



PMC Cell – MM

Oil and Natural Gas Corporation Ltd

Corporate Materials Management

2nd Floor, Tower-A, Pandit Deendayal Upadhyaya Urja Bhawan,

5, Nelson Mandela Marg, Vasant Kunj, New Delhi -110 070

Tel – (011)26752002 Fax – (011) 26129091

Circular No. 54/2016-cum-IMMM Amendment No. 21/2016-cum-BL Amendment No.
BL/01/97, 02/75 and 03/37

No: MAT/PMC/13(186)1/2016

Dated: 29.12.2016

Sub: Resolution of disputes through conciliation by OEC.

Reference is invited to circular No. 35/2015 dated 22.09.2015, whereby provisions on Resolution of disputes through conciliation by OEC were notified for incorporating in contract conditions for procurement of goods, services (including charter hire of rigs) and LSTK contracts.

Board in its 48th Meeting held on 26.10.2016 has approved Revised Guidelines for conciliation through Outside Expert Committee (OEC).

Accordingly, relevant provisions of Integrated MM Manual and contract conditions for procurement of goods, services and charter hire of rigs stand modified as per enclosed Appendix-1 and 2 respectively. Work centres are advised to carry similar modifications in the contract conditions for other type of contracts also.

Above guidelines are issued in supersession of all earlier circulars/office orders/instructions on the subject and should be meticulously followed in all future cases (including cases where technical bids are yet to be opened) valuing above Rs. 10 Lakhs.

 29/12/16

(Ashwini Nagia)
ED-Chief MM Services

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

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

Copy to:

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

Appendix-1

Statement showing existing vis-à-vis modified provisions of Integrated MM Manual.

Para No.	Existing provisions	Modified Provisions
24.8.1	The cases for Resolution of disputes through conciliation by OEC shall be processed as per the guidelines issued vide circular No. (35/2015 dated 22.09.2015), as may be amended from time to time.	The cases for Resolution of disputes through conciliation by OEC shall be processed as per the guidelines issued vide circular No. (54/2016 dated 29.12.2016), as may be amended from time to time.

Appendix-2

Statement showing existing vis-à-vis modified provisions of standard contract conditions for procurement of Goods and Services
(including Charter hire of rigs).

Para No.	Existing provisions	Modified Provisions
42.1 & 33.1 under Annexure-2 of BL 01 & 02 respectively and 27.3 under Annexure-2 of BL/03 and standard contract conditions for Service contracts.	<p>Resolution of disputes through conciliation by OEC (Not applicable in cases valuing less than Rs <u>10 lakhs</u>):</p> <p>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:</p>	<p>Resolution of disputes through conciliation by OEC (Not applicable in cases valuing less than Rs <u>10 lakhs</u>):</p> <p>Parties hereby agree as under:</p> <p>If any difference or dispute (hereinafter referred as “Dispute”) under the Contract arises, the party shall give a 60 days written notice (“Dispute Notice”) to the identified officer of the other party mentioned in the Contract giving details of the Dispute. The Parties shall use all reasonable endeavours to resolve the Dispute mutually and amicably. All efforts by either party within these 60 days Dispute Notice Period shall be kept confidential by both the parties under Section 75 of the Arbitration and Conciliation Act, 1996. Parties shall not rely upon any views expressed or suggestions made by the other party, admissions made by the other party or the fact that the other party had indicated his willingness to enter into a settlement as evidence in any Forum / arbitration / court proceeding.</p> <p>If Parties are unable to resolve the Dispute amicably within 60 days of receipt of the Dispute Notice, then after expiry of the 60 days’ Dispute notice period, the aggrieved Party can refer the Dispute to conciliation and / or arbitration subject to terms and conditions contained herein below:</p>

		<p>1) Parties further agree that following matters shall not be referred to conciliation or arbitration:</p> <p>i) Any claim, difference or dispute relating to, connected with or arising out of ONGC's decision to initiate any proceedings for suspension or banning, or decision to suspend or to ban business dealings with the Bidder / Contractor and/or with any other person involved or connected or dealing with bid / contract / bidder / contractor.</p> <p>ii) Any claim, difference or dispute relating to, connected with or arising out of ONGC's decision under the provisions of Integrity Pact executed between ONGC and the Bidder / Contractor.</p> <p>2) Conciliation: (Not applicable in cases valuing less than Rs 10 lakhs)</p> <p>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:</p>
	<p><u>Proposal for OEC</u></p> <p>1. Conciliation through OEC will be resorted in cases involving disputed amount upto Rs. 250 crores only. The disputed amount will be calculated by considering the amount of claim and counter-claim of the parties.</p>	<p><u>Proposal for OEC</u></p> <p>1. Conciliation through OEC will be resorted in cases involving disputed amount upto Rs. 250 crores only. The disputed amount will be calculated by considering the amount of claim and counter-claim of the parties.</p>

2. Claimant shall give notice for conciliation. In cases where the contractor is claimant then the notice shall be given to the concerned ONGC office as per the contract, clearly bringing out the points of dispute and the amount claimed with documents in support of the claim and the party concerned shall not raise any new issue thereafter.

Constitution of OEC

3. CMD, ONGC will have the sole discretion to constitute OEC. OEC will be formed from the panel of experts maintained by ONGC and will normally comprise of three members, one member from each category i.e. Technical; Finance/Commercial; and Legal. However, there will be a single member OEC for disputes involving a claim and counter claim (if any) upto Rs 1 crore, CMD will have authority to reconstitute an OEC to fill any vacancy or if any OEC member is not available to attend the OEC Meetings.

4. Upon constitution of the OEC, Chief Legal Services, ONGC will issue the appointment letters to OEC members and the parties concerned.

5. The OEC members shall give a declaration of independence and impartiality (as per Annexure C*) to both the parties before the commencement of the OEC proceedings.

Proceedings before OEC

2. Claimant shall give notice for conciliation. In cases where the contractor is claimant then the notice shall be given to the concerned ONGC office as per the contract, clearly bringing out the points of dispute and the amount claimed with documents in support of the claim and the party concerned shall not raise any new issue thereafter.

Constitution of OEC

3. CMD, ONGC will have the sole discretion to constitute OEC. OEC will be formed from the panel of experts maintained by ONGC and will normally comprise of three members, one member from each category i.e. Technical; Finance/Commercial; and Legal. However, there will be a single member OEC for disputes involving a claim and counter claim (if any) upto Rs 1 crore, CMD will have authority to reconstitute an OEC to fill any vacancy or if any OEC member is not available to attend the OEC Meetings.

4. Upon constitution of the OEC, Chief Legal Services, ONGC will issue the appointment letters to OEC members and the parties concerned.

5. The OEC members shall give a declaration of independence and impartiality (as per Appendix 4) to both the parties before the commencement of the OEC proceedings.

Proceedings before OEC

<p>6. The claimant shall submit its statement of claims to OEC members, and to the parties prescribed in the appointment letter within 30 days of the issue of the appointment letter (as per Annexure D*).</p> <p>7. The respondent shall file its reply and counter claim (if any) within 30 days of the receipt of the statement of claims.</p> <p>8. Parties may file their rejoinder/additional documents if any in support of their claim/counter claim within next 15 days. No documents shall be allowed thereafter, except with the permission of OEC.</p> <p>9. OEC will commence its meetings only after completion of the pleadings as detailed at paras 6 to 8 above.</p> <p>10. In case of 3 members OEC, 2 members will constitute a valid quorum and the meeting can take place to proceed in the matter after seeking consent from the member who is not available. If necessary video conferencing may be arranged. However, OEC Recommendations will be signed by all Members. Further, efforts must be made for unanimous recommendations.</p> <p>11. The parties shall be represented by their in-house employees/executives. No party shall bring any advocate or outside consultant/advisor/agent. Ex-officers of ONGC who have handled the matter in any capacity are not allowed to attend and present the case before OEC on behalf of Contractor. However, ex-employees of parties</p>	<p>6. The claimant shall submit its statement of claims to OEC members, and to the parties prescribed in the appointment letter within 30 days of the issue of the appointment letter (as per Appendix 4).</p> <p>7. The respondent shall file its reply and counter claim (if any) within 30 days of the receipt of the statement of claims.</p> <p>8. Parties may file their rejoinder/additional documents if any in support of their claim/counter claim within next 15 days. No documents shall be allowed thereafter, except with the permission of OEC</p> <p>9. OEC will commence its meetings only after completion of the pleadings.</p> <p>10. In case of 3 members OEC, 2 members will constitute a valid quorum and the meeting can take place to proceed in the matter after seeking consent from the member who is not available. If necessary video conferencing may be arranged. However, OEC Recommendations will be signed by all Members. Further, efforts must be made for unanimous recommendations.</p> <p>11. The parties shall be represented by their in-house employees/executives. No party shall bring any advocate or outside consultant/advisor/agent. Ex-officers of ONGC who have handled the matter in any capacity are not allowed to attend and present the case before OEC on</p>
---	--

	<p>may represent their respective organizations.</p> <p>12. Solicitation or any attempt to bring influence of any kind on either OEC Members or ONGC is completely prohibited in conciliation proceedings and ONGC reserves the absolute right to close the conciliation proceedings at its sole discretion if it apprehends any kind of such attempt made by the Contractor or its representatives.</p> <p>13. Parties agree to rely only upon documentary evidence in support of their claims and not to bring any oral evidence in the OEC proceedings.</p> <p>14. OEC will give full opportunity of hearing to the parties before giving its recommendations.'</p> <p>15. OEC will conclude its proceedings in maximum 10 meetings, and give its recommendations within 90 days of its first meeting. OEC will give its recommendations to both the parties recommending possible terms of settlement CMD, ONGC may extend the time/ number of meetings, in exceptional cases, if OEC requests for the same with sufficient reasons.</p> <p>16. OEC members will be paid fees and provided facilities (as detailed <u>under point 27 of this clause</u>) hereinafter, subject to revision by ONGC from time to time and subject to Government guidelines on austerity measures, if any.</p>	<p>behalf of Contractor. However, ex-employees of parties may represent their respective organizations.</p> <p>12. Solicitation or any attempt to bring influence of any kind on either OEC Members or ONGC is completely prohibited in conciliation proceedings and ONGC reserves the absolute right to close the conciliation proceedings at its sole discretion if it apprehends any kind of such attempt made by the Contractor or its representatives.</p> <p>13. Parties agree to rely only upon documentary evidence in support of their claims and not to bring any oral evidence in the OEC proceedings.</p> <p>14. OEC will give full opportunity of hearing to the parties before giving its recommendations.</p> <p>15. OEC will conclude its proceedings in maximum 10 meetings, and give its recommendations within 90 days of its first meeting. OEC will give its recommendations to both the parties recommending possible terms of settlement CMD, ONGC may extend the time/ number of meetings, in exceptional cases, if OEC requests for the same with sufficient reasons.</p> <p>16. OEC members will be paid fees and provided facilities (as detailed under point 27 of this clause) hereinafter, subject to revision by ONGC from time to time and subject to Government guidelines on austerity measures, if any.</p>
--	---	--

<p>17. Depending upon the location of the OEC members and the parties, the venue of the OEC meeting shall be either Delhi or Mumbai whichever is most economical from the point of view of travel and stay etc.</p> <p>18. 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 and 30 days thereafter in any further proceeding.</p> <p>19. Legally, parties are under no obligation to refer a dispute to conciliation or continue with conciliation proceedings. Parties are free to terminate the conciliation proceedings at any stage as provided under the Arbitration and Conciliation Act, 1996.</p> <p><u>Actions after OEC Recommendations</u></p> <p>20. The recommendations of OEC are non-binding and the parties may decide to accept or not to accept the same. Parties are at liberty to accept the OEC recommendation with any modification they may deem fit.</p> <p>21. The contractor shall give its response to ONGC within 7 days receiving OEC Recommendation.</p> <p>22. If the Recommendations are acceptable to the</p>	<p>17. Depending upon the location of the OEC members and the parties, the venue of the OEC meeting shall be either Delhi or Mumbai whichever is most economical from the point of view of travel and stay etc.</p> <p>18. 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 and 30 days thereafter in any further proceeding.</p> <p>19. Legally, parties are under no obligation to refer a dispute to conciliation or continue with conciliation proceedings. Parties are free to terminate the conciliation proceedings at any stage as provided under the Arbitration and Conciliation Act, 1996.</p> <p><u>Actions after OEC Recommendations</u></p> <p>20. The recommendations of OEC are non-binding and the parties may decide to accept or not to accept the same. Parties are at liberty to accept the OEC recommendation with any modification they may deem fit.</p> <p>21. The contractor shall give its response to ONGC within 7 days receiving OEC Recommendation.</p> <p>22. If the Recommendations are acceptable to the</p>
---	---

contractor partly or fully, ONGC will consider and take a decision on OEC recommendations. Key executive shall communicate the decision of ONGC to the contractor, if decision of ONGC is acceptable to the contractor, a settlement agreement under Section 73 of the Arbitration and Conciliation Act, 1996 will be signed within 15 days of contractor's acceptance and same shall be authenticated by all the OEC Members.

23. The timelines mentioned in the above guidelines are with an objective to achieve expeditious conclusion of OEC proceedings, However, it does not mean that any action beyond the timelines will be invalid. However, the party concerned will make all efforts to complete the actions within the stipulated time.

24. The parties shall keep confidential all matters relating to the conciliation proceedings including minutes of OEC meeting and Recommendations of OEC. Parties shall not rely upon them as evidence in any Forum / arbitration / court proceeding, 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.

contractor partly or fully, ONGC will consider and take a decision on OEC recommendations. Key executive shall communicate the decision of ONGC to the contractor, if decision of ONGC is acceptable to the contractor, a settlement agreement under Section 73 of the Arbitration and Conciliation Act, 1996 will be signed within 15 days of contractor's acceptance and same shall be authenticated by all the OEC Members.

23. The timelines mentioned in the above guidelines are with an objective to achieve expeditious conclusion of OEC proceedings, However, it does not mean that any action beyond the timelines will be invalid. However, the party concerned will make all efforts to complete the actions within the stipulated time.

24. The parties shall keep confidential all matters relating to the conciliation proceedings including minutes of OEC meeting and Recommendations of OEC. Parties shall not rely upon them as evidence in any Forum / arbitration / court proceeding, 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.

25. Confidentiality extends also to the settlement agreement, except where its disclosure is necessary for purposes of implementation and enforcement. This stipulation will not apply to disclosure made by ONGC to Govt, of India or its authorities, if required.

26. Subject to terms and conditions contained in the above paras, the provisions of the Part III of Arbitration and Conciliation Act, 1996 shall be applicable to the conciliation proceedings and the parties and the OEC members shall be bound by the same.

27. Fees and facility to the OEC Members

1, OEC members shall be entitled for the following fees and facilities (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):

Sl. No.	Fees/ Facility	Entitlement	To be paid by
i.	Fees	Rs. 20,000 per meeting subject to maximum of Rs. 2,00,000 for the whole case. In addition, one OEC member chosen by OEC shall be paid an additional amount of Rs. 10,000 towards secretarial expenses in writing minutes / OEC Recommendations.	Contractor
ii	Fee for attending meeting to authenticate	Rs. 10,000	Contractor

25. Confidentiality extends also to the settlement agreement, except where its disclosure is necessary for purposes of implementation and enforcement. This stipulation will not apply to disclosure made by ONGC to Govt, of India or its authorities, if required.

26. Subject to terms and conditions contained in the above paras, the provisions of the Part III of Arbitration and Conciliation Act, 1996 shall be applicable to the conciliation proceedings and the parties and the OEC members shall be bound by the same.

27. Fees and facility to the OEC Members

1. OEC members shall be entitled for the following fees and facilities (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):

Sl. No	Fees/ Facility	Entitlement	To be paid by
i.	Fees	Rs. 20,000 per meeting subject to maximum of Rs. 2,00,000 for the whole case. In addition, one OEC member chosen by OEC shall be paid an additional amount of Rs. 10,000 towards secretarial expenses in writing minutes / OEC Recommendations.	Contractor
ii	Fee for	Rs. 10,000	Contractor

	the settlement agreement				attending meeting to authenticate the settlement agreement		
iii	Transportation in the city of the meeting	Car as per entitlement or Rs. 2,000 per day	Contractor		iii	Transportation in the city of the meeting	Car as per entitlement or Rs. 2,000 per day Contractor
iv	Venue for meeting	ONGC conference rooms/Hotels	ONGC		iv	Venue for meeting	ONGC conference rooms/Hotels ONGC
Facilities to be provided to the out -stationed member				Facilities to be provided to the out -stationed member			
v	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.	Contractor		v	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. Contractor
vi	Transport to and from airport / railway station in the city of residence	Car as per entitlement or Rs. 3,000	Contractor		vi	Transport to and from airport / railway station in the city of residence	Car as per entitlement or Rs. 3,000 Contractor
vii	Stay for out stationed members	5 Star Hotel	ONGC		vii	Stay for out stationed members	5 Star Hotel ONGC
viii	Transport in the city of meeting	Car as per entitlement or Rs. 2000 per day	Contractor		viii	Transport in the city of	Car as per entitlement or Rs. 2000 per day Contractor
* Annexure C and D of the circular No. 3 of 2015 dated 29.07.2015 of Director (HR)- Work centre to give suitable Annexure No. for incorporating the same in contract conditions)							

<p>42 & 33 under Annexure-2 of BL 01 & 02 respectively and 27 under Annexure-2 of BL/03 and standard contract conditions for Service contracts.</p>	<p>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)</p> <p>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:</p> <p>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.</p> <p>2. The number of the arbitrators and the appointing authority will be as under:</p> <table border="1" data-bbox="394 1128 1129 1396"> <thead> <tr> <th>Claim amount (excluding claim for interest and counter claim, if any)</th> <th>Number of arbitrator</th> <th>Appointing authority</th> </tr> </thead> <tbody> <tr> <td>Upto Rs. 50 lakhs</td> <td>Sole Arbitrator to be appointed</td> <td>ONGC [Note: ONGC will</td> </tr> </tbody> </table>	Claim amount (excluding claim for interest and counter claim, if any)	Number of arbitrator	Appointing authority	Upto Rs. 50 lakhs	Sole Arbitrator to be appointed	ONGC [Note: ONGC will	<table border="1" data-bbox="1186 207 1906 243"> <tr> <td>meeting</td> <td></td> <td></td> </tr> </table> <p>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)</p> <ol style="list-style-type: none"> There shall be no arbitration for disputes involving claims upto Rupees 25 lakhs and more than Rs. 100 crores. Disputes involving claims above Rs. 100 crores shall be adjudicated under the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015. Arbitration can be invoked by giving Invocation Notice only after expiry of the 60 days' period as per Dispute Notice stipulated in the para above. The party wishing to refer a Dispute to Arbitration shall give notice to the other party specifying all the points of Disputes with details of the amount or claim to be referred to arbitration ("Invocation Notice"). If the claim is in foreign currency, the claimant shall indicate its value in Indian Rupee also. The closing market rate in an exchange declared by SBI on the date prior to the date of notice should be adopted for conversion of foreign currency in Indian Rupees. For a dispute involving claims above Rs 25 lacs and upto Rs 5 crores, in case other party is Claimant, 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. In case ONGC itself is the 	meeting		
Claim amount (excluding claim for interest and counter claim, if any)	Number of arbitrator	Appointing authority									
Upto Rs. 50 lakhs	Sole Arbitrator to be appointed	ONGC [Note: ONGC will									
meeting											

	from a panel of retired officers from ONGC/other PSU/Non-PSU organizations.	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]	<p>Claimant, it shall appoint the Sole Arbitrator by invoking the Arbitration clause and inform the Contractor. Such dispute shall be resolved by fast track procedure specified in Section 29B of the Arbitration and Conciliation Act, 1996.</p> <p>5. For a dispute involving claims above Rs.5 crores and upto Rs. 100 crore, the claimant shall appoint an Arbitrator and communicate the same to the other Party in the Invocation Notice itself along with the copy of disclosure made by nominated Arbitrator in the form specified in Sixth Schedule of the Arbitration & Conciliation Act, 1996. For the purpose of Section 21, the Arbitration Proceeding shall commence only upon date of receipt of Invocation Notice complete in all respects mentioned above.</p> <p>The other Party shall then appoint the second Arbitrator within 15 days from the date of receipt of written notice. The two Arbitrators appointed by the Parties shall appoint the third Arbitrator, within 30 days, who shall be the Presiding Arbitrator.</p> <p>The parties agree that they shall appoint only those persons as arbitrators who accept the conditions of this arbitration clause. No person shall be appointed as arbitrator or presiding arbitrator who does not accept the conditions of this arbitration clause.</p> <p>6. For the purpose of appointment of Arbitrator(s), claims amount shall be computed excluding claim for interest, if any.</p> <p>7. Parties agree that neither party shall be entitled for any pre-reference or pendente-lite interest, i.e. date of cause of action till date of Award by Arbitral</p>
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 3rd arbitrator, who shall be the presiding arbitrator, by the two arbitrators. ONGC will appoint its arbitrator from the panel of jurists.	
<p>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.</p> <p>4. Parties agree that there will be no objection if the Arbitrator appointed holds equity shares of ONGC and/or</p>			

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.

Tribunal. Parties agree that claim for any such interest shall not be considered and shall be void. The Arbitrator or Tribunal shall have no right to award pre-reference or pendent-lite interest in the matter.

8. The fees payable to each Arbitrator shall be as per rules framed by the High Court in whose territorial jurisdiction as per contract and seat of arbitration is situated. In case no rules have been framed, the fees prescribed may be as per Fourth Schedule of the Arbitration and Conciliation Act, 1996. However, Arbitrator may fix their fees keeping the aforesaid schedule as guiding factor.

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 be responsible to make arrangements for the travel and stay etc of the arbitrator appointed by it. Claimant shall also be

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

Amount of Claims and Counter Claims (excluding interest)	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)
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

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.

11. The seat of the arbitration shall be the place from where the LOA / NOA has been issued. For the sake of convenience, Parties may agree to hold the proceedings at any other venue. The arbitration shall be conducted in the English language. Insofar as practicable, the Parties shall continue to implement the terms of the Contract notwithstanding the initiation of Arbitration proceedings.
12. Parties agree that neither party may amend or supplement its claim during the course of arbitral proceedings.
13. The parties may, after invocation of dispute, agree for sharing the cost of Arbitration equally on 50:50 basis.
14. Subject to the above, the provisions of the Arbitration and Conciliation Act, 1996 as amended and applicable from time to time shall apply to the arbitration proceedings under this Contract.

	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.

(BI/01/94 dated 06.06.2016)

Note: (for 8, 9 & 10 above)

The Service Tax as applicable from the time to time will be borne by ONGC & the contractor on the Arbitrator's fee payable respectively by them.

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.