

CHAPTER-III - SPECIAL CONDITIONS OF CONTRACT
[SECTION – B- COMMERCIAL]
INDEX

CHAPTER-III - SPECIAL CONDITIONS OF CONTRACT	1
[SECTION – B- COMMERCIAL]	1
INDEX	1
1.0.0 GENERAL	3
2.0.0 INDEMNITY AND INSURANCE.....	4
3.0.0 FORCE MAJEURE	6
4.0.0 SCHEDULE OF RATES	6
5.0.0 PRICE ESCALATION	6
6.0.0 TAXES & DUTIES.....	6
7.0.0 LIMITATION OF LIABILITY	6
8.0.0 PERSONAL ACTS AND LIABILITIES	7
9.0.0 GOVERNMENT OF INDIA NOT LIABLE	8
10.0.0 PATENT INDEMNIFICATION.....	8
11.0.0 PROHIBITION OF ENGAGEMENT OF CHILD LABOUR.....	8
12.0.0 GUIDELINES FOR SECURITY DEPOSIT	8
13.0.0 RESTRICTION OF VISITORS.....	9
14.0.0 LABOUR LAWS AND REGULATIONS	9
15.0.0 COORDINATION WITH OTHER AGENCIES:.....	10
16.0.0 DAMAGE TO PROPERTIES:	10
17.0.0 CONFIDENTIALITY OF INFORMATION SECRECY AND IPR.....	11
18.0.0 PERMITS, APPROVALS AND LICENSES	11
19.0.0 ACCOUNTING, INSPECTION AND AUDITING.....	11
20.0.0 SPECIFIC REFERENCE TO GCC CLAUSES	11
21.0.0 CORRECTION IN GENERAL CONDITIONS OF CONTRACT (GCC)	12
22.0.0 AMENDMENTS TO GENERAL CONDITIONS OF CONTRACT.....	13
23.0.0 INDEMNITY AND INSURANCE: APPLICABLE FOR MAINLINE AND HDD TENDERS.....	20
24.0.0 MOBILIZATION ADVANCE	20
25.0.0 INCENTIVE FOR COMPLETION BEFORE SCHEDULE TIME (Applicable for HDD, CSW and Mainline tender).....	20

26.0.0	REGISTRATION OF THE CONTRACTOR WITH STATUTORY AUTHORITIES (Applicable for Foreign Contractors).....	20
27.0.0	WORKS CONTRACTS: RISK AND COST CLAUSE.....	20
28.0.0	INTEREST PROHIBITION	21

CHAPTER – III SPECIAL CONDITIONS OF CONTRACT

[SECTION-B - COMMERCIAL]

1.0.0 GENERAL

- 1.1.0** Special Conditions of Contract (SCC) shall be read in conjunction with the General Conditions of Contract (GCC), specifications of work, drawings and other documents forming part of this contract wherever the context so requires.
- 1.2.0** Notwithstanding the sub-division of the documents into these separate parts and volumes, every part of each shall be deemed to be supplementary to and complementary of every other part and shall be read with and into the contract in so far as it may be practicable to do so.
- 1.3.0** Where any provision of the GCC is repugnant to or at variance with any provision of the SCC, then the provision of the SCC shall be deemed to override the provisions of the GCC and shall, to the extent of such repugnance or variations, prevail.
- 1.4.0** Wherever it is mentioned in the specifications that the Contractor shall perform certain works or provide certain facilities, it is understood that the Contractor shall do so at his own cost, being deemed to be part of the relevant item in the Schedule of Rates (SOR) whether expressly stated or not.
- 1.5.0** The material, design and workmanship shall satisfy the relevant codes and the specifications contained herein or referred to in the bid documents where the specifications stipulate requirements in addition to those contained in the standard codes and specification, these additional requirements shall also be satisfied.
- 1.6.0** “Clause 9.3.0.0 stands added to the Chapter 9 of the General Conditions of Contract as herein below:

9.3.0.0 CONCILIATION

- 9.3.1.0 At any time prior to or during arbitration of any arbitrable dispute(s) pursuant to Clause 9.0.1.0, the CONTRACTOR may seek resort to the Conciliation Machinery under the Indian Oil Conciliation Rules, 2014 as amended and/or re-enacted from time to time. The proposal for conciliation shall be made to the General Manager
- 9.3.2.0 The said Rules are available on the OWNER's website.

- 1.7.0** In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract(s) between Central Public Sector Enterprises (CPSEs)/ Port Trusts inter se and also between CPSEs and Government Departments/Organizations (excluding disputes concerning Railways, Income Tax, Customs & Excise Departments), such dispute or difference shall be taken up by either party for resolution through AMRCD as mentioned in DPE OM No. 4(1)/2013-DPE(GM)/FTS-1835 dated 22-05-2018".

1.8.0 Vendor Invoice Management System:

Bidders are requested to upload the Digitally signed invoices in eVIDIT portal. It is advised to register on eVIDIT portal before submitting any bill. The link to the vendor portal is <https://apps.indianoil.in/vim>

Alternatively, originally signed invoice in physical form can be sent to the following address: -

Indian Oil Corporation Limited, IBM Tower, 2ndFloor, Sector 62, NOIDA, Uttar Pradesh
Pin Code -201309

“All terms and conditions of payment, as provided under the contract, remain unamended.”

1.9.0 It may be noted that Government of India has implemented Trade Receivable Discounting System (TReDS) to address challenges faced by MSMEs in delayed payments (after receipt/acceptance of Material/Services) from Government buyers leading to shortfall of Working Capital. TReDS is an online electronic institutional mechanism for facilitating the financing of trade receivables of MSMEs through multiple financiers. IOCL is already registered on the following TReDS platform:

- M/s Receivable Exchange of India (RXIL), Mumbai
- M/s Mynd Solutions Private Limited (Mynd), New Delhi
- M/s A. TREDS (Invoicemart), Mumbai

MSME Bidders are required to register on the TReDS platform. The MSME vendors can avail the TReDS facility, if they want to

1.10.0 In consonance with the provisions of clause 5.5.3.0 of General Conditions of Contract, only a completion certificate duly issued by Engineer In charge shall be considered to be a valid completion certificate under the contract. Any completion certificate, communication or the like purported to be read as a completion certificate issued by any authority/person/official other than the Engineer In charge shall be invalid and void for all intents and purposes whatsoever.”

2.0.0 INDEMNITY AND INSURANCE

2.1.0 Notwithstanding anything contained in clause 8.5.0.0 of GCC, Contractor shall undertake to provide comprehensive accident insurance coverage in respect of every employee employed by him for carrying out Owner’s job. Contractor shall satisfy the Owner of the same within the time prescribed by the Owner but before the actual commencement of the job awarded to him.

2.2.0 In partial modification to clause 3.2.1.0 (m) of GCC **the Storage-cum-Erection policy for the works shall be taken by the Owner**. Contractor shall be responsible to provide all the documents required by the insurance company for full settlement of the claims.

2.3.0 Notwithstanding anything provided in Clause 2.2.0 hereof above, without prejudice to any of the rights and/or remedies available to the OWNER in any part of the contract, in event of any loss (es), damage(s) deterioration, misuse, theft or other application or disposal of the equipment or material(s), supplied by the OWNER before the same is permanently incorporated in the works, **the OWNER shall be entitled to recover any amounts** due on account of happening of any of the event(s) mentioned above from the contractor. However, in the event of any payout to the OWNER from the insurance company on account of the same event for which the amounts were recovered from the contractor, the amount so received shall be handed over to the contractor subject to the maximum the contractor pays to the owner for the said event.

2.4.0 No such Insurance(s), as aforesaid, shall anyway absolve the CONTRACTOR from his full liabilities hereunder, with the intent that the same shall be held merely by way of additional security and not by way of substitution of liability. The CONTRACTOR shall at all times be exclusively responsible for any and all loss(es), damage(s), deterioration, misuse, theft or other application or disposal of the equipment or material(s), supplied by the OWNER or any of them contrary to the provisions hereof and shall keep the OWNER

indemnified from and against the same and shall forthwith at his own cost and expense replace any such equipment and material(s) lost, damaged, deteriorated, misused, stolen, applied and/or disposed as aforesaid, with other equipment or material of equivalent quality and quantity to the extent that the same is not covered by any insurance as above, and if covered, payment under the relative policy(ies) is for any reason not available to the OWNER

- 2.5.0 Regarding insurance following provisions are further incorporated over & above the provisions of GCC.
- 2.6.0 Any loss or damage to the materials or any of them during ocean transportation, pending port/ custom clearance, during inland and port handling, Inland transportation shall be to the account of Contractor and until then, the Contractor shall be exclusively responsible within the scope of supplies in respect of materials to make good any damage or loss in the materials.
- 2.7.0 Owner shall raise the insurance claim in case of damage to the materials upon receipt at site and all supporting documents for such claims shall be handed over by the Contractor to the Owner immediately. Contractor shall provide all assistance for settlement of such claim.
- 2.8.0 The contractor shall bear the entire cost of arranging all documents/ information, facilitating inspection/ discussions by the officials / surveyors deputed by the Insurer. The contractor shall make all efforts to get settlement of claim at the earliest and no time extension for completion of work will be given for delay on this account.
- 2.9.0 The cost of Normal Excess (deductible) and depreciation (if any) applicable in the settlement of insurance claims will be borne by the Contractor. **The deductibles applicable on the policy are as per list enclosed in Appendix-A**
- 2.10.0 Contractor shall be liable solely to adhere to the requirements of the insurer for settlement of claims without prejudice to the rights of owner/ Insurer. During claim following steps, which are not exhaustive, are required to be taken care by Contractor.
- Timely information for conducting survey.
 - Protecting the rights of insurer while issuing acknowledgements.
 - Lodging of monetary claims in time and furnishing of requisite documents to surveyors/ insurer.
 - Taking necessary precautions so that the loss/ damage is not aggravated further.
 - Damaged goods to be protected fully
- 2.11.0 Any money received by the Owner under any policy or policies of insurance shall be held by the Owner for proportionate payment to the contractor in respect of any appropriate repairs undertaken and/or replacement(s) made by the Contractor, with liberty to the Owner, should the Contractor fail to undertake in whole or part such repairs and/or replacement(s) and other works necessary consequent upon the occurrence of any contingency covered by such insurance, without prejudice to any other rights or remedies available to the Owner in whole or in part towards repair or restoration or the performance of the necessary work, as the case may be through any other agency(ies).
- 2.12.0 Insurance of all the equipments, machinery, plant, tools & tackles, vessels and any other equipment brought to site for completion of work and which are not meant for permanent incorporation in the work shall be to the Contractors account and suitable insurance cover should be taken on his own.

- 2.13.0 In addition to documents in terms of Clause 5.5.2.0 of General Conditions of Contract, Contractor shall submit an indemnity bond (as per Annexure-20) in non-judicial stamp paper of appropriate value while applying for Completion Certificate in terms of Clause 5.5.2.0 sub clause (ix) of General Conditions of Contract.

3.0.0 FORCE MAJEURE

In partial modification of clause 4.3.8.0 of GCC, Local "Bandh" shall be included in "FORCE MAJEURE".

4.0.0 SCHEDULE OF RATES

- 4.1.0 All the items of work mentioned in the schedule of rates and covered by the Contract shall be carried out as per the drawings, specifications and direction of Engineer-in-Charge and shall include all labour, materials, tools, tackles, etc. required to complete the job.
- 4.2.0 The Contractor shall be and remain at all time exclusively responsible to provide all material, consumables, labour supervision, equipment tools machines, permits, licenses, casements and facilities and other items and things whatsoever required for or in connection with the work, included but not limited to those indicated by expression or implication in the Schedule of Rates, Specification, plans, drawings and/or other Contract documents or howsoever otherwise as shall be or may from time to time at any time be necessary for or in connection with the work either for incorporation within the permanent works or in relative to the execution and performance of the work.

5.0.0 PRICE ESCALATION

The contract price shall be deemed to be firm and valid for the entire duration of the contract till the completion of work, and shall not be subject to any adjustment due to increase in price of materials, utilities, taxes, duties etc or any other input for performance of work and the contract unless specifically mentioned in the SCC (Section A-Technical).

6.0.0 TAXES & DUTIES

Kindly refer to the Instructions To Bidders (ITB) Clause no. 17.

6.0.0 LIMITATION OF LIABILITY

- 6.1.0 Except as otherwise specifically provided in the Contract Documents, neither the OWNER nor the CONTRACTOR shall be liable to the other for loss of production, loss of profit or other indirect or consequential loss or idleness or extended stay or any like damage which may be suffered by such other party in connection with the Contract, whether arising out of any delay or breach or otherwise.
- 6.2.0 Excluding the liabilities specified below, the aggregate liability of the CONTRACTOR under or in connection with respect to any breach or delay or defect, deficiency or other infraction under the Contract will not exceed an amount equivalent to the total Contract Value. The excluded liabilities clauses of GCC are:
- i) Liabilities under Clause 3.2.0.0 of GCC (Materials and Equipment supplied by the OWNER);
 - ii) Liabilities under Clause 3.4.0.0. of GCC (For power provided by the OWNER);
 - iii) Liabilities under Clause 3.5.0.0 of GCC (For water provided by the OWNER);
 - iv) Liabilities under Clause 3.6.0.0. of GCC (For land provided by the OWNER);

- v) Liabilities under Clause 3.9.0.0. of GCC (For labour, machinery and equipment provided by the OWNER);
- vi) Liabilities under Clause 3.10.1.0 of GCC (For government controlled materials for which the OWNER is liable);
- vii) Liabilities for recoverable advances and interest thereon; and
- viii) Liabilities arising out of fraud, wilful misconduct or reckless negligence

6.3.0 Notwithstanding anything contrary contained in the Contract, neither the OWNER nor the Contractor shall be liable to each other for any loss of time, inconvenience, loss of production, loss of profit or savings or loss of revenue, loss of goodwill, reputation or likewise, loss of any contract/opportunity of any nature whatsoever, or any other indirect or consequential loss or damage which may be suffered by them in connection with or arising out of the Contract. The total liability of each party whether under this Contract, in tort or otherwise shall be limited to actual and direct losses, in total not exceeding 100% of the Total Contract Value.

Provided however that the cap on the CONTRACTOR'S liability as set forth above shall not be applicable in respect of the following:

- any liability for Materials and Equipment supplied by the OWNER;
- any liability for power, water and land provided by the OWNER;
- any liability for government-controlled materials for which the OWNER is liable;
- any liability to rectify, repair, restore or replace any materials and I or works or deficiencies under the terms hereunder or those under the Contract;
- any liability for recoverable advances and interest thereon;
- any liability pursuant to CONTRACTOR' indemnity obligations hereunder or those under the Contract, including but not limited to infringement of intellectual property;
- any liability to third party(ies) including death and injury caused by the CONTRACTOR; and
- any liability arising out of fraud, misconduct, reckless negligence, illegal or unlawful acts or commissions, or such acts or commissions which are contrary to the most elementary rules of diligence as would have been followed in similar circumstances, by the CONTRACTOR.

Without prejudice to anything contained herein, the term CONTRACTOR in the aforesaid provision shall also mean Affiliates of the CONTRACTOR or any subcontractor/consultant/supplier as may be engaged by it (if permitted under the terms and conditions hereof} and shall include any their respective officers, directors, employees, servants or agents."

7.0.0 PERSONAL ACTS AND LIABILITIES

7.1.0 Any money paid to any director, attorney, agent, officer or employee of the Contractor and any receipt, settlement, acknowledgement of liability or other arrangement, agreement or document whatsoever signed by any such director, attorney, agent, officer, or employee of the Contractor or erstwhile director, attorney, agent, officer or employee of the Contractor (without notice of his cessation of interest) **or** by any person held out to be a director, attorney, agent, officer or employee of the Contractor authorized to act on behalf of and/or

to bind the Contractor, be binding upon the Contractor and shall constitute a full release and discharge to the Owner and/or settlement, acknowledgement or obligation of, upon or with the Contractor, as the case may be, and the Owner shall not be concerned with the actual application of any money so paid or of the actual authority of such director, attorney, agent, officer or employee (actual, erstwhile or purported as the case may be) vis-à-vis the company to make the settlement, receipt, acknowledgement, agreement or other document concerned.

8.0.0 GOVERNMENT OF INDIA NOT LIABLE

8.1.0 It is expressly understood and agreed by and between the Contractor and the Owner that the Owner 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 Government of India is not a party to this agreement and has no liabilities, obligations or rights thereunder. It is expressly understood and agreed that the Owner is an independent legal entity with power and authority to enter into contracts, solely in its own behalf under the applicable laws of India and general principles of Contract law. The Contractor expressly agrees, acknowledges and understands that the Owner is not an agent, representative or delegate of the Government of India. It is further understood and agreed that the Government of India is not and shall not be liable for any acts, omissions, and commissions, breaches or other wrongs arising out of the Contract.

9.0.0 PATENT INDEMNIFICATION

9.1.0 Further to General Conditions of Contract clause no. 8.8.0.0, Contractor shall indemnify the Owner against all losses, costs, damages and expenses arising from any claim asserted against Owner that the work or part thereof, or any methods, designs or things furnished or specified by Contractor or any sub-Contractor or supplier under this Contract, or any use thereof in the reasonable contemplation of the parties at the time furnished, or any methods, processes or acts employed by Contractor in connection with the performance of its obligations hereunder constitutes an infringement of any patent, trade secret, proprietary information, know-how copyright (statutory or non-statutory), un-patented invention or any unauthorised use of the work of others.

10.0.0 PROHIBITION OF ENGAGEMENT OF CHILD LABOUR

10.1.0 The contractor shall state that they are not engaging child labour as per various labour laws applicable to them. Making a fake claim would have its contract terminated forthwith, if detected later. It is mandatory for the Contractor to submit an undertaking as per attached Performa (**Annexure-17**) for Non-engagement of child labour.

11.0.0 GUIDELINES FOR SECURITY DEPOSIT

- 11.1.0 ISD/ SD of value less than Rs. 1,00,000.00 shall be paid online as per remittance details mentioned in Clause no. 5.6.0 of Special Instruction to Tenderer [Section-B (Commercial)].
- 11.2.0 In partial modification to clause 2.1.1.2 c) and clause 2.1.1.3 of GCC, a Bank Guarantee (BG) may be accepted by the Owner towards ISD/SD provided the amount of such BG is not less than Indian Rupees 100,000.00 (Indian Rupees One Lakh).
- 11.3.0 Bidder shall refer Clause 29.4.0 and sub-clauses for selection of Banks for ISD/SD BG.
- 11.4.0 Contractor **shall ensure that the text of bank guarantee submitted shall match the format for BG in lieu of SECURITY DEPOSIT/ INITIAL SECURITY DEPOSIT as**

given in Annexure-7 verbatim including all comma/ full stops. In case of a deviation/variation, necessary amendment shall be sought from the bidder/ their bankers.

- 11.5.0 Clause 12.3.0 shall also apply to all Bank Guarantees submitted by the contractor including but not limited to Bank Guarantee to cover Lump sum Advance (Mobilisation), Bank Guarantee for Lump sum Advance, Composite Bank Guarantee for Advance and Security Deposit, Bank Guarantee for imported raw material and Bank Guarantee against delayed delivery discount, if any.
- 11.6.0 Bidder to ensure that IFSC code and Swift code of IOCL's designated ICICI Branch as mentioned in the LoA is submitted to the bidder's bank while opening the SD/ISD/ Advance BG, so that BG confirmation is transmitted through SWIFT message to IOCL's designated bank under SFMS system.
- 11.7.0 In partial modification to GCC Clause No 2.1.1.2, The Contractor shall submit the ISD within 30 (thirty) days from the issuance of Letter of Acceptance by the Owner.
- 11.8.0 ePAY ONE PORTAL: IOCL has launched the ePayOne portal which can be accessed through the link <https://epayone.indianoil.in/>. The said portal will facilitate users to make online payment through various modes viz., Internet Banking, UPI, Debit Card upto Rs.2000/-, Credit Card (Transaction charges @0.75% will be collected from users by SBI) and RTGS/NEFT. Options are available in the portal to the payers make payment through "New Payments" by registered users or Direct payment (without registration). Registered users shall have the facility of downloading cash receipt in PDF format at any point of time, to track the status of the payments and Transaction history. For illustrative purposes, the major payments covered in the portal are as below:
- Vendors: Security deposit/EMD/TT calibration Fees.
- The user manual can be downloaded from the 'ePayOne' portal Home page under the option 'Need Help'.

12.0.0 RESTRICTION OF VISITORS

The Contractor shall not allow any visitors on the work or premises of the sites without approval of the Engineer-in-Charge and/or Site Engineer.

13.0.0 LABOUR LAWS AND REGULATIONS

Before starting of work, the Contractor shall obtain a licence from concerned authorities under the Contract Labour (Abolition and Regulation) Act, 1970, and furnish a copy of the same to the Engineer-in-Charge.

LABOUR LICENCE

Before starting of work, the Contractor shall obtain a licence from concerned authorities under the Contract Labour (Abolition and Regulation) Act, 1970, and furnish a copy of the same to the Engineer-in-Charge.

- 14.1.0 In addition to compliance of Labour Laws and Regulations stipulated in clause 8.3.0.0 of General Conditions of Contract, the Contractor shall also comply with the following :
- a. The Contractor shall also comply with the provisions of Building and Other Construction Workers (regulation of Employment and Conditions of Service) Act 1996[BOCW (RE&CS) Act 1996] and Building and Other Construction Workers Welfare Cess Act, 1996 and all rules, regulations, notifications issued thereunder as

amended from time to time including provisions of registration of establishment of contractor hours of work, welfare measures and other conditions of service of building workers, safety and health measures etc., wherever applicable.

- b. An amount of cess as per prevalent rate (presently @1% of the cost of construction incurred by the Contractor) shall be recovered from the bills of the Contractor as per Building and Other Construction Workers Welfare Cess Act, 1996 and the rules thereunder as amended from time to time for depositing the same before appropriate authority. IOCL shall not deduct and pay cess, in case Contractor has already paid the cess for the works executed and submitted proof of payment. However, primary responsibility of recovery and payment of cess lies with IOCL.
- c. All the terms and conditions pertaining to compliance of labour laws contained in the GCC shall also be applicable mutatis mutandis to the BOCW (RE&CS) Act, 1996 and Building and Other Construction Workers Welfare Cess Act, 1996 and the rules thereunder.
- d. The above conditions will be applicable to all the Contractors performing “building or other construction work” as defined under BOCW (RE&CS) Act, 1996 subject to other provisions of the Act.

14.2.0 Every worker engaged by the Contractor should be enrolled under the following scheme:

- i. **Pradhan Mantri Jeevan Jyoti Bima Yojna (PMJJBY)**
- ii. **Pradhan Mantri Suraksha Bima Yojna (PMSBY)**

Under the two schemes, applicable annual premium amount shall be considered by the prospective bidder while submitting the price bid. Proof of payment towards the above two scheme shall be submitted by the Contractor to EIC for verification of the same from time to time.

14.3.0 Payment of Wages

The CONTRACTOR shall ensure payment of wages to all workmen employed by him in connection with the work to be made through electronic mode in a scheduled bank i.e. for example, NEFT by the contractor in the respective bank account of workmen. Contractor will facilitate/extend required help to the workmen in opening a bank account if the workmen do not possess the same to ensure payment of wages directly to their bank account.

The above clause will supersede in the event of conflict with any other tender condition/clause or statement made elsewhere in the Bid Document

14.0.0 COORDINATION WITH OTHER AGENCIES:

The work shall be carried out in such a manner that the work of other agencies operating at site is not hampered due to any action of the contractor. The contractor will be responsible for ensuring proper coordination with other agencies. In the event of any dispute between the contractor and any other agency employed at or about the job site arising out of or related to the performance of the work, the decision of the Engineer-In-Charge shall be the final and binding on the contractor.

15.0.0 DAMAGE TO PROPERTIES:

The contractor shall be fully responsible for making good or making necessary payment for any loss or damage caused by any structures, properties etc. belonging to the owner if such loss or damage is due to the fault and / or sub contractor's to the entire satisfaction of the owner whose assessment shall be final and binding on the contractor.

The contractor shall indemnify and make the owner harmless of all claims or damage to the property other than owner's property arising under or by reason of disagreement if such claims results from the fault and /or negligence of willful act or omissions of the contractor or his employees , agents, representatives or sub-contractors.

16.0.0 CONFIDENTIALITY OF INFORMATION SECRECY AND IPR

Right to Intellectual Property and confidentiality:

- (i) The Tender Document and associated correspondence are subject to copyright laws and shall always remain the property of the Owner and must not be shared with third parties or reproduced, whether in whole or part, without the Owners prior written consent.
- (ii) However, Bidders may share these to prepare and submit its bid with its employees, subcontractor(s), or holding Company. Bidders shall obtain from them an undertaking of confidentiality similar to that imposed on Bidder under this clause.
- (iii) This condition shall also apply to bidders who do not submit a bid after downloading it or who are not awarded a contract in the process.
- (iv) The obligation of the Bidders under sub-clauses above, however, shall not apply to information that:
 - (a) now or hereafter is or enters the public domain through no fault of Bidder;
 - (b) is legally possessed by Bidder at the relevant time and was not previously obtained, directly or indirectly, from the Owner; or otherwise lawfully becomes available to Bidder from a third party that has no obligation of confidentiality.
 - (c) The provisions of this clause shall survive completion or termination for whatever reason of the Tender Process or the contract.

17.0.0 PERMITS, APPROVALS AND LICENSES

Whenever the delivery of Services and incidental Goods/ Works requires the contractor to obtain permits, approvals, and licenses from local public authorities, it shall be the contractor's sole responsibility to obtain these and keep these current and valid. Such requirements may include but not be restricted to licences or environmental clearance if required. If requested by the contractor, the Owner shall make its best effort to assist the contractor in complying with such requirements in a timely and expeditious manner, without any dilution of the Contractor's responsibility in this regard.

18.0.0 ACCOUNTING, INSPECTION AND AUDITING

The contractor shall keep accurate and systematic accounts and records regarding the provision of the Services under this Contract, as per accounting principles prescribed in India.

19.0.0 SPECIFIC REFERENCE TO GCC CLAUSES

20.1.0 The following document(s) as stated in clause No. 4.8 of Instructions to Tenderers (Page-120) & Form of Tender (Page 131 & 132) of General Conditions of Contract are not required to be submitted with the bidder's offer.

(A) Income Tax Clearance Certificate (in the case of Indian Bidders)

20.2.0 In the form of tender for price bid (page-129 & 130), commercial bid (page 131 & 132) and Format for Bank Guarantee in lieu of Earnest Money Deposit (page 136-138) of GCC, the following changes may be incorporated while submitting the bid:

As per GCC	To be changed as
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<u>Page-129 & 131 (Form of Tender – Price bid/ Commercial bid)</u> To, Indian Oil Corporation Ltd. (Refineries/ Pipelines Division) _____ Refinery/ Project)	Form of Tender – Price bid shall be as per Annexure-12 of Annexure (Commercial) and Form of tender - Commercial bid shall be as per the Annexure-11 of Annexure (Commercial)
<u>Page-136 (format for BG in lieu of EMD)</u> To, Indian Oil Corporation Ltd. (Refineries Division) And In consideration of Indian Oil Corporation limited (Refineries / Pipelines Division)	Format for Bank Guarantee in lieu of Earnest Money Deposit shall be as per Annexure-6 of Annexure (Commercial)
<u>Page-138 (format for BG in lieu of SECURITY DEPOSIT/INITIAL SECURITY DEPOSIT)</u> We _____(Name of the Bank),a body registered/constituted under the _____Act, having our Registered Office/Head Office at _____ (hereinafter called“ the Bank” which expression shall include its successors and assigns),at the request of the Contractor and with the intent to bind the Bank and its successors and assigns, do hereby unconditionally and irrevocably undertake to pay to the Corporation at New Delhi forthwith on first demand without protest or demur or proof or satisfaction and without reference to this guarantee upto _____ an aggregate limit of Rs. _____ (Rupees _____ only).	Form of Bank Guarantee in lieu of SECURITY DEPOSIT/ INITIAL SECURITY DEPOSIT shall be per Annexure-7 of Annexure (Commercial)
<u>Page-137 & 139 (format for BG in lieu of EMD and ISD/SD)</u> Signature : _____ Name & Designation: _____ Name of the Branch : _____	Format for Bank Guarantee in lieu of Earnest Money Deposit shall be as per Annexure-6 of Annexure (Commercial) Form of Bank Guarantee in lieu of SECURITY DEPOSIT/ INITIAL SECURITY DEPOSIT shall be per Annexure-7 of Annexure (Commercial)

20.0.0 CORRECTION IN GENERAL CONDITIONS OF CONTRACT (GCC)

S. No.	Page No.	Clause No.	Correction
1.	9	2.1.1.5	In the 2 nd line, the words `2.1.1.2 (c) may be read as `2.1.1.2 (b)‘.

S. No.	Page No.	Clause No.	Correction
2.	12	2.2.5.0(ii)	In the 5 th line, delete the words 'not covered by the Schedule of Rates or lump sum price, as the case may be,'.
3.	14	2.5.3.1	In the 1 st line, the word 'Providing' may be read as 'Pending'.
4.	22	3.3.2.0	In the 3 rd line, the word 'whatever' may be read as 'whatsoever'.
5.	23	3.5.2.0	In the 4 th line, the words 'other OWNER' may be read as 'the OWNER'.
6.	28	4.0.6.0	In the 4 th & 5 th lines, the words from 'including (but not)' to 'rendering' may be read as 'including (but not limited to), at the discretion of the OWNER, supervision and testing of the works being conducted by the CONTRACTOR at the job site and / or for rendering'.
7.	28	4.0.7.0	In the 2 nd / 3 rd line, 'the words 'founded thereon' may be read as 'founded or dependent thereon'.
8.	31	4.3.6.0	In the 4 th line, after the words 'if satisfied', insert the words 'of the existence of any ground(s) justifying the delay, extend the date for completion'
9.	34	4.5.2.0	In the 6 th line, the words 'for the calculating payments' may be read as 'for calculating the payments'.
10.	36	4.7.4.0	In the 6 th line, the words 'item or work' may be read as 'item of work'.
11.	36	4.7.4.0	In the 12 th line, insert the word 'to' between the words 'CONTRACTOR' and 'appoint'.
12.	65	8.6.1.0	In the 1 st line, insert the word 'by' between the words 'upon' and 'the'.

21.0.0 AMENDMENTS TO GENERAL CONDITIONS OF CONTRACT

22.1.0 Clause 8.1.0.0 of General Conditions of Contracts regarding taxes have been amended and amended clauses of GCC shall be read as follows:-

Notwithstanding anything to the contrary elsewhere provided in these General Conditions of Contract-

- If and prior to the date of Scheduled Mechanical Completion/ completion of the entire work(s) under the contract any extension thereof by the Engineer-in-Charge under Clause 4.3.5.0 or by the OWNER under Clause 4.3.6.0, there is an increase in the rate of any of the following output taxes applicable to invoices raised on the OWNER, namely, Goods and Services Tax(GST) relevant to the execution of Contract (in this Clause referred to the "said taxes") between rate(s)of the said taxes as exist on the last date of submission of the Price Bid relevant to the Contract and the date of relative invoice (in the Clause referred to as the "additional tax"), the OWNER shall pay and bear the additional tax. Similarly, if there is any reduction in any of the said taxes between the said dates, the CONTRACTOR shall pass on the benefit of such reduction to the OWNER with a view that the OWNER by invoicing at the applicable reduced rate.
- If after the date of the last Price Bid of the CONTRACTOR relevant to the Contract and prior to the date of Scheduled Mechanical Completion/ completion of the entire m

CONTRACTOR, the OWNER will reimburse the CONTRACTOR the amount of such new tax paid by the CONTRACTOR.

- (iii) If after the date of the last Price Bid of the CONTRACTOR relevant to the Contract and prior to the date of Scheduled Mechanical Completion/completion of the entire work(s) under the contract or any extension thereof by the Engineer-in-Charge under Clause 4.3.5.0 or by the OWNER under Clause 4.3.6.0, a new output tax is introduced in lieu of an existing output tax(es) and the rate and impact of the new tax is in excess in aggregate of the rate and impact of existing tax(es) which it replaces, the OWNER shall on satisfactory proof reimburse the CONTRACTOR the additional tax paid by the CONTRACTOR as a result of the imposition of the new tax. If, on the other hand, the rate and impact of the new tax is less than the aggregate rate and impact of the tax(es) which it replaces, the CONTRACTOR shall pass on to the OWNER the benefit thereof as determined by the OWNER (whose decision in this behalf shall be final and binding on the CONTRACTOR) by reduction in the amounts payable by the OWNER to the CONTRACTOR.
- (iv) IOCL will issue Road Permit/E-way bill to the Contractor only in those cases where materials is purchased by IOCL directly and the Contractor will be under obligation for proper utilization for the specific supply. In case of seizure of goods/ vehicle, the Contractor will be wholly responsible for release and also reimburse the litigation cost to IOCL.
- (v) If after the date of the last Price Bid of the CONTRACTOR relevant to the Contract and prior to the date of Scheduled Mechanical Completion/ completion of the entire work(s) under the contract or any extension thereof, there is an increase in the rate of output tax (Goods and Services Tax (GST) etc. or any new output tax is introduced in addition to/in lieu of the exiting taxes where the total financial implication on account of new output taxes is more and arises within the contractual completion period, Owner shall reimburse the additional tax burden. In case beyond the contractual completion period, Owner shall also reimburse the additional tax burden, if the increase in output taxes or new output taxes is entitled for tax credit to the extent available to the owner. In other cases, Contractor shall bear the increase in the rates of existing taxes or any new output tax.

Similarly, if there is any reduction in any of the said taxes, the contractor shall pass on the benefit of such reduction to owner by invoicing at the applicable reduced rate.

22.2.0 AMENDMENTS TO GENERAL CONDITIONS OF CONTRACT

S. No.	Section	Ref Page No.	Clause No.	Subject	Amendments
1.	8	63 of Conventional GCC and ... of LSTK GCC	8.3.1.0	LABOUR LAWS AND REGULATIONS	Entire sub clause No.8.3.1.0 to be replaced with the following: The CONTRACTOR shall be responsible for strict compliance of and shall ensure strict compliance by its sub-contractors, servants and agents of all laws, rules or regulations

S. No.	Section	Ref Page No.	Clause No.	Subject	Amendments
					having the force of law affecting the relationship of employer and employee between the CONTRACTOR/sub-contractors and their respective employees and/or otherwise concerning labour, social welfare and provident fund, pension, bonus, gratuity and other benefits to employees. Without prejudice to the generality of this provision, the CONTRACTOR shall comply with and ensure that his sub-contractors and other agencies employed by him comply with the provisions of the Payment of Wages Act, 1936, Minimum Wages Act, 1948, Employees Liability Act 1938, Workmen's Compensation Act 1923, Industrial Disputes Act 1947, Maternity Benefit Act 1961, Mines Act 1952, The Child Labour (Prohibition & Regulation) Act 1986, Contract Labour (Abolition & Regulation) Act 1970, Payment of Bonus Act, Gratuity Act, Factories Act and the Employees Act 1952 as amended from time to time and all rules, regulations and schemes framed thereunder from time to time.
2.	8	63 of Conventional GCC and ... of LSTK GCC	8.3.2.0	LABOUR LAWS AND REGULATIONS	Entire sub clause No.8.3.2.0 to be replaced with the following: The contractor and sub-contractor(s) of the CONTRACTOR shall obtain from the authority(ies) designated in this behalf under any applicable law, rule or regulation (including but not limited to) the Factories Act and



S. No.	Section	Ref Page No.	Clause No.	Subject	Amendments
					Labour (Abolition and Regulation) Act, 1970 (in so far as applicable) any and all such licence(s), consent(s), registration(s) and/or other authorization(s) as shall from time to time be or become necessary for or relative to the execution of the work or any part or portion thereof or the storage or supply of any material(s) or otherwise in connection with the performance of the Contract and shall at all times observe and ensure due observance by the sub-contractors, servants and agents of all terms and conditions of the said licence(s), consent(s) regulation(s) and other authorisation(s) and laws, rules and regulations applicable thereto. Without prejudice to the generality of this provision, the CONTRACTOR shall obtain and ensure that his sub-contractors and other agencies employed by him on the Work, obtained a valid Licence under the Contract Labour (Regulation & Abolition) Act, 1970 and shall duly and faithfully observe and comply with the provisions of The Child Labour (Prohibition & Regulation) Act 1986, Contract Labour (Regulation & Abolition) Central Rules 1971 and other Central and State Rules as amended from time to time and applicable to the work, and shall duly, promptly and faithfully maintain and/or cause to be maintained all records and facilities required to be maintained and/or provided in

S. No.	Section	Ref Page No.	Clause No.	Subject	Amendments
					terms thereof or any licence granted thereunder.
3.	8	64 of Conventional GCC and ... of LSTK GCC	8.3.9.0	LABOUR LAWS AND REGULATIONS	Entire sub clause no.8.3.9.0 to be replaced with the following: The CONTRACTOR shall indemnify and keep indemnified the OWNER from and against all actions, claims, demands and liabilities whatever under and in respect of the breach of any of the provisions hereof and/or against any claim, action or demand by any workman/employee of the CONTRACTOR or any sub-contractor and/or from any liability anywise to any sub-contractor under any law, rules or regulation having the force of law including (but not limited to) claims against the OWNER under the Workmen's Compensation Act 1923, the Employees Provident Funds and Miscellaneous Provisions Act 1952, the Employee's State Insurance Act 1948, the Contract Labour (Abolition & Regulation) Act 1970 and/or The Child Labour (Prohibition & Regulation) Act 1986.
4.	-	122 of GCC	4.20	INSTRUCTION TO TENDERERS	Sub clause 4.20(c) to be added as: Each tenderer/bidder shall give a Declaration in the prescribed format annexed to the Form of Tender that he/it/they is/are not engaging child labour as per the applicable law in their work and undertake to comply with all various legislation, as may be applicable from time to time in case the work is awarded to them.

S. No.	Section	Ref Page No.	Clause No.	Subject	Amendments
5.	-	125 of Conventional GCC (New page) and Of LSTK GCC	Addition	INSTRUCTION TO TENDERERS	Proforma of Undertaking for Non-engagement of child labour attached as Annexure-17 to this Amendment.
6.	5	Page 47 of GCC	5.6.1.0	Defect Liability Period	Clause is modified as below: The Defect Liability Period for the works (including the materials incorporated therein within the CONTRACTOR's scope of supply) shall unless otherwise specified be 12(twelve) months from the date of completion/ Mechanical Completion stated in Completion Certificate.
7	-	Page No 15 of GCC	2.6.2.0	QUANTITIES OF WORK	If, as a consequence of such amendments/variations/ alterations/ modifications/ reductions, as envisaged in clauses 2.4.0.0 and/or 2.5.0.0 hereof and associated sub clauses thereunder, or pursuant to Clause 2.6.1.0 hereof, the quantities of work and the gross value of work actually performed by the CONTRACTOR, as valued on finalization of all dues to the CONTRACTOR under the contract, shall be less than 50% (Fifty percent) of the Total contract value, then the CONTRACTOR shall be entitled to 10% (ten percent) of the amount by which the reduced contract value as aforesaid falls short of 50% (Fifty percent) of the total contract value by way of allowance for the advantage (including profit) which the CONTRACTOR may have anticipated on the execution of the work up to the total

S. No.	Section	Ref Page No.	Clause No.	Subject	Amendments
					contract value. And the CONTRACTOR shall not be entitled to any compensation in addition to the payments specifically provided for above, and the CONTRACTOR hereby specifically waives any and all contrary rights and claims whatsoever.

22.3.0 INSOLVENCY AND BANKRUPTCY CODE

22.3.1 Following stands added in **Form of Contract** of General Conditions of Contract

ARTICLE-9

This Contract has been duly executed and delivered on behalf of such Party and constitutes a legal, valid and binding obligation of such Party and is enforceable against it in accordance with the terms hereof subject to the effect of Insolvency and Bankruptcy Code, 2016 (Code) or any other applicable law (in case where Code is not applicable, or other laws of general application affecting the enforcement of creditor rights and judicial principles affecting the availability of specific performance and general principles of equity, whether enforceability is considered a proceeding at law or equity.

22.3.2 Following stands added in General Conditions of Contract :

7.3.0.0 Owner shall be entitled to immediately terminate this Contract upon written notice to the Party, without any liability whatsoever, if any of the following events occur:

- order of insolvency resolution process or liquidation or bankruptcy proceeding is passed by the Adjudicating Authority, namely National Company Law Tribunal (NCLT) or Debt Recovery Tribunal (DRT) under the Insolvency and Bankruptcy Code, 2016 (Code) or any other applicable law (in case where Code is not applicable), against the Party; or
- the Party seeks corporate insolvency resolution process or liquidation of itself;
OR
- the Party is insolvent or evidence exists as to its insolvency; or
- an Interim Resolution Professional/ Resolution Professional or Liquidator is appointed to take possession, custody, or control of all the assets and property of the Party; or
- the Party adopts any resolution of its Board of Directors or stakeholder for the purpose of effecting any of the foregoing.

Such termination shall be deemed to be termination in terms of clause 7.0.1.0 of General Conditions of Contract and all provisions applicable to a termination, consequent to exercise of rights under clause 7.0.1.0 of General Condition of Contract, including but not limited to Owner's right of recovery in terms of clause 7.0.9.0 of General Condition of Contract, shall mutatis mutandis apply to the termination under this clause.

22.0.0 INDEMNITY AND INSURANCE: Not applicable

23.0.0 MOBILIZATION ADVANCE: Not applicable

24.0.0 INCENTIVE FOR COMPLETION BEFORE SCHEDULE TIME: Not applicable

25.1.0 Deleted.

**25.0.0 REGISTRATION OF THE CONTRACTOR WITH STATUTORY AUTHORITIES
(Applicable for Foreign Contractors)**

Within 30 days of execution of the Contract Agreement, the Contractor shall register themselves with the Reserve Bank of India, Income Tax, Sales Tax, Central Board of Indirect Tax and such other statutory authorities, as may be required under the rules and regulations governing in India. A copy of all documents related to all such registration shall be submitted to the Owner for record.

26.0.0 WORKS CONTRACTS: RISK AND COST CLAUSE

27.1.0 The instant clause shall supplement any provision in respect of a Risk & Cost claim by Owner against Contractor/Vendor in General Conditions of Contract or Special Conditions of Contract or NIT or otherwise. In the event there is any conflict between the instant clause and any other clause on risk and cost as mentioned hereinabove, the provisions of the instant clause shall prevail.

27.2.0 The Owner shall be either entitled to terminate contract or to withdraw/offload portion of work and get incomplete/ undone work done/completed by itself and/or through one or more independent agency(ies), at the risk and cost of the Contractor/Vendor, as applicable.

27.3.0 Upon the Owner deciding to exercise its right to impose risk & cost upon the Contractor / Vendor as aforesaid, the Owner may give a written notice to the Contractor/Vendor informing that the incomplete/ undone work is being done/completed by the Owner and/or through one or more independent agency(ies) at the risk and cost of the Contractor/Vendor. Such notice shall be the notice under the Contract for invocation of the right to impose risk and cost upon the Contractor / Vendor as aforesaid.

27.4.0 The Owner shall in writing intimate the Contractor the place and date for joint measurement after and/or along with invocation of risk and cost. The Contractor shall be bound to be present for joint measurement on the date(s) as notified by the Owner.

27.5.0 The joint measurement shall be undertaken by a Third-Party Expert from the empanelled list of the Owner. The cost of engaging the Third-Party Expert shall be on account of the Contractor. The Owner shall make the payment to the third part expert and claim the paid amount from the Contractor by giving a written notice. The Contractor is liable to reimburse such payment within 30 Days from such written notice and in failure shall be liable to interest of 18% p.a.

27.6.0 The Contractor shall, without fail, provide necessary materials, equipment and/or labour as required for joint measurement. In case the Contractor is not able to or does not provide necessary materials, equipment and/or labour as required for joint measurement, then the Owner shall make arrangement for the same at the risk and cost of the Contractor.

- a. If the contractor does not attend on such date as notified by the Owner for joint measurement, for any reason whatsoever, then the joint measurement shall be undertaken by the Third-Party Expert in absence of the Contractor;

- b. The joint measurement done by the Third-Party Expert shall be final and binding upon the Contractor; and
- c. The Contractor hereby agrees that its absence on the notified date for the aforesaid purpose shall preclude itself from raising any objection on a future date to either the validity of joint measurement conducted as per provisions hereinafter or to imposition of risk and cost including the quantum of claim arising therefrom.

27.7.0 The Owner shall in writing intimate the Contractor the place and date for removal of all plant and machineries belonging to the Contractor from the project site. If the Contractor fails to remove its plant and machineries from the project site on the notified date, then the Owner will be entitled to storage/demurrage charges as may be decided by the Owner and the Contractor shall be liable to pay. If the Contractor fails to pay the storage/demurrage charges, then the Owner will have the right to claim the same and recover from any money due to the Contractor on any account, and if such money is insufficient, the Contractor shall be called upon in writing and shall be liable to pay the same within 30 days along with interest @ 18% per annum. In the event the plant and machineries belonging to the Contractor are not removed within the period as stipulated in the Notice, the Owner shall also have the right to dispose / auction the material and recover amount after stipulated time.

27.8.0 The Owner shall be entitled to get the incomplete and/or unsatisfactory and/or defective work completed, by itself or through once or more independent agency(ies)/ supplier as applicable on risk and cost of the Contractor.

27.9.0 The awarding of balance work/supply shall be deemed to construe as crystallization of the recoverable amount on risk and cost from the Contractor.

27.10.0 Any excess expenditure incurred or to be incurred by the Owner in completing the part work/ part incomplete work of any item(s) or the excess loss of damages suffered or as may be suffered by the Owner as aforesaid, shall without prejudice to any other right or remedy available to the Owner in law or as per agreement, be recovered from any money due to the Contractor on any account, and if such money is insufficient, the Contractor shall be called upon in writing and shall be liable to pay the same within 30 days along with interest @ 18% per annum.

27.11.0 If, the Contractor fails to pay the required sum within the aforesaid period of 30 days, the Engineer-in-Charge shall have the right to, upon Notice, sell any or all of the Contractors' unused materials, constructional plant, implements, temporary building at site etc. and adjust the proceeds of sale thereof towards the dues recoverable from the Contractor under the contract and if thereafter there remains any balance outstanding, it shall be recovered in accordance with the provisions of the contract.

27.12.0 In the event the above course is adopted by the Engineer-in-Charge, the Contractor shall have no claim to compensation for any loss sustained by him by reason of him having purchased or procured any materials or entered into any engagements or made any advance on any account or with a view to the execution of the work or the performance of the contract.

27.0.0 INTEREST PROHIBITION

28.1.0 The below clause is over and above the related clauses mentioned elsewhere in the tender documents:

Arbitration:



Parties agree that the Contractor shall not be entitled for any pre-reference and pendente-lite interest, i.e., date of cause of action till date of Award by Arbitral Tribunal. Parties agree that Contractor's 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 to the Contractor. Where the arbitral award is for the payment of money, no interest shall be payable by Owner on whole or any part of the money for any period till the date on which the award is made.

Suit:

Parties agree that the Contractor shall not be entitled for any pre-filing interest, i.e., date of cause of action till date of filling of civil suit Parties agree that Contractor's claim for any such interest shall not be considered and shall be void. The Civil Court/ Commercial Court shall have no right to award pre-filing interest in the matter to the Contractor. Where the civil decree is for the payment of money, no interest shall be payable by Owner on whole or any part of the money for any period till the date on which the suit is filed.

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