered Office at ..... (give complete address) hereinafter called "the Company" which expression shall, unless excluded by or repugnant to the subject or context thereof, be deemed to include its successor and permitted assigns, have, in response to the above mentioned tender invited by the Corporation, submitted their bid number ..... to the Corporation with one of the condition that the Company shall arrange a guarantee from its parent company guaranteeing due and satisfactory performance of the work covered under the said tender including any change therein as may be deemed appropriate by the Corporation at any stage.

The Guarantor represents that they have gone through and understood the requirement of the above said tender and are capable of and committed to provide technical and such other supports as may be required by the Company for successful execution of the same.

The Company and the Guarantor have entered into an agreement dated ..... as per which the Guarantor shall be providing technical and such other supports as may be necessary for performance of the work relating to the said tender.

Accordingly, at the request of the Company and in consideration of and as a requirement for the Corporation to enter into agreement(s) with the Company, the Guarantor hereby agrees to give this guarantee and undertakes as follows:

1. The Guarantor (Parent Company / **100% Subsidiary Company** (~~Delete whichever not applicable~~) unconditionally agrees that in case of non-performance by the Company of any of its obligations in any respect, the Guarantor shall, immediately on receipt of notice of demand by the Corporation, take up the job without any demur or objection, in continuation and without loss of time and without any cost to the Corporation and duly perform the obligations of the Company to the satisfaction of the Corporation.
2. The Guarantor agrees that the Guarantee herein contained shall remain valid and enforceable till the satisfactory execution and completion of the work (including discharge of the warranty obligations) awarded to the Company.
3. The Guarantor shall be jointly with the Company as also severally responsible for satisfactory performance of the contract entered between the Company and the Corporation.
4. The liability of the Guarantor, under the Guarantee, is limited to the 50% of the annualized contract price entered between the Company and the Corporation. This

will, however, be in addition to the forfeiture of the Performance Guarantee furnished by the Company.

5. The Guarantor represents that this Guarantee has been issued after due observance of the appropriate laws in force in India. The Guarantor hereby undertakes that the Guarantor shall obtain and maintain in full force and effect all the governmental and other approvals and consents that are necessary and do all other acts and things necessary or desirable in connection therewith or for the due performance of the Guarantor's obligations hereunder.
6. The Guarantor also agrees that this Guarantee shall be governed and construed in accordance with the laws in force in India and subject to the exclusive jurisdiction of the courts of ....., India.
7. The Guarantor hereby declares and represents that this Guarantee has been given without any undue influence or coercion, and that the Guarantor has fully understood the implications of the same.
8. The Guarantor represents and confirms that the Guarantor has the legal capacity, power and authority to issue this Guarantee and that giving of this Guarantee and the performance and observations of the obligations hereunder do not contravene any existing laws.

For & on behalf of (Parent  
Company/Subsidiary Company (Delete whichever not applicable))

M/s \_\_\_\_\_

Witness:

1. Signature \_\_\_\_\_  
Full Name \_\_\_\_\_  
Address \_\_\_\_\_

Signature \_\_\_\_\_  
Name \_\_\_\_\_  
Designation \_\_\_\_\_

Common seal of the  
Company \_\_\_\_\_

Witness:

2. Signature \_\_\_\_\_  
Full Name \_\_\_\_\_  
Address \_\_\_\_\_

**INSTRUCTIONS FOR FURNISHING PARENT/SUBSIDIARY COMPANY GUARANTEE**

1. Guarantee should be executed on stamp paper of requisite value and notarised.
2. The official(s) executing the guarantee should affix full signature (s) on each page.
3. Resolution passed by Board of Directors of the guarantor company authorizing the signatory(ies) to execute the guarantee, duly certified by the Company Secretary should be furnished alongwith the Guarantee.
4. Following certificate issued by Company Secretary of the guarantor company should also be enclosed alongwith the Guarantee.  
"Obligation contained in the deed of guarantee No. \_\_\_\_\_ furnished against tender No. \_\_\_\_\_ are enforceable against the guarantor company and the same do not, in any way, contravene any law of the country of which the guarantor company is the subject"

(Appendix No. A-3)

**FORMAT OF AGREEMENT BETWEEN BIDDER THEIR SISTER SUBSIDIARY/CO-SUBSIDIARY COMPANY AND THE ULTIMATE PARENT/HOLDING COMPANY OF BOTH THE BIDDER AND THE SISTER SUBSIDIARY/CO-SUBSIDIARY (Strike out whichever is not applicable between Ultimate Parent and Holding Company. Similarly strike out whichever is not applicable between Sister Subsidiary and Co-subsidiary Company)**

**(TO BE EXECUTED ON STAMP PAPER OF REQUISITE VALUE AND NOTORISED)**

This agreement made this \_\_\_ day of \_\_\_ month \_\_\_ year by and between M/s. \_\_\_\_\_ (Fill in Bidder's full name, constitution and registered office address) \_\_\_\_\_ hereinafter referred to as "Bidder" of the first part and

M/s. \_\_\_\_\_ (Fill in full name, constitution and registered office address of Sister Subsidiary/Co-subsidiary Company of the Bidder) herein after referred to as "Sister Subsidiary/ Co-subsidiary" of the second part and

M/s. \_\_\_\_\_ (Fill in the full name, constitution and registered office address of the Ultimate Parent/Holding Company's of both the subsidiaries) hereinafter referred to as "Ultimate Parent/ Holding Company" of the third part.

WHEREAS

M/s. Oil & Natural Gas Corporation Limited (hereinafter referred to as ONGC) has invited offers vide their tender No. \_\_\_\_\_ for \_\_\_\_\_ and

M/s. \_\_\_\_\_ (Bidder) intends to bid against the said tender and desires to have a technical support of M/s. \_\_\_\_\_ (Sister Subsidiary/Co-subsidiary Company) and

Sister Subsidiary/Co-subsidiary Company represents that they have gone through and understood the requirements of subject tender and are capable and committed to provide the services as required by the bidder for successful execution of the contract, if awarded to the bidder.

Now, it is hereby agreed to by and between all the three parties as follows:

1. M/s. \_\_\_\_\_ (Bidder) will submit an offer to ONGC for the full scope of work as envisaged in the tender document.
2. M/s. \_\_\_\_\_ (Sister Subsidiary/Co-subsidiary Company) undertakes to provide technical support and expertise and expert manpower, material, if any, to support the bidder to discharge its obligations as per the Scope of work of the tender / Contract for which offer has been made by the bidder.
3. This agreement will remain valid till validity of bidder's offer to ONGC including extension if any and also till satisfactory performance of the contract in the event the bid is accepted and contract is awarded by ONGC to the bidder.
4. Sister Subsidiary/ Co-subsidiary Company unconditionally agrees that in case of award of contract to the Bidder, if the Bidder is unable to execute the contract, they shall, immediately on receipt of notice by ONGC, take up the job without any demur or objection, in continuation without loss of time and without any extra cost to ONGC and duly perform the obligations of the Bidder/Contractor to the satisfaction of ONGC.
5. The Ultimate Parent/Holding Company also confirms and undertakes that the commitment made by the Sister Subsidiary/ Co-subsidiary company in providing the technical support and technical expertise and expert manpower to support the bidder for execution of the contract are honoured.

6. The Ultimate Parent/Holding Company also takes full responsibility in getting the contract executed through the Sister subsidiary/ Co-subsiary company in case the Bidder/Contractor is unable to execute the contract.
7. In witness whereof the parties hereto have executed this agreement on the date mentioned above.

For and on behalf of (Bidder)	For and on behalf of (Sister Subsidiary / Co- subsidiary)	For and on behalf of (Ultimate Parent / Holding Company)
M/s.	M/s.	M/s.
Witness	Witness	Witness
1)	1)	1)
2)	2)	2)

Note: In case of contracts involving - (a) manufacture/supply (b) installation and commissioning (c) servicing and maintenance of any equipment, as the bidding company can draw on the experience of their multiple subsidiary sister/Co-subsiary company (ies) specializing in each sphere of activity, i.e. (a) manufacture/supply (b) installation and commissioning (c) servicing and maintenance, therefore, in that case, the above format shall be signed by all the sister/Co-subsiary company(ies) and necessary modifications may be made in the above format to include all sister subsidiaries.

## BID EVALUATION CRITERIA [Services- Indigenous]

### A. Vital criteria for acceptance of bids:-

Bidders are advised not to take any exception/deviations to the bid document. Exceptions/ deviations, if any, should be brought out during the Pre-bid conference. In case Pre-bid conference is not held, the exceptions/ deviations along with suggested changes are to be communicated to ONGC within the date specified in the NIT and bid document. ONGC after processing such suggestions may, through an addendum to the bid document, communicate to the bidders the changes in its bid document, if any. Still, if exceptions /deviations are maintained in the bid, such conditional/ non-conforming bids shall not be considered and may be rejected outright.

### B. REJECTION CRITERIA

#### B.1 Technical rejection criteria

The following vital technical conditions should be strictly complied with failing which the bid will be rejected:

1.0 Bid should be complete and covering the entire 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.

2. Eligibility and experience of the bidder:- **(Work centers to choose and fill up the blanks as per the requirement of the individual tender )**

(Circular No. 18/2009 dated 17.04.2009)

**2.1(a) (Work centers to choose and fill up the blanks as per the requirement of the individual tender, wherever required)**

The bidder should have minimum ...years of experience in providing (*similar*)\* services.

Bidder should have executed at least ... *number* of contracts of (*similar*)\* nature in the last ...years.

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.

***[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:***

***(\*) The word (similar)\* should be defined with specific reference to the nature of required Services;***

***Above details should be specified without restricting competition and also taking into account the nature and criticality of the Service.]***

2.1(b) In case the bidder is an Indian company/ Indian Joint venture company, either the Indian company/ Indian Joint venture company or its technical collaborator/ joint venture partner should meet the criteria laid down at 2.1(a).

2.2 Details of experience and past performance of the bidder and the collaborator (in case of collaboration) or of joint venture partner (in case of a joint venture), on works/ jobs done of similar nature in the past and details of current work in hand and other contractual commitments, indicating areas and clients are to be submitted along with the techno-commercial bid, in support of the experience laid down at para 3.1(a) and 3.1(b) above.

2.3 In case the bidder is a consortium of companies, the following requirement should be satisfied by the bidder:

- a) The leader of the consortium should satisfy the minimum experience requirement as per para 2.1(a) above.
- b) The leader of the consortium should confirm unconditional acceptance of full responsibility of executing the ' Scope of work' of this tender. This confirmation should be submitted along with the techno-commercial bid.
- c) All the members of the consortium must undertake in their MOU that each party shall be jointly and severally liable to ONGC for any and all obligations and responsibilities arising out of this contract.

2.4 (a) Indian companies/ Joint Venture companies :- Indian bidders whose proposal for technical collaboration/ Joint Venture involves foreign equity participation or payment of royalty and / or lumpsum for technical know-how and wherever Govt. approval is necessary, are required to submit copy of Govt. approval, on their application submitted to SIA, prior to the date price bid opening

2.4(b) Bidders should submit Memorandum Of Understanding (MOU) / Agreement with their technical collaborator/joint venture partner ( in case of Joint venture) clearly indicating their roles under the scope of work.

2.4 (c) MOU/ Agreement concluded by the bidder with technical collaborator/ joint venture partner (in case of joint venture), should also be addressed to ONGC, clearly stating that the MOU /Agreement is applicable to this tender and shall be binding on them for the contract period. Notwithstanding the MOU/Agreement, the responsibility of completion of job under this contract will be with the bidder.

3. **(OPTIONAL )** Training of ONGC engineers, if required in Bid document, should be confirmed.

(Circular No. 23/2010 dated 09.07.2010)

~~4. Rejection of offer of bidders on account of their poor performance in past performance w.r.t timely mobilization of the rigs, equipment and/or manpower: (Entire provision deleted vide Circular No. 49/2010 dated 29.10.2010)~~

## **B.2 Commercial rejection criteria**

The following vital commercial conditions should be strictly complied with failing which the bid will be rejected.

### **1.0 Proof of the sale/issue of bid document**

(Circular No. 28/2012 dated 05.10.2012)

The forwarding letter, in original, as a proof of issue of the tender document (purchased against payment of requisite tender fee), duly signed by tender issuing officer, must be sent by the bidder along with offer. In case the Bid document has been received free of cost, bidder must also submit the forwarding letter along with valid Registration certificate.

2.0 Bid should be submitted in Two Bid system in two separate envelopes. The Techno Commercial bid shall contain all details but with the price column of the price bid format blanked out. However a tick mark ( ✓ ) shall be provided against each item of the price bid format to indicate that there is a quote against this item in the Priced Commercial bid. The Priced bid shall contain only the prices duly filled in as per the price bid format.

Offers with techno commercial bid containing prices shall be rejected outright.

(Circular no. 14/2008 dated 15.05.2008)

2.1 The offers of the bidders indicating/disclosing prices in techno-commercial (un-priced bid) or at any stage before opening of price-bid shall be straightaway rejected.

3.0 Acceptance of terms & conditions :

The bidder must confirm unconditional acceptance of General Conditions of Contract at Annexure II, Special Conditions of Contract at Annexure III and Instruction to Bidders at Annexure I.

4.0 Offers of following kinds will be rejected:

- (a) Offers made without Bid Security/Bid Bond/Bank Guarantee alongwith the offer (Refer clause 17 of Instruction to Bidders at Annexure I).  
(Circular No. 37/2009 dated 12.08.2009)
- (b) Telex / Telegraphic / Fax / e-Mail / Xerox / Photo copy offers and bids with scanned signature. Original bids which are not signed manually.
- (c) Offers which do not confirm unconditional validity of the bid for 90 /120 (Work centers to choose which ever is applicable) days from the date of opening of bid.
- (d) Offers where prices are not firm during the entire duration of the contract and/or with any qualifications.
- (e) Offers which do not conform to ONGC's price bid format.
- (f) Offers which do not confirm to the mobilisation period indicated in the bid.
- (g) Offers which do not confirm to the contract period indicated in the bid.

(Circular no. 15/2007 dated 14.09.2007)

- (h) Offers of those bidders who quote mobilization charges which are higher than the limit specified in the BEC (wherever such limit is specified).

(Circular No. 05/2013 dated 23.01.2013)

- (i) Non-submission of Integrity Pact along with the bid, duly signed by the same signatory who signs the bids even after giving an opportunity after opening of techno-commercial bids. (applicable for tenders above Rs. 1 crore).

(Circular no. 03/2005 dated 18.02.2005)

- (j) (Applicable for Charter Hire of vessels such as Survey Vessels/OSV/MSV/PSV) The bidder not confirming availability of offered vessel at least one day prior to opening of price bids.

(Circular no. 25/2008 dated 05.08.2008)

- (k) Offers not accompanied with a copy of valid registration certificate under Service Tax Rules or an undertaking for submission of copy of

requisite service tax registration certificate alongwith the first invoice under the contract.

- (l) (The underlined portions which are not applicable, or the full clause, to be deleted, if ONGC is in not a position to avail the Input VAT credit, or CENVAT credit, or both)

Offers not accompanied with an undertaking to provide all the necessary certificates / documents for enabling ONGC to avail Input VAT credit and CENVAT credit benefits (wherever applicable), in respect of the payments of VAT, Excise Duty, Service Tax etc. which are payable against the contract (if awarded), alongwith documentary evidence for payment of Excise Duty and Service Tax.

(Circular No. 39/2008 dated 05.12.2008)

- (m) Offers not accompanied with a declaration that neither the bidders themselves, nor any of its allied concerns, partners or associates or directors or proprietors involved in any capacity, are currently serving any banning orders issued by ONGC debarring them from carrying on business dealings with ONGC.

(Circular No. 54/2010 dated 10.12.2010)

- (n) Offers of those bidders who quote standby day rates/non-operating day rates higher than 95% of the quoted operating day rates.

5.0 Bidder shall bear, within the quoted rates, the Personnel Tax as applicable in respect of their personnel and their sub-contractor's personnel, arising out of this contract. Bidder shall also bear, within the quoted rates, the Corporate Tax, as applicable, on the income arising out of this contract.

(Circular No. 01/2011 dated 04.01.2011)

#### **6.0 Financial Criteria for Turnkey / Service Contracts and Supply of Goods:**

(To be incorporated in cases above Rs. 10 Crores only)

1. Turnover of Bidders : 30% of annualized bid value or more.
2. Net-worth of Bidder : Positive (as per latest audited **annual accounts**).

#### **Notes:**

- i. The basis of bid value shall be the price quoted by the bidder including duty and taxes, if any, which is taken into consideration for evaluation.

However, in case Customs duty in respect of foreign bidders is not a part of their quotation, it shall not form basis for determining the bid value.

(Circular No. 07/2013 dated 19.02.2013)

ii. For the purpose of ascertaining parameter of Turnover of the bidder, average turnover of the bidder for the previous two financial years shall be considered. Average turnover of the bidder for the previous 2 financial years shall be calculated by dividing the total turnover of previous two (2) years by two (2), irrespective of the fact that quoted turnover for one particular year is for a period of less than 12 months or complete 12 months. The bidder will provide a copy each of audited annual accounts of previous two financial years for ascertaining their turnover. The date (i.e the financial period closing date) of the immediate previous year's audited annual accounts should not be older than eighteen (18) months from the bid closing/un-priced bid opening date. In case of Two Bid System, in the un-priced bid, the bidder will submit a 'certificate of compliance' to the effect that the Turnover of the bidder is equal to or more than the required value as applicable.

iii. In case the information contained in the 'certificate of compliance', as in (ii) above, is found to be incorrect later on after opening of price bids, then their bids will be rejected in case the bidder is not actually meeting the required financial criteria.

(Circular No. 33/2011 dated 15.12.2011)

iv. In case the bidder is a newly formed company (i.e. one which has been incorporated in the last 5 years from the date of un-priced bid opening of the tender) who does not meet financial criteria (i.e. Turnover for 30% annualized bid value) by itself and submits his bid based on the financial strength of his promoter company, then following documents need to be submitted;

i. Turnover of the promoter company should be more than 30% of the annualized bid value.

ii. Net worth of the promoter company should be positive.

iii. Corporate Guarantee on promoter company's company letter head signed by an authorized official undertaking that they would financially support the newly formed company for executing the project/job in case the same is awarded to them, and

v. The bidder is a newly formed company i.e. one which has been incorporated in the last 5 years from the date of un-priced bid opening of the tender.

**iv-(a)** In case the bidder is a subsidiary company (should be a 100% subsidiary of the parent/ultimate parent/holding company) who does not meet financial criteria (i.e. Turnover for 30% annualized bid value) by itself and submits his bid based on the financial strength of his

parent/ultimate parent/holding company, then following documents need to be submitted:

i. Turnover of the parent/ultimate parent /holding company should be more than 30% of the annualized bid value.

ii. Net worth of the parent/ultimate parent company should be positive.

iii. Corporate Guarantee on parent/ultimate parent/holding company's company letter head signed by an authorized official undertaking that they would financially support their 100% subsidiary company for executing the project/job in case the same is awarded to them, and

iv. The bidder is a 100% subsidiary company of the parent/ultimate/holding parent company.

v. If the bid is from a Consortium, then the net worth of all the consortium partners individually should be positive. Further, the consortium partners should individually meet the turnover limit in proportion to the percentage of work to be performed by them respectively in terms of the limit of turnover specified in the tender. For this purpose, the bidder should indicate in the un-priced bid, the percentage of work to be performed by the respective consortium members. However, the financial capability of sub-contractors will not be taken into consideration.

vi. In the tender, if there is specific provision allowing bidders to quote part quantity for each item/category/group (evaluation in that case being done item wise/category wise/ group wise), then for ascertaining the turnover, proportionate value to 30% of their annualized bid price for that part quantity which has been quoted, will be considered.

vii. In case delivery/contract period for supply of goods/services/turnkey projects is less than one year, then annual turn-over should be equivalent to 30% or more of the bid value.

### **C. Price Evaluation Criteria**

(Circular No. 19/2012 dated 02.08.2012)

1.1 Evaluation of bids:- " As per requirement" (Work center to clearly indicate the evaluation methodology as per requirements of the tender)

(applicable where at the time of invitation of tender, it is known that Service Tax would be applicable): Bidders are required to ascertain themselves, the prevailing rates of Service tax and all other taxes and duties as applicable (alongwith rates of all related levies viz. Surcharges, Cess, etc.,) on the scheduled date of submission of Price Bids/ revised Price Bids (if any) and ONGC would not undertake any responsibility whatsoever in this regard.

Accordingly, bidders (excluding the Service providers covered under clause 1.2.1 below) should quote the prices, clearly indicating the applicable rate of Service Tax, description of service as per Service Tax

rules (under which the respective service is covered) alongwith all other taxes and duties applicable. Details of abatements / deductions available, if any, should also be indicated specifically.

Total price inclusive of all taxes and duties (including Service Tax) as applicable shall be taken for evaluation.

In case the Services Tax and other taxes / duties is not quoted explicitly in the offer, the offer will be considered as inclusive of all liabilities of the same.

In the contracts involving multiple services or involving supply of certain goods / materials alongwith the services, the Bidder should give separate break-up for cost of goods and cost of various services, and accordingly quote Service Tax as applicable for the taxable services. In case the Bidder does not give break-up of the quoted prices, separately indicating the components of taxable services and material to be supplied (if any), the Service Tax will be loaded on entire quoted / contract value for evaluation as per provisions of the statute

Service Tax, if applicable, on input services required to meet the scope of work will be borne by the Bidder within their quoted prices. The bidder must avail eligible CENVAT/VAT credit of tax/ duty paid on input services /capital goods/ Inputs and benefit of CENVAT/VAT credit should be passed on to ONGC. by way of quoting rate(s) net of CENVAT/VAT credit i.e. gross value of service adjusted by CENVAT/VAT credit available to the bidder.

1.2.1 For Services received by ONGC, in taxable territory of India where as per relevant provisions of tender document, the liability to pay 100% Service Tax is on ONGC, the Bidder should not include the Service Tax in his quoted price. However, the Service Tax as applicable will be loaded for evaluation on the portion of services which attract Service Tax. In case the Bidder does not give break-up of the quoted price, separately indicating the component for the taxable services and material to be supplied (if any), the Service Tax will be loaded on entire quoted / Contract value.

2.2.2 For Services received by ONGC, where liability to pay Service Tax shall be discharged partly by ONGC and partly by respective service provider as per clause No. 10.5.1 and 10.5.2 of Annexure-I, bidder should include 100% Service Tax in their quoted prices. However, payment to the contractor shall be made after deducting portion of Service Tax to be paid by ONGC directly to the tax authorities.

Or

**((Circular No. 24/2010 dated 13.07.2010, applicable where at the time of invitation of tender, it is known that Service Tax would not be applicable))**

1.2 Bidders shall quote the prices exclusive of Service Tax as the same will not be taken into consideration for evaluation. However, in the contracts involving multiple services or involving supply of certain goods / materials alongwith the services, the Bidder should give separate break-up for cost of goods and cost of various services.

At present, Service Tax is not payable for the tendered services for the specified location. In case, Service Tax becomes applicable and levied later on, ONGC shall bear the Service Tax and interest, if any, imposed by Tax Authorities due to non-payment of service tax by the Bidder. In that case, the Bidder must avail eligible CENVAT credit of tax/ duty paid on input services /capital goods/ Inputs and benefit of CENVAT credit should be passed on to ONGC. Service Tax, if any applicable, for input services required to meet the scope of work will be borne by the Bidder within their quoted prices.

(Circular no. 25/2008 dated 05.08.2008)

1.3 If Customs Duty/Excise Duty/Sales Tax/Service Tax are being taken into account for the purpose of evaluation of bids then the rate of Customs Duty/Excise Duty/Sales Tax Service Tax as prevailing on the date of bid closing/date of revised price bid closing as the case may be will be taken into consideration for the propose of evaluation of bids. However, if there is any change in the rate of Customs Duty/Excise Duty /Sales Tax Service Tax after the date of bid closing/date of revised price bid closing but prior to award of the contract due to which there is any change in the original ranking of Bidders, then the Bidder who has emerged lowest based on the rate of Customs Duty/Excise Duty/Sales Tax Service Tax as prevailing on the date of bid closing/bid submission/opening of revised prices would be considered for award of contract but subject to matching his prices with the Bidder who has emerged lowest as a result of modification in duties & taxes

In case originally evaluated L-1 Bidder fails to match the price (with the Bidder who emerges L-1 due to change in Duties) then the award of contract will go to the Bidder who subsequently emerges L-1 due to change in Duties.

(Provision of Purchase Preference to central PSUs deleted vide Circular No. 22/2010 dated 09.07.2010)

(Circular no. 15/2007 dated 14.09.2007)



**D. Criteria for loading of bids (Work centers to add as per the requirement of the individual tender )**

Loading on account of higher service fee than permitted, higher break down time than permitted etc.

**E. General:**

1. The BEC over-rides all other similar clauses operating anywhere in the Bid Documents.
2. **The bidder/contractor is prohibited to offer any service / benefit of any manner to any employee of ONGC and that the contractor may suffer summary termination of contract / disqualification in case of violation.**
3. **On site inspection will be carried out by ONGC's officers / representative /Third Parties at the discretion of the ONGC.**

**Note:-** Work centres depending on the individual tender requirement, may add clauses to this BEC to suit the specific need of the individual tender.