

 IndianOil	GENERAL PURCHASE CONDITIONS		RHQ-MC-GPC REV 01
	MATERIAL & CONTRACT DEPTT- RHQ		

GENERAL PURCHASE CONDITIONS

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GENERAL PURCHASE CONDITIONS

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GENERAL TERMS AND CONDITIONS OF PURCHASE

1.0 **DEFINITIONS**

1.1 Unless repugnant to the subject or context thereof, the following expressions herein used shall carry the meaning hereunder respectively assigned to each, namely:

(a) “Bulk Consumables” mean items specifically defined in the Contract Documents to constitute bulk consumables.

(b) “Contract” shall mean the contract as derived from:

- i. The Tender Documents;
- ii. Agreed Variations to the Tender Documents;
- iii. Vendor’s Priced bid; and
- iv. The Purchase Order.

(c) “Contract Document(s)” shall mean individually and collectively the documents constituting the contract.

(d) “Defect Liability Period” in respect of:

- i. Bulk Consumables shall be the date of delivery plus 6 (six) months;
- ii. In the case of other Material(s) shall be 18 (eighteen) months from the date of delivery or 12 (twelve) months after the same have been put in service or commissioned, whichever is earlier;
- iii. In the case of altered or replaced Material(s):

i. For bulk consumables:

In case of repair / replacement, Vendor shall extend the warranty of such part further for a period of 6 (six) months from the date of supply of repaired/replaced material. However, in no case the warranty of repaired/ replaced part shall exceed 12 (twelve) months from last supply.

ii. In case of other materials:

In case of repair/ replacement, Vendor shall extend the warranty of such part further for a period of 12 (twelve) months for other materials from the date of repair/ replacement. However, in no case the warranty of repaired / replaced part shall exceed 24 (twenty four) months from the date of commissioning or 30 (thirty) months from last supply, whichever is earlier.

In case of extended Warranty period, extension of Performance Bank Guarantee shall not be required.

“Delivery”

- iv. with respect to Imported Material(s) means the date of completing shipment of the Material(s) on board the designated vessel or aircraft at the designated port or place of shipment, securely packed and unless

otherwise determined, shall be deemed to be the date of the relative Bill of Lading or Airway Bill; and

- v. with respect to Indigenous Material(s) means the date of completing shipment of Material(s) F.O.R./F.O.T. securely packed and loaded and unless otherwise determined, shall be deemed to be the date of the relative Truck/lorry Receipt or Railway Receipt.
- (e) **"Earnest Money Deposit (EMD)"** means the bank guarantee furnished in lieu of EMD {where the amount of EMD is more than Rs 100,000/- (Rupees One hundred thousand only)} or online EMD submission on IOCL's e-tendering portal by the Vendor in support of his/ its bid as required by the Bid Documents.
- (f) **"Equipment"** means plant, machinery, equipment, instruments, computer, control and other electronic and electrical systems, and shall include parts, components, assemblies and sub-assemblies thereof.
- (g) **"Free Issue Material(s)"** means any equipment, parts or components or spares to be supplied by IOCL to the Vendor which are to be incorporated in any supply of Indigenous Material(s).
- (h) **"IOCL"** means Indian Oil Corporation Ltd., a company incorporated in India and having its registered office at G-9, Ali Yavar Jung Marg, Bandra (East) Mumbai – 400 051 and having the Head Office of its Refineries Division at Scope Complex, Core 2, 7 Institutional Area, Lodhi Road, New Delhi-110 003 and includes its successors and assigns and all persons through whom it acts in any matter for the purpose of the Tender or the Contract.
- (i) **"Imported Material(s)"** mean(s) the materials to be fabricated, manufactured or procured by the Vendor outside India for shipment to India under the Contract.
- (j) **"Indigenous Material(s)"** mean(s) materials to be fabricated, manufactured or procured by the Vendor within India for supply under the Contract.
- (k) **"Inspectors"** means Inspectors nominated, appointed, approved or deputed by IOCL for inspection of the Material(s) prior to Delivery.
- (l) **"Material(s)"** means any and all raw materials, manufactured articles, equipment, spares and other goods and supplies whatsoever and includes wherever applicable drawings, data, specifications and intellectual property rights and all services (including but not limited to design, fabrication, inspection, delivery and testing) required to be supplied, done, performed, prepared or undertaken to meet the requirements of the Contract
- (m) **"Procurement Coordinator"** means the representative or agency appointed by IOCL for managing, expediting and/or coordinating the supply of Material(s).
- (n) **"Project"** means the Project or Refinery for which the Material(s) is/are required.
- (o) **"Project Site"** means the site of the Refinery unit or site of the Project for which the Material(s) is/are required.

- (p) **“Purchase Order”** means IOCL’s acceptance of the Vendors’ offer/bid and includes any formal or detailed Purchase Order issued by IOCL pursuant to the acceptance of the bid.
- (q) **“Stipulated Delivery Period”** means the date(s) for delivery of the Material(s) as stipulated in the Contract and failing such stipulation, shall mean the date(s) for such delivery(ies) as agreed between the Vendor and IOCL.
- (r) **“Tender Documents”** with reference to the Purchase Order mean:
- i. Material Requisition/Request for Quote;
 - ii. General Terms and Conditions of Purchase;
 - iii. Technical Specifications;
 - iv. Special Conditions of Purchase (if any);
 - v. Addendum (a) (if any) to the Tender Documents.
- (s) **“Total Contract Value”** means total value of the Material(s) and services to be supplied as specified in the Purchase Order, exclusive of reimbursable taxes and duties.
- (t) **“Vendor”** means the successful bidder on whom the Purchase Order is placed.

1.2 Interpretation of Contract Documents

- 1.2.1 The several Contract Documents forming the Contract are to be read together as a whole and are to be taken as mutually explanatory.
- 1.2.2 Should there be any doubt or ambiguity in the interpretation of the Contract Documents or in any of them, the Vendor shall prior to commencing the relative supply or work for supply under the Contract apply in writing to IOCL for resolution of the doubt or ambiguity. Should the Vendor fail to apply to IOCL within 7 days from the date of receipt of the Order for its clarification as aforesaid, the Vendor shall perform the relative work and/or make the relative supply at his own risk.
- 1.2.3 Any item of supply or service relative thereto shown, indicated or included by expression or implication in any document forming part of the Contract shall be deemed to form part of the Scope of Supply with the intent that the indication or inclusion of the supply or service within any of the said documents shall be a sufficient indication of the Scope of Supply or service covered by the Contract.
- 1.2.4 No verbal agreement or assurance, representation or understanding given by any employee or officer of IOCL or so understood by the Vendor shall anyway bind IOCL or alter the Contract Documents unless specifically given in writing and signed by or on behalf of IOCL as an Agreed Variation to the relative term(s) in the Contract Document(s).
- 1.2.5 Clause headings given in this or any other Contract Documents are intended only as a general guide for convenience in reading and segregating the general subject of the various clauses, but shall not govern the meaning or import of the clauses there under appearing or confine or otherwise affect the interpretation thereof.

1.3 Irreconcilable Conflicts

Subject to the provisions of Clause 1.2 hereof, in the event of an irreconcilable conflict between the provision of these General Terms and Conditions of Purchase and/or the Special Conditions of Purchase and/or Addendum (a) and/or the Agreed Variations to the Tender Documents and/or the Purchase Order and/or between any of the other said documents so that the conflicting provision(s) cannot co-exist, to the extent of such irreconcilable conflict, the following order of precedence shall apply so that the conflicting provision(s) in the document lower in the order of precedence set out below shall give way to the conflicting provision(s) in the document higher in the order of precedence, namely:

- i. Purchase Order;
- ii. Agreed Variations to the Tender Documents;
- iii. Addendum/Addenda (a) to the Tender Document;
- iv. Special Conditions of Purchase;
- v. General Terms and Conditions of Purchase;
- vi. Other Contract Documents.

2.0 CONFIRMATION OF ORDER

2.1 Wherever applicable, signed Letter of Acceptance (also named as Fax of Acceptance in some cases) shall, normally, be issued through e-mail (scan of the signed document). SAP Purchase Order shall, normally, be issued as an unsigned, system generated document through e-mail.

Without prejudice to the formation of contract by acceptance of bid, the Vendor shall acknowledge the receipt of the Letter of Acceptance (wherever applicable) and SAP Purchase Order within 7 (seven) days following receipt of the Letter of Acceptance or SAP Purchase Order.

3.0 PRICE

3.1 Unless otherwise specifically stipulated, the price shall be firm and shall not be subject to escalation for any reason.

3.2 Unless otherwise specifically stipulated, the price for Indigenous Material(s):

- i. shall be inclusive of road/rail worthy water-proof packing and forwarding charges upto effecting delivery at F.O.T./F.O.R despatch point and shall also be inclusive of inland freight and local taxes (if any) as leviable on the transportation or entry of goods into any local area or limits pursuant to the Contract; and
- ii. shall be exclusive of transit insurance, CGST or SGST/IGST and/or such other imposts which are leviable by law on the supply of goods or their sale to IOCL pursuant to the Contract.

3.3 (a) If it is stipulated that local taxes (if any) are to be borne by IOCL, the Vendor shall arrange for the transporter to pay the same, if any leviable and claim reimbursement thereof from IOCL against proof of payment.

(b) If it is stipulated that dispatch shall be on "freight to pay basis", the Vendor shall advise the transporter to collect the freight from IOCL after the full

quantity of the Material(s) has/have been delivered in good condition to the Project Site.

- 3.4 Unless otherwise stipulated, the price of Imported Material(s) shall be the FOB/ FCA (as per prevailing ICC INCOTERMS at the time of ordering) price of Material(s) and shall be inclusive of sea/ air worthy water-proof packing and forwarding charges (as the case may be).

4.0 **EARNEST MONEY**

- 4.1 A bid is liable to be rejected unless it is supported by earnest money of a value as provided in the Purchase Requisition/ Request for Quote.
- 4.2 Earnest Money by the tenderers shall be accepted only in the form of online EMD payment on IOCL's e-tender portal or a Bank Guarantee. Bank Guarantee in the format set forth in Annexure "A" hereto may be furnished in lieu thereof if the amount of Earnest Money Deposit exceeds Rs. 100,000/- (Rupees One hundred thousand only).
- 4.3 If the Earnest Money is in the form of a Bank Guarantee, the validity of the Bank Guarantee shall be extended by the Vendor at the Vendor's cost and initiative for a period of 3 (three) months beyond the date of the acceptance of bid by IOCL, failing which the Bank Guarantee may be encashed by IOCL and the proceeds held as security for the performance of Vendor's obligation and the due discharge of Vendor's liability under the resultant Contract until the Vendor acknowledges the acceptance of the Purchase Order and furnishes the Performance Guarantee. Should the Vendor fail to accept the Purchase Order and/or furnish the Performance Guarantee within the time specified in this behalf, or specifically permitted by IOCL for the purpose, IOCL may encash the Bank Guarantee furnished by the Vendor by way of Earnest Money Deposit and/or forfeit such proceeds or other encashable Earnest Money Deposit held by it in cash without prejudice to any other right or remedy available to it.
- 4.4 EMD of bidders whose price bids are not opened/ disqualified during techno-commercial bid evaluation (i.e. unsuccessful Bidder) shall be released after price bid opening.
EMD of bidders qualified in the techno-commercial bid but unsuccessful for placement of Purchase Order shall be released after placement of Purchase Order on successful Bidder.
EMD of the successful bidder shall be released on receipt of acceptable Performance Bank Guarantee (PBG), wherever applicable. Wherever PBG is not applicable, EMD of successful bidder shall be returned after order acceptance.
- 4.5 Earnest Money furnished by a tenderer may also be forfeited in the following circumstances:
- a) If the tenderer alters or modifies or withdraws their bid prior to opening of the price bid and within the specified validity period of the Tender; or
 - b) If the tenderer withdraws their bid after the Tender is opened.
 - c) In case of submission of false/ fraudulent / forged documents.

5.0 TERMS OF PAYMENT

5.1 For Imported Material(s):

- a) The price of Imported Material(s) shall be paid in the currency specified in the Contract.
- b) 100% (one hundred percent) of the price of the relative Imported Material(s) (after considering price reduction for delay, if any, as per clause 12.0) will be paid under an irrevocable Letter of Credit against submission of documents specified in the Letter of Credit. The Letter of Credit shall be substantially in the format set forth in the Annexure "B" hereto and shall be established either by the State Bank of India or other bankers of IOCL in India.
- c) Unless otherwise specified, the Vendor may draw against the Letter of Credit on presentation of all the following documents:
 - i) Invoice
 - ii) Clear Bill of Lading/Airway Bill covering the Material(s) invoiced
 - iii) Packing list for the consignment
 - iv) Third party Inspector's Certificate covering the invoiced Material(s) wherever applicable
 - v) Test/Composition Certificate
 - vi) Certificate of origin
 - vii) Drawing(s)/Catalogue(s) covering the Material(s), wherever applicable.
 - viii) Export Certificate, wherever applicable
 - ix) Invoice of Inspector's charges, wherever applicable
 - x) IOCL's acknowledgement of Performance Bank Guarantee wherever applicable.
- d) Bank charges payable to IOCL's banker for opening of the Letter of Credit shall be borne by IOCL and bank charges payable to the Vendors' banker shall be borne by the Vendor.
- e) Should the Vendor desire to get the Letter of Credit confirmed by any other banker, confirmation charges will be borne by the Vendor.
- f) Unless otherwise agreed, the Letter of Credit shall not permit drawing in more than 3 (three) tranches.
- g) Unless otherwise specified, the Vendor shall furnish a Bank Guarantee towards performance favoring IOCL within 15-days of the Purchase Order for an amount equivalent to 10% (ten) of the Price of Material(s) from a Scheduled bank in India (including an Indian branch of a foreign bank) acceptable to IOCL in the format set forth in Annexure "C" hereto valid (in the first instance) for the period specified in Clause 16.12
- h) In the event that IOCL requests the Vendor to hold or to warehouse the Material(s) for any period after the Material(s) are ready for shipment, the storage charges as agreed, shall be borne by IOCL in addition to the Price.

5.2 For Indigenous Supply:

- a) Unless otherwise specified in the Contract, where the total contract value does not exceed Rs.50,000/- (Rupees fifty thousand only), IOCL shall release 100 % of the relative Price of Material(s) within 30 days of receipt of the Material(s) at Project Site and their acceptance.

- b) Unless otherwise specified in the Contract, where the total contract value exceeds Rs. 50,000/- (Rupees fifty thousand only) but is less than Rs. 1,00,000/- (Rupees one hundred thousand only), IOCL shall release 90% of the relative Price of Material(s) on delivery of the documents specified in (c) hereof below relative hereto, and will release the balance 10% of the Vendor's invoice within 30 (thirty) days of receipt of Material(s) at Project Site and their acceptance.
- c) Unless otherwise specified, where the total contract value of the Material(s) is Rs. 1,00,000/- (Rupees one hundred thousand only) and above, IOCL shall release 90% of the relative price against the documents specified here below relative hereto through IOCL's bankers and will release the balance 10% on the Vendor's invoice within 30 (thirty) days of receipt of Material(s) at the Project Site and its/their acceptance. Unless otherwise mentioned, the specified documents are:
 - i) Invoice
 - ii) Clear Railway Receipt/Truck Receipt/Goods Receipt covering the Material(s) invoiced
 - iii) Packing list for the consignment
 - iv) Third Party Inspector's Certificate covering the invoiced Material(s)/ Release Note, wherever applicable
 - v) Test/Composition Certificate, wherever applicable
 - vi) IBR Certificate/CMRS Certificate, wherever applicable
 - vii) Drawing(s)/Catalogue(s) covering the Material(s) , wherever applicable
 - viii) Guarantee/Warranty Certificate(s), wherever applicable
 - ix) Invoice of Inspector's charges, wherever applicable
 - x) Freight Memo(s) if freight is not included in the Price and the RR/TR/GR does not give the freight particulars.
 - xi) Acknowledgement by IOCL of receipt of Performance Bank Guarantee (wherever applicable)
- d) The financial settlement of the Vendor's invoice is liable to be withheld in the event the Vendor fails to submit the drawings, data and all other documents as called for in the Purchase Order.
- e) Unless otherwise specified, the Vendor shall furnish a Bank Guarantee towards performance favoring IOCL within 15-days of the Purchase Order for an amount equivalent to 10% (ten) of the Price of Material(s) from a Scheduled bank in India (including an Indian branch of a foreign bank) acceptable to IOCL in the format set forth in Annexure "C" hereto valid (in the first instance) for the period specified in Clause 16.12.

6.0 VENDORS' DRAWINGS AND DATA REQUIREMENT

The Vendor shall submit drawings, data and documentation in accordance with (but not limited to) what is specified in the Purchase Requisition/Tender documents and/or Vendor's drawing and data form attached to the Purchase Order, within 30 (thirty) days of the Purchase Order. The types, quantities and time limits for submitting these must be respected by the Vendor and the Material(s) shall be deemed not to have been delivered for all purposes (including payment) until completion of the said submissions to the satisfaction of IOCL.

7.0 FREE ISSUE MATERIALS (for incorporation in the Indigenous supply)

If the Purchase Order involves the incorporation of any Free Issue Material(s):

- a) The Vendor shall prior to taking delivery of the Free Issue Material(s) arrange for a Bank Guarantee for the full value of the Free Issue Material in the format set forth in Annexure "D" hereto valid from the date of the receipt of the Free Issue Material(s) until delivery of the Material(s) in which the Free Issue Material(s) has/have been incorporated.
- b) The Vendor shall inspect the Free Issue Material(s) at the time of taking delivery thereof and satisfy itself of the quality, quantity and condition of the Free Issue Material(s). IOCL shall not be liable for any claims or complaints whatsoever in respect of the quality, quantity or condition of the Free Issue Material(s) once the Vendor has taken delivery thereof.
- c) All Free Issue Material(s) shall be taken delivery of, transported, held, stored and utilized by the Vendor as trustee of IOCL, and delivery of the Free Issue Material to the Vendor shall constitute an entrustment thereof by IOCL to the Vendor with the intent that any transportation, utilization, application or disposal thereof by the Vendor otherwise than for incorporation in the Indigenous Material(s) shall constitute a breach by the Vendor.
- d) The Vendor shall transport the Free Issue Material(s) only by such transportation as is suitable and shall hold and store the Free Issue Material(s) only at such place and/or premises that are air and water tight and otherwise suitable for the storage of the Free Issue Material(s) so as to prevent damage or deterioration or theft or other loss, and shall arrange such watch and ward as shall be necessary to ensure the safety thereof.
- e) Notwithstanding the Bank Guarantee mentioned in sub-paragraph (a) above, the Vendor shall replace any Free Issue Material(s) which is/are lost, damaged, misused, stolen or deteriorated with other Material(s) of equivalent quantity and quality and condition, and the same shall be deemed to constitute Free Issue Material(s) and the provisions of sub paragraphs (a) to (f) hereof shall apply thereto in the same manner as to the originally supplied Free Issue Material(s).
- f) Unused Material(s) from the Free Issue Material(s) shall be returned by the Vendor to IOCL and if IOCL so directs, the Vendor shall dispose of the same by sale or otherwise on such terms and conditions as IOCL may stipulate or approve and the Vendor shall pay to IOCL the sale proceeds of the Material(s) so disposed of by sale.

8.0 THE BILL OF MATERIAL(S)

8.1 Where the price of Material(s) is a lumpsum price and pro-rata payment is envisaged in the Purchase Order, the Vendor shall within 60 (sixty) days of the issue of the Purchase Order furnish to IOCL for approval, a priced and detailed Bill of Material(s)/ Billing Schedule as required covering all Material(s), which shall conform to the price break-up and Total Contract Value given in the Purchase Order. The Bill of Material(s) shall operate as the Billing Schedule for payment of the price of the Material(s). In preparing the Bill of Material(s), the Vendor shall ensure that all contracted Material(s) are included in the Bill of Material(s) so as to ensure that IOCL is not required, due to any oversight or omission, to pay any taxes and duties

on a value in excess of the total Value indicated in the Contract. Should IOCL be required to pay taxes or customs duties on account of such oversight or omission, the Vendor shall reimburse such excess payments to IOCL.

8.2 The Material Safety Data Sheets in the case of catalysts and chemicals and other items where ever applicable shall also be submitted within 30 days after receipt of the Purchase Order.

9.0 **MODIFICATION**

9.1 IOCL shall have the right to request changes or modifications in the technical documents and/or specifications comprised in the Contract, subject to the Vendor's approval thereto. IOCL shall bear any additional cost and shall be entitled to the benefit of any reduced cost resultant upon any such change or modification.

9.2 As soon as possible after receipt of a written request from IOCL for change(s), the Vendor shall furnish in writing to IOCL an estimate of the additional cost or benefit for the change(s) and/or modification(s) requested and its effect on the delivery date. On agreement with respect to the enhanced/reduced cost and modified delivery time, which shall be finalized within 10 (ten) days of the request for the modification, IOCL shall issue an amendment to the Purchase Order, and the Vendor shall promptly proceed with the change(s)/modification(s) contemplated by the amended Purchase Order.

10.0 **SUB-CONTRACTS / ASSIGNMENT**

10.1 The Vendor shall not assign the Contract in whole or part without obtaining the prior written consent of IOCL.

10.2 The Vendor shall not sub-contract the Contract in whole or part to any entity without obtaining the prior written consent of IOCL.

10.3 The Vendor shall, notwithstanding the consent and assignment/sub-contract, remain jointly and severally liable and responsible to IOCL together with the assignee/ sub-contractor, for and in respect of the due performance of the Contract and the Vendor's obligations there under.

11.0 **EXPEDITING**

11.1 IOCL may appoint a Procurement Coordinator to manage, expedite and coordinate the manufacture, shipment and/or despatch of Material(s) covered by the Contract.

11.2 The Vendor shall furnish to the Procurement Coordinator within 30 (thirty) days of receiving the Purchase Order, the required number of copies of documents including but not limited to Schedule of manufacture/PERT chart, unpriced copies of sub-orders, phased programme of item-wise manufacture, testing and delivery and any other information and/or documents as may be called for by the Procurement Coordinator.

11.3 The Procurement Coordinator shall have free access to the Vendor's shop and sub-suppliers' shop during normal working hours and shall be provided all the necessary assistance and information to help him perform his job.

12.0 RESPECT FOR DELIVERY DATES AND PRICE DISCOUNT

- 12.1 The time and date of Delivery of Material(s) as stipulated in the Contract shall be adhered to on the clear understanding that the Price(s) of the Material(s) has/have been fixed with reference to the said Delivery date(s).
- 12.2 If any delay is anticipated by the Vendor in the delivery of the Material(s) or any of them beyond the stipulated date(s) of Delivery, the Vendor shall forthwith inform IOCL in writing of such anticipated delay and of the steps being taken by the Vendor to remove or reduce the anticipated delay, and shall promptly keep IOCL informed of all subsequent developments.
- 12.3 **(A) In case scope includes only supply**

If any Material(s) is/are not delivered within the Delivery date(s) stipulated in respect thereof, IOCL shall be entitled to a discount by way of price adjustment in a sum equivalent to 0.5% (one half percent) of the price of such Material(s) per week or part thereof that the Material(s) remain(s) undelivered beyond the stipulated Delivery period in respect thereof, subject to a maximum discount of 5% (five percent) of the Total Contract Value. Such discount shall be given by the Vendor by equivalent reduction in the invoice value before presentation of documents to the Bank/IOCL for payment. Should the Vendor fail to deliver the Material(s) or to make such adjustment, the discount may be recovered by any other means.

(B) In case scope of work includes supply and site work

For delay in supply:

The price adjustment shall be applicable @ 0.5% of Total Supply Order Value (excluding site work) per week of delay or part thereof subject to maximum of 5% of Total Supply Order Value (excluding site work).

For Delay in site work:

The price adjustment shall be applicable @ 0.5% of Total Order Value (supply + site work value) per week of delay or part thereof subject to maximum 5% of Total Order Value (supply + site work value).

In no case total price adjustment shall exceed 5% of Total Order Value (Supply + site work).

Note:

In case of package items (ordered as a complete system), the price adjustment shall be applicable on the entire order value of that package and not on the value of the undelivered portions (even though a billing breakup has been approved).

In case of purchase of bulk items where tolerance limit is specified (e.g. pipes, cables etc.), price adjustment clause shall be applicable on the actual quantity supplied, within the tolerance limit, instead of Purchase Order quantity.

- 12.4 Without prejudice to its rights under Clause 12.3 hereof and to entitlement to discount(s) accrued in terms thereof and in addition thereto, IOCL may at any time after the expiry of the stipulated date(s) of Delivery in respect of any

Material(s), at its discretion terminate in whole or part the Contract in respect of the undelivered Material(s) or any of them and either purchase such Material(s) from any other available source at the risks and costs of the Vendor and recover from the Vendor any additional cost incurred by it on such purchase or recover from the Vendor without such purchase the difference between the market and contract price of such Material(s) on the date of termination of Contract relative thereto.

The maximum liability against risk & cost sourcing shall not be beyond the total Contract Value for the undelivered material. Provided, this shall not restrict IOCL's claim for damages or compensation, as the case may be, for acts of fraud, deliberate default, negligence or misconduct by the vendor.

13.0 DELAYS DUE TO FORCE MAJEURE

13.1 If a force majeure event as defined below, affecting the Vendor, arises prior to the expiry of the stipulated Delivery period in respect of any Material(s) and the Vendor intends to claim extension of the stipulated date of delivery in respect of such Material(s) or any of them, the Vendor must advise IOCL by notice in writing of such event by means of communication which secures undisputed service of the notice not later than 10 (ten) days of the occurrence of the event. Such occurrence shall be duly certified by a local Chamber of Commerce or statutory authority. The Vendor shall within 10 (ten) days of the end of the Force Majeure event similarly notify IOCL of such cessation, and of the period and Material(s) for which an extension of Delivery date(s) is consequently claimed. Such notification shall be a mandatory pre-condition to a claim for such extension.

13.2 No failure, delay or omission by Vendor to fulfill any of its obligations under Contract (other than the obligation to make payments when due) shall give rise to any claim against Vendor or IOCL or be deemed to be a breach of a Contract if and to the extent such failure, delay or omission arises from any of the following events not within the reasonable control of Vendor and not attributable to Vendor's fault, negligence or misconduct (each an event of "Force Majeure"):

- a) Act of terrorism
- b) Riot, war, invasion, act of foreign enemies, hostilities (whether war declared or not), civil war, rebellion, revolution, insurrection of military or usurped power;
- c) Ionizing radiation or contamination, radioactivity from any nuclear fuel/ nuclear waste from reaction of nuclear fuel or any other hazardous radioactivity.
- d) Epidemics, tsunamis, earthquakes, flood, fire, hurricanes/typhoons or other natural disaster.
- e) Freight embargoes, strikes at national/ state wide level (for more than 7 consecutive days) where the supplier's works is located.

13.3 For the avoidance of doubt, inclement weather, third party breach, delay in supply of materials (other than due to a nationwide transporters' strike), commercial hardship, strike, shutdown or lockout other than as specified above shall not constitute a Force Majeure event.

13.4 In the event of Force Majeure, Vendor shall bear any costs incurred by it resulting there from. The Vendor affected by Force Majeure shall use all reasonable efforts to prevent and reduce to a minimum and mitigate the effect of delays occasioned by such Force Majeure.

13.5 If the Vendor is prevented from fulfilling its contractual obligations for a continuous period of three (3) months because of Force Majeure, then the Vendor and IOCL shall consult with each other with a view to agreeing on the action to be taken under the circumstances, and failing such agreement, IOCL shall be entitled to terminate the contract in whole or to the extent that its performance is prevented by Force Majeure.

14.0 **WARRANTY OF TITLE**

14.1 The Vendor warrants that the Material(s) sold and supplied by it to IOCL pursuant to the Contract shall be free from any and all defects in title including but not limited to any charge, third party claim, mortgage, hypothecation, foreclosure, lien, restriction, injunction, attachment or encumbrance whatsoever and shall hold and keep IOCL indemnified from and against any and all contrary claims, demands, actions and proceedings and all costs (including legal costs), charges, expenses and losses suffered or incurred by IOCL as a consequence thereof and/or to defend any such claim, demand, action or proceeding.

14.2 The Vendor shall be understood to have represented to IOCL that the use by IOCL of the Material(s) supplied by the Vendor will not infringe any third party patent rights or pending patent applications or other intellectual property rights. Accordingly, the Vendor will hold harmless and indemnify IOCL against all costs (including legal costs), charges and expenses incurred or any damages or other sums that may be assessed or become payable under any decree or judgment of any court or under any settlement resulting from any suit, claim or action for infringement of third party patents or other third party intellectual property.

15.0 **INSPECTION AND TESTING**

15.1 In addition to any tests to be conducted by the Vendor under the Contract or any applicable codes or standards, the Material(s) shall be subject to inspection and/or testing by Inspector(s) (including Third Party Inspector(s)) at any time prior to shipment and/or despatch and to final inspection within a reasonable time after arrival at the Project Site. The Inspector(s) shall have the right to carry out the inspection or testing, which will include inspection and testing of the raw materials at manufacturers shop, at fabricators shop and at the time of actual despatch before and/or after completion of packing.

15.2 In addition to testing and inspection by Inspectors, IOCL may nominate an institutional agency like Boiler-Inspectorate for official testing of coded equipment. The Vendor shall ensure that all procedures for preparation and performance of tests prescribed by such institution shall be scrupulously complied and observed.

15.3 Unless otherwise specified in the Contract, the inspection shall be carried out as per the relevant standards/scope of inspection provided alongwith the Tender Enquiry/Purchase Order.

All charges for Third Party Inspectors shall be paid by the Vendor. IOCL shall pay these charges against vendor's invoice, unless agreed otherwise. However, no charges will be payable by IOCL in the event the inspection has become infructuous for any cause.

- 15.4 All manufacturers' mill test certificates and analytical reports from material laboratories in respect of raw materials employed and components incorporated shall have to be presented by the Vendor.
- 15.5 Before shipping or despatch, the Material(s) will have to be checked and stamped by the Inspector(s) who may forbid the use and dispatch of any equipment and/or Material(s) which during tests and inspection fail(s) to comply with the specifications, codes and testing or other contractual requirements applicable thereto, and the Vendor shall not tender such rejected Material(s) for supply to IOCL nor shall incorporate the same in any Material(s) to be tendered for supply to IOCL.
- 15.6 The Vendor will inform IOCL at least eight (8) days in advance of the exact place, date and time of tendering the Material(s) for required inspection and provide free access to the Inspector(s) during normal working hours at Vendor's or his/its sub-Suppliers' works, and place at the disposal of the Inspector(s) all useful means for undertaking the Inspection, checking the results of tests performed, marking the Material(s), getting additional tests conducted and final stamping of the Material(s).
- 15.7 All tests will be performed at the Vendors' expense and if required by the Inspector(s), shall be conducted in accordance with the Inspector's instructions. The Vendor shall also bear the expense for the preparation and rendering of tests required by the Boiler Inspectorate or other statutory testing or certifying agencies/institutions.
- 15.8 Unless otherwise specified, all charges for the Inspection shall be borne by the Vendor.
- 15.9 IOCL may, at its own expense, have its representative(s) witness any test or inspection. In order to enable IOCL's representative(s) to witness the tests/inspections, the Vendor shall notify IOCL at least 30 (thirty) days in advance, of the schedule of all inspection hold points prior to the initiation of equipment fabrication. IOCL shall be notified eight (8) calendar days in advance of any changes in the schedule of inspection. IOCL will advise the Vendor in advance whether it intends to have its representative(s) be present at any of the inspections.
- 15.10 Even if the inspection and tests are fully carried out, the Vendor shall not be absolved from its responsibilities to ensure that the Material(s), raw materials, components and other inputs are supplied strictly to conform and comply with all the requirements of the Contract at all stages, whether during manufacture and fabrication, or at the time of Delivery as on arrival at site and after its erection or start up or consumption, and during the defect liability period. The inspections and tests are merely intended to prima facie satisfy IOCL that the Material(s) and the parts and components comply with the requirements of the Contract.
- 15.11 The Vendor's responsibility shall also not be anyway reduced or discharged because IOCL or IOCL's representative(s) or Inspector(s) shall have examined or commented on the Vendor's drawings or specifications or shall have witnessed the tests or required any chemical or physical or other tests or shall have stamped or approved or certified any Material(s).

- 15.12 Unless otherwise specifically permitted by the Contract, no Material(s) shall be dispatched for delivery or delivered under the Contract without being stamped or otherwise approved for delivery by the Inspector(s).
- 15.13 Notwithstanding approval by the Inspector(s), if on testing and/or inspection after receipt of the Material(s) at Project Site, any Material(s) is/are found not to be in strict conformity with the contractual requirements or specifications, IOCL shall have the right to reject the same and hold the Vendor liable for non- performance of the Contract. The provision of Clause 16.5 to 16.11 shall mutatis mutandis apply to such rejected Materials.

16.0 **ACCEPTANCE OF MATERIALS & GUARANTEES**

- 16.1 The Vendor acknowledges that notwithstanding the provision or approval of any drawings, designs, specifications, source of supply or other data relative thereto by IOCL and/or the testing of Material(s) in accordance with the requirements of the Contract or any applicable code or specification and/or any inspection of the input or Material(s) by the Inspector(s) or issue of an Inspection Certificate relative thereto and/or any other act, matter or thing done or required by IOCL to satisfy itself of the quality, quantity, sufficiency or efficiency of the Material(s) prior to delivery thereof and/or the transfer of title and/or risks in relation to the Material(s), shall not be deemed or understood to constitute acceptance of the Material(s) by IOCL nor shall IOCL be understood to have accepted any Material(s) other than plant, machinery, equipment and parts and components unless such Material(s) have been received at the Project Site of IOCL and found to be acceptable as evidenced by a Certificate of Acceptance issued by IOCL, and in case of plant, machinery, equipment and parts and components, unless they have been incorporated into the relative Project Unit and the said Unit has been tested and the relative plant, machine, equipment, part or component has successfully functioned without patent defect.
- 16.2 To this end, the Vendor guarantees that:
- i) All materials used in the execution of the Contract and all Material(s) used in performance thereof shall be in strict compliance and conformity to the characteristics, requirements and specifications of the Contract and suitable for the purpose for which such Material(s) are intended to be used if such purpose has been disclosed or is/are suitable for use to which such Material(s) are ordinarily put to use, if such purpose has not been disclosed.
 - ii) In the case of machinery, plant or equipment with rated capacities, outputs or other characteristics, that the machinery, plant or equipment as the case may be, shall function to such capacities and/or outputs and shall meet the other characteristics required in respect thereof.
- 16.3 The Vendor further undertakes to replace any Material(s) if found not to conform to the guarantees aforesaid at any time during the defect liability period applicable thereto. IOCL shall give written notice of the defect to the Vendor and of the rejection of the defective Material(s).
- 16.4 If the defect can be rectified or repaired without diminishing the quality, utility, efficiency or life of the Material(s), instead of outright rejection of the Material(s), IOCL may at its discretion permit the Vendor to rectify the

defect(s) within a period to be specified by IOCL in this behalf in the notice. In case Vendor fails to take action to rectify the defect(s) within the period specified to the satisfaction of IOCL, IOCL may at its discretion, at the risk and cost of the Vendor in all respects, rectify or repair or cause to be rectified or repaired the defect(s) either by itself or through any other source or agency, or reject the defective Material(s).

- 16.5 Should IOCL, notwithstanding the endeavour to do so, be unable to rectify or repair or get rectified or repaired the defect(s) within a reasonable time, IOCL may, notwithstanding such endeavour reject the defective Material(s).
- 16.6 The Vendor shall repair, rectify and/or replace, as the case may be, the defective and rejected Material(s) without entitlement to any extra payment. Prevailing DDP INCOTERMS (as per ICC) or **any other Incoterm which may replace DDP** shall apply for such replacement parts or components or Material(s) at Project Site with respect to imported parts or components or materials.
- 16.7 The Vendor shall at its own risk and cost remove any rejected Material(s) from the Project Site, and in case of plant, machinery, equipment, parts or components which have been installed, cause the same to be dismantled and removed from the Project Site subject to the Vendor in all cases prior to the removal of the rejected Material(s) from the Project site:
- i) furnishing a bank guarantee to IOCL from a Scheduled bank in India (including an Indian branch of a foreign bank acceptable to IOCL) and in a format set forth in Annexure "E" hereto for the value paid by IOCL on the Material(s) rejected; and
 - ii) undertaking to replace the rejected Material(s) with other Material(s) conforming to the Vendor's guarantees aforesaid applicable thereto.

IOCL shall be responsible for providing any on-site access to the vendor to perform warranty related work.

- 16.8 The Vendor shall not without the prior written consent of IOCL utilize any rejected Material(s) in the re-supply.
- 16.9 The Defect Liability Period with respect to any Material(s) replaced, repaired, altered and/or rectified shall be reckoned in accordance with Clause No. 1.1(d) (iii).
- 16.10 Should the Vendor fail to dismantle and/or remove any rejected Material(s) from the Project Site within the time specified in the notice of rejection, IOCL may without prejudice to any other right or remedy, at the risk and cost of the Vendor cause the rejected Material(s) to be dismantled and sold by public auction or private treaty as it deems fit and hold or adjust the sale proceeds for the recovery of the cost of dismantling, sale and removal of the rejected Material(s) and any amount paid by IOCL towards the price of the rejected Material(s). In so doing, IOCL shall not act as a trustee or constructive trustee of the Vendor and shall be entitled to act solely on the basis of its best judgment without being accountable or liable to the Vendor in any manner except for the proceeds of the sale.

- 16.11 The time taken for the repair, rectification or replacement of Material(s) will not be added to the stipulated Delivery date for the purpose of calculating price discount, and delivery of such Material(s) shall be the date of Delivery of the repaired, rectified or replaced Material(s).
- 16.12 As security for the due performance of its obligations and the due discharge of its liabilities under the Contract, the Vendor shall within 15 (fifteen) days of the issue of the Purchase Order furnish to IOCL a Bank Guarantee issued by a Scheduled Bank in India acceptable to IOCL, in the format set forth hereto and marked Annexure "C" hereinbefore. The Bank guarantee shall remain in force for the entire period required for the performance of the contract and the defect liability period plus a 3 (three) months claim period thereafter. Any shortfall in the value of the Bank Guarantee, as a result of encashment by IOCL either in full or in part, shall be made good by the Vendor within 7 (seven) days of notice by IOCL to the Vendor in this behalf. Any failure by the Vendor to furnish the Bank Guarantee or to enhance the Value of the Bank guarantee as stated above shall constitute a default by the Vendor for which IOCL shall, without prejudice to any other right or remedy available to it, be entitled to terminate the Contract with consequences as indicated in clause 12.4, the provisions whereof shall mutatis mutandis apply.

17.0 FREIGHT, TAXES AND DUTIES

- 17.1 Subject to the provision of Clause 17.2 hereunder, C G S T & S G S T / I G S T payable on the supply and delivery of Material(s) pursuant to the contract will be paid at actual within the contractual delivery date. Any increase in the rates of the CGST & SGST/ IGST within the contractual completion date or approved extended contractual completion date will be borne by IOCL but not beyond the contractual delivery date or extended contractual delivery date. However, the benefit of any reduction must be passed on to IOCL.
- 17.2 Central GST (CGST) & State GST (SGST) / Integrated GST (IGST) payable or reimbursable by IOCL to the vendor on supply of indigenous Materials shall be included in and shown separately in the vendor's Tax invoice for the Material(s). The vendor shall prior to despatch of the Material(s) obtain from IOCL a list of the documents required by IOCL to enable it to avail of the relative benefits. Payment or reimbursement of CGST & SGST/IGST to IOCL shall be made upon the vendor furnishing the relevant documents.
- 17.3 Freight, if any, along with CGST & SGST/IGST thereon payable or reimbursable by IOCL shall be invoiced and shall be paid/reimbursed by IOCL after receipt of the material(s) at the project site.
- 17.4 Taxes and duties are not intended to operate as a profit centre but are intended only to meet the relevant costs incurred on this account. If any reimbursement or collection of the taxes or duties by the vendor from the IOCL is in excess of the taxes and/or duties actually paid by the vendor, the vendor shall forthwith refund such excess to IOCL together with interest thereon at 1% (one percent) per annum above the MCLR rate (or rate that replaces it) of SBI from the date of collection until the date of refund.

18.0 WEIGHTS AND MEASUREMENTS

- 18.1 The shipping documents, invoices, packing lists and all other relevant documents shall contain the same units of weights and measurements as given in the Contract Documents, in respect to the following data:
- a. Unit net weight
 - b. Unit gross weight (including packing)
 - c. Dimensions of packing
- 18.2 All weights and measurements recorded by the Procurement Co-ordinator or Inspector(s) on receipt of the Material(s) at the Project site will be treated as final.

19.0 PACKING & MARKING

- 19.1 All Material(s) shall be suitably packed in weatherproof seaworthy/airworthy packing for ocean/air transport under tropical conditions and/or for rail and road or other appropriate transport within India. The Vendor shall ensure that the packing is strong enough to ensure safety and preservation of the Material(s) upto the Project Site or other point of final destination.
- 19.2 Material(s) shall be protected by a suitable coat of paint and all bright parts shall be protected from rust by application of rust preventives as may be necessary. All machinery surfaces shall be suitably protected.
- 19.3 For uniform Material(s) when packed in several cases/crates, progressive serial numbers shall be indicated on each end. In case of bundles, the shipping marks shall be embossed on metal or tag and wired securely on each end.
- 19.4 A distinct colour splash in say red-black around each package/crate/bundle shall be given for identification.
- 19.5 All nozzle holes and openings as also all delicate surfaces shall be carefully protected against damage and bad weather. Flange faces of all nozzles shall be protected by blanks. All manufactured surfaces shall be painted with rust proof paint or as specified in the specification.
- 19.6 All threaded fittings shall be greased and provided with a plastic cap. All pipes and sheets shall be marked with strips bearing progressive numbers.
- 19.7 All small pieces shall be packed in cases. All fragile and exposed parts will be packed with care and packages will bear the words "HANDLE WITH CARE" in English and in the case of Indigenous Supply, in Hindi also.
- 19.8 The Vendor shall be held liable for all damages or breakages to the Material(s) due to defective or insufficient packing as well as for corrosion due to insufficient greasing/protection.
- 19.9 On three sides of the packages, the Vendor shall affix or cause to be affixed the following marks clearly visible in indelible paint

FROM: VENDOR

TO: INDIAN OIL CORPORATION LTD.
[Address]INDIA

PURCHASE ORDER NO.: [] Rev. No.: []
10 DIGIT ITEM CODE : []
EQUIPMENT NOMENCLATURE: []
NET WEIGHT: []kg/lb
GROSS WEIGHT: []kg/lb
CASE NO.: [] OF [] TOTAL CASES
DIMENSIONS: [] IMPORT LICENCE NO.[]

NOTE: Marking shall be bold with a minimum letter height of 5 cm.

19.10 a) For every shipment, packages must be marked with serial progressive numbering. The numbering will be progressively continued for each subsequent shipment covering the Contract.

- b. All packages will bear warning signs on the outside denoting the center of gravity and sling marks. Packages that require special handling and transport shall have their centers of gravity and points at which they may be gripped clearly indicated and marked "Attention Special Load - Handle With Care" in English Language. Any other direction for handling shall also be clearly indicated on the package.
- c. Top heavy containers will be marked either "TOP HEAVY" or "HEAVY ENDS".
- d. When packing is clean and light colored, a dark black stencil paint shall be acceptable. However, where packing is soiled or dark, a coat of flat Zinc white paint shall be applied and allowed to dry before applying the specific marking(s).
- e. Colour codification shall be used to identify different items e.g, IBR, NACE, Fire Safety Items etc.

19.11 In case of large equipments like vessels, heat exchangers etc., documents contained in a waterproof envelope shall be fastened inside a shell connection with an identifying arrow sign "DOCUMENTS" applied with indelible paint.

20.0 **DESPATCH INSTRUCTIONS**

For Indigenous Material(s)

- 20.1 Unless otherwise advised by IOCL or the Procurement Co-ordinator in writing, Material(s) shall not be despatched without prior inspection and/or testing and Release Order/Material(s) Acceptance Certificate issued by the Inspector(s).
- 20.2 The Vendor shall exercise due care to ensure that the consignment is booked under appropriate railway classification, failing which any additional freight

incurred by IOCL due to the Vendor booking the Material(s) under a wrong railway classification shall be borne by the Vendor.

20.3 The Material(s) shall be consigned in the name of the consignee viz.

Indian Oil Corporation Ltd.,
[Site address]

20.4 The Material(s) shall be transported only through bank approved transporters by the most economical and expeditious mode of transport to the destination as applicable for respective mode of despatches as follows :

- a. By Rail in wagon load consignment to : *[Name and address of Refinery / Project to be specified]*
- b. By road transport to : *[Name and address of Refinery / Project to be specified]*

IOCL and the Procurement Coordinator shall have the right to advise any change in despatch point or destination and/or mode of transport in respect of any Material(s). Any extra expenditure incurred by the Vendor on this account supported by satisfactory documentary evidence, will be reimbursed to the Vendor by IOCL.

21.0 SHIPMENT AND SHIPMENT NOTICES

21.1 Imported Material

The Vendor shall make shipment only after prior approval of the Inspector(s) unless otherwise specifically authorized in writing by IOCL or the Procurement Coordinator. As soon as any shipment is made, the Vendor shall send advance information by way of FAX message [Fax No 022-26400774] to the Dy. General Manager, Indian Oil Corporation Ltd.(Refinery Division), G-9, Ali Yavar Jung Marg, Bandra (East) Mumbai- 400 051 for Mumbai consignments and to the Dy. General Manager (Fax: 033-24145020) Indian Oil Corporation Ltd.(Refinery Division), Indian Oil Bhavan (Refineries Division) Central Wing, 6th Floor, 2, Gariahat Road (South), Kolkata-700068 for Kolkata consignments (or other specified authority in respect of Material(s) consigned to other Ports), giving particulars of the shipments, vessel's name, port of shipment, Bill of Lading number and date for ocean shipment and Airway Bill number & Date & Flight details for air consignment, total FOB and freight value with confirmation copy to IOCL, addressed to [designation and address]

21.2 Indigenous Material

Immediately after shipment, the Vendor shall inform despatch particulars to IOCL/ Procurement Coordinator hereunder :

1 copy to Dy. General Manager (Materials) , *[Address & Fax no]*

1 copy to IOCL (Stores) addressed to *[Designation, Address & Fax no.]*

In the case of project orders, in addition to the above, a copy to the Dy. General Manager (Project) addressed to: *[Address & Fax no.]*

(PMC as per Purchase Order) addressed to: *[Designation, Address & Fax no.]*

22.0 MARINE AND TRANSIT RISK INSURANCE

- 22.1 Marine/Air and Transit Risk Insurance shall be covered by IOCL against its Open General Policy.
- 22.2 The Vendor shall send IOCL information of the proposed shipment/consignment well in advance by telegram/fax/e-mail/courier to enable IOCL to take necessary action for the marine/air/transit insurance of the shipment/consignment.
- 22.3 The Vendor shall advise the despatch particulars of the shipment/consignment to the Insurance Company by fax / email under advice to the Procurement Coordinator promptly after shipment to ensure that the consignment is fully covered by insurance. Any failure by the Vendor to do so shall place the consignment at the Vendor's risk.

23.0 SHIPPING AND SHIPPING DOCUMENTS

23.1 For Imported Materials(s)

- a. The Vendor shall arrange with Vessel owner(s) or Forwarding Agent(s) specified in the Contract documents for proper storage of the Material(s) in a manner so as to facilitate the handling and off-loading at the port of destination and to avoid any over carriage or discharge.
- b. The Bill(s) of Lading/Airway Bill shall be made out in favor of "Indian Oil Corporation Ltd." [Refinery/Unit] or to the order of the L/C opening bank, and the notify column should indicate [Designation] Indian Oil Corporation Ltd. [Refinery Division], G-9, Ali Yavar Jung Marg, Bandra (East), Mumbai- 400061 for port of discharge Mumbai and to the Dy. General Manager, Indian Oil Corporation Ltd., Indian Oil Bhavan (Refineries Division) Central Wing, 6th Floor, 2, Gariahat Road (South), Kolkata-700 068 for port of discharge Kolkata or other specified authority in respect of Material(s) consigned to other ports.
- c. All columns in the body of the Bill of Lading/Airway Bill namely marks and Numbers, material description, weight particulars, etc. should be completed accurately and such statement should be uniform in all the shipping documents. The freight particulars should mention the basis of freight tonnage, heavy lift charges, if any, surcharge, discount, etc. clearly and separately and the net total freight payable, shown at the bottom.
- d. The Bill of Lading/Airway Bill shall be free of any liability of IOCL to the carrier for demurrage.
- e. The Bill of Lading/Airway Bill shall indicate the following:

Consignee : Indian Oil Corporation Limited
[Name of Refinery/Project]

- f. All documents viz. Bill of Lading/Airway Bill, invoices, packing list, freight memos, country of origin certificate, Third Party Inspection Release Certificate, inspector's certificate, Export certificate (wherever applicable), test certificates, drawings and catalogues should be in the English language.

- g. i. In addition to the Bill of Lading/Airway Bill, which should be obtained in 3 (three) stamped originals plus as many copies as required, invoices, packing lists, freight memos (if the freight particulars are not shown in the Bill of Lading), country of origin certificate(s), Third Party Inspection Release Certificate, inspector's certificate, Export certificate (wherever applicable) and test/composition certificate, shall be made out against each shipment in as many number of copies as are shown in Clause 23.3.
- ii. The Bill of Lading/Airway Bill, invoice and packing list must specifically show uniformly, the marks and numbers, material description, contents case-wise, country of origin, consignee's name, port of destination and all other indicated particulars. The invoice must show the unit rates and net total FOB price. The invoice must cover also items packed separately and the value shown accordingly.
- iii. The packing list must show, apart from other particulars, the actual contents in each case, net and gross weights and dimensions and the total number of packages.
- iv. (All documents must be duly signed by an authorized representative of the Vendor.

23.2 In case of FOB contracts:

- i) Shipping Arrangements shall be made through nominated freight forwarders (in the country of exit) as detailed in the Purchase Order and freight will be accordingly paid by IOCL in Indian Rupees.
- ii) The Vendor shall furnish to the respective nominated freight forwarder, the full details of consignment such as outside dimensions, weights (both gross and net), No. of packages, technical description and drawings, name of the supplier, ports of loading etc. two weeks prior to the proposed date of shipment to enable the concerned agency to arrange the shipping space.

23.3 The Vendor shall obtain the shipping documents in required number of sets including three original stamped copies of the Bill of Lading/Airway Bill immediately after the shipment is made and airmail the shipping documents in the manner stipulated hereunder to ensure that the documents so forwarded are received at least one week before the vessel's arrival. The Vendor shall be fully responsible for any delay and/or demurrage in clearance of the consignment at the port due to delay in forwarding the shipping documents. If in terms of the Letter of Credit, the complete original set of documents are required to be sent to IOCL through the bank, the distribution indicated below will be confined to obtaining copies of documents only.

Documents	IOCL (Office that issued the PO)	IOCL (Port Office)	IOCL (Project Site)
Bill of lading/Airway Bill	3 (including 1 original)	1	1
Invoice	2	2	1
Packing List	2	2	1
Certificate of Origin	2	2	1

Test/Composition Certificate	2	2	1
Third Party Inspection Release Certificate	1	1	1 (original)
Drawing/Catalogue	1	1	1
Invoice of Third Party/Lloyds for Inspection Charges, wherever applicable.	2	1	1
Export Certificate (where applicable)	1	1	1

24.0 **INVOICING & NEGOTIATION OF DOCUMENTS**

24.1 Indigenous Material(s)

- a. Unless otherwise directed by IOCL, Invoices and other documents shall be forwarded by the Vendor to IOCL as stipulated hereunder:
 - i. Original Invoice+1 copy of document as per Purchase Order to the Dy. General Manager (Finance), [Address, Fax No., e-mail id]
 - ii. 1 copy of Invoice with original documents as per Purchase Order to Dy. General Manager (Materials), [Address, Fax No., e-mail id] along with technical catalogues, Inspection certificate and Inspectors Release Note.
- b. Where payment is to be released to the Vendor against despatch documents through the bank, the Vendor shall forward two complete original sets of the documents specified in clause 5.2(c) to the specified banker of IOCL with a stipulation that the banker shall forward one set of the documents to IOCL with LSC intimation and acceptance before retirement of the documents from the Bank. One complete set of all of the abovementioned documents shall be sent to the Dy. General Manager (Materials) [Address, Fax No., e-mail id]. Documents will not be retired by the bank failing strict compliance by the Vendor of the above mentioned despatch requirements.
- c. Where payment is to be released to the Vendor directly by IOCL, two sets of all the documents mentioned in (b) above shall be submitted/forwarded directly to the Dy. General Manager (Materials) [Address, Fax No., e-mail id] and upon processing, the payment shall be released through the Finance Department, by cheque/RTGS/NEFT.

25.0 **TRANSFER OF TITLE AND RISK OF LOSS**

25.1 For Indigenous Material(s):

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

- a) For delivery F.O.R. or F.O.T. despatch point: On handing over the Material(s) to the carrier against receipt of clean Railway Receipt/Truck or Lorry Receipt and such receipt having been handed over to IOCL.

- b) For despatch F.O.R destination station : On removal of the Material(s) by IOCL from the railway authorities at the destination station.
- c) Equipment sent freight/carriage paid to the Project Site: On receipt of the Material(s) by IOCL at the Project Site.

25.2 For Imported Material(s):

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

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

26.0 TERMINATION

26.1 Without prejudice to IOCL's right to price adjustment by way of discount or any other right or remedy available to IOCL, IOCL may terminate the Contract or any part thereof by a written notice to the Vendor, if:

- i) The Vendor fails to comply with any material term of the Contract.
- ii) The Vendor informs IOCL of its inability to deliver the Material(s) or any part thereof within the stipulated Delivery Period or such inability otherwise becomes apparent.
- iii) The Vendor fails to deliver the Material(s) or any part thereof within the stipulated Delivery Period and/or to replace/rectify any rejected or defective Material(s) promptly.
- iv) The Vendor becomes bankrupt or goes into liquidation.
- v) The Vendor makes a general assignment for the benefit of creditors.
- vi) A receiver is appointed for any substantial property owned by the Vendor.
- vii) The Vendor has misrepresented to IOCL, acting on which misrepresentation IOCL has placed the Purchase Order on the Vendor.
- viii) Violation of Integrity Pact, if applicable.

26.2 Upon receipt of said termination notice, the Vendor shall discontinue the work on the Contract so far as terminated, and matters connected therewith.

26.3 On termination of the Contract, without prejudice to any other right or remedy available to IOCL under the contract, in the event of IOCL suffering any loss on

account of delayed delivery or non-delivery, IOCL reserves the right to claim and recover damages from the Vendor in respect thereof.

26.4 Notwithstanding anything to the contrary herein contained, IOCL will be at liberty to take independent administrative action to place the Vendor under 'holiday list' for delay or non-performance of its contractual obligations or any of them.

26.5 Action in case of submission of fraudulent documents :

If any information given by a bidder/ tenderer is found to be incorrect in any particular considered by IOCL to be relevant for the evaluation of the bid/ tender, or is found by IOCL to misrepresent or conceal facts, or if any of the documents submitted by the bidder in support of or relevant to the bid/ tender is found by IOCL to be forged, false or fabricated, IOCL may reject the bid, and without prejudice to any other right(s) of action or remedy available to IOCL, IOCL may forfeit the Earnest Money given by the bidder in order to compensate IOCL for the expenses incurred by it in considering the bid (and not by way of penalty) and take action for putting the bidder on holiday list for such period as IOCL in this behalf considers warranted and / or remove the bidder from any approved list of vendors / contractors. If prior to the discovery of the incorrect information, misrepresentation or forged, false or fabricated document (s), the bid has resulted in a contract, the Contract shall be liable to be terminated by IOCL with consequences of termination as provided in Cl 26 of the General Purchase Conditions.

27.0 **RECOVERY OF SUMS DUE**

Whenever there is any claim against the Vendor for payment of sums of money arising out of or under the execution of the Purchase Order, IOCL may, without prejudice to any other mode or source of recovery available, recover the same from any sum(s) then due or which at any time thereafter may become due to the Vendor under this or any other contract with IOCL and/or by recourse to any bank guarantee available to IOCL for this purpose, and should these sum(s) be not sufficient to cover the recoverable amount, the Vendor shall pay IOCL on demand, the balance.

28.0 **NON-WAIVER**

Failure of IOCL/IOCL's representative(s) to insist upon adherence to any of the terms or conditions incorporated in the Contract or failure or delay to exercise any rights or remedies herein or by law accruing, or failure to promptly notify the Vendor in the event of breach or the acceptance of or the payment for any Material(s) hereunder or approval of any design or Material(s) shall not release the Vendor and shall not be deemed a waiver of any right of IOCL to insist upon the strict performance thereof or of any of its rights or remedies as to any such Material(s) regardless of when the Material(s) are shipped, received or accepted nor shall any purported oral modifications or revisions of the Contract by IOCL or IOCL's representative(s) act as a waiver of the terms hereof.

29.0 **COMPLETE AGREEMENT**

The Contract Document(s) including, technical documents, drawings and specifications and other Annexures to the Contract documents constitute the entire agreement between the Vendor and IOCL in relation to the Contract arising out of the Purchase Order. Changes or amendments will be binding only if the

amendments/modification are agreed to in writing as an amendment/variation to the relative Contract Document and signed by an authorised representative of IOCL.

30.0 EXCLUSION OF THE GOVT. OF INDIA'S LIABILITY

- 30.1 It is expressly understood and agreed that IOCL has entered into the Contract 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 the Contract and will have no liability, obligation or right whatsoever under the Contract. It is expressly understood and agreed that IOCL is an independent legal entity with power and authority to enter into the Contract solely on its own behalf under the applicable laws of India. The Vendor expressly agrees, acknowledges and undertakes and accepts that IOCL is not an agent, representative or delegate of the Government of India and that the Government of India is not and shall not be liable for any act, omission, commission, breach or other wrong or liability arising out of the Contract. The Vendor hereby expressly waives, releases and forgoes any and all actions or claims, including cross claims, impleader claims or counter claims, against the Government of India arising out of the Contract and covenants not to sue the Government of India for any manner of claim, cause of action or thing whatsoever arising out of or under the Contract.

31.0 TECHNICAL INFORMATION/CONFIDENTIALITY

- 31.1 Drawings, specifications and details shall at all times be the property of IOCL and shall be returned by the Vendor to IOCL on demand. The Vendor shall not make use of any document, drawing, specification, data or any other information connected with the Contract, for any purpose at any time, save and except in the implementation of the Contract.
- 31.2 The Vendor shall not disclose the technical information furnished or gained by the Vendor under or by virtue of or as a result of the implementation of the Contract and shall make all efforts to ensure that the technical information is kept confidential.
- 31.3 Notwithstanding anything contained in this contract to the contrary, nothing contained herein shall be construed as transferring between the parties any patent, trademark, copyright or other intellectual property rights relating to the supply of equipment and / or materials, or provisions of services covered by this contract, and all such rights are hereby expressly reserved to the true and lawful owners thereof.

32.0 MODE OF COMMUNICATION

- 32.1 It is understood that IOCL is a multifaceted and multi-locational organization and that for any communication to receive attention it is a prerequisite that the communication is properly addressed and that the subject of the communication is properly identified. To this end, except where otherwise provided, all communications, drawings, invoices, shipping notes, packages, packing lists and other document connected with reference to the Contract shall in the heading boldly set out the Purchase Order Number and date, and shall be addressed to the following:

Dy. General Manager (Materials)
[Office issuing the Purchase
Order]

Phone

Fax

Dy. General Manager (Projects)
[Site address]

Phone

Fax

Dy. General Manager
IOCL [concerned Port office]

Phone

Fax
[Concerned Office Address]

(For imports)

With copies to the following in case a Procurement Co-ordinator or Project Management Consultant is involved:

(i) Resident Construction Manager Phone
[Site address]

Fax

(ii) Dy. General Manager (Inspection) of the Procurement Co-ordinator/Project Management Consultant.

33.0 **PART ORDER/REPEAT ORDER**

The Vendor hereby agrees to accept part order at unit prices without limitation and also agrees in case of bulk consumables to accept repeat order(s) during a period of 6 (six) months from the date of original Purchase Order at the same unit price(s) and on the same terms and conditions.

34.0 **ARBITRATION AND GOVERNING LAW**

34.1 Arbitration: All disputes or differences which may arise out of or in connection with the Contract including any dispute or difference regarding the interpretation of the terms and conditions of any clause thereof which cannot be amicably resolved between the parties may be referred to Arbitration.

The Vendor may select one person out of a panel of three persons nominated by IOCL who shall act as the sole arbitrator.

The Arbitration proceedings shall be governed by and conducted in accordance with the Arbitration and Conciliation Act, 1996 as amended from time to time. The seat of the arbitration shall be New Delhi, India. However, with the consent of IOCL and the Vendor, the arbitrator may agree upon any venue at London or Singapore.

Laws of India only would be applicable.

34.2 Arbitration in case of order on Indian CPSE shall be governed by the prevailing guidelines of Department of Public Enterprises (DPE).

34.3 **CONCILIATION**

At any time prior to or during arbitration of any arbitrable dispute(s) pursuant to IOCL's Arbitration Clause, if eligible, the Vendor may seek resort to the Conciliation under the Indian Oil Conciliation Rules, 2014 as amended and / or re-enacted from time to time. The proposal for conciliation shall be made in accordance with said Conciliation Rules. The said Rules are available on the IOCL's website.

- 34.4 **Governing Law:** The Contract(s) shall be construed in accordance with and governed by the laws of India. IOCL shall warrant that the terms and conditions of the Purchase Order shall be valid under existing Indian laws.

35.0 **JURISDICTION**

- 35.1 Notwithstanding any other Court or Courts having jurisdiction to decide the disputed issue, and without prejudice to the provisions or generality of the Arbitration clause, jurisdiction to decide the question(s) arising out of or relative to the Contract in all matters touching or affecting any arbitration, or arising out of or in relation to or under or in accordance with the Arbitration and Conciliation Act, 1996 or otherwise under or with reference to the Contract shall vest exclusively in the court(s) of competent civil jurisdiction at ____ [where the contract(s)/Purchase Order shall be signed on behalf of IOCL] or at New Delhi and only the said Court(s) shall have the jurisdiction to entertain and try any such actions and/or proceedings to the exclusion of all other Courts, provided that nothing herein stated shall be deemed to anyway authorize any party to seek resolution of any dispute(s) otherwise than the recourse to arbitration in accordance with the provisions of the Arbitration clause herein.

Provided always that an award rendered in any arbitration proceedings arising out of or in relation to the Contract may be enforced or executed in any other country or jurisdiction including without limitation a country in which any party against whom the award is to be enforced or executed is located and a country in which the assets of any such party are located.

36.0 **Limitation of Liability**

The maximum liability shall be limited to 100% of total contract value except in case of fraud, deliberate default, negligence or misconduct by the vendor. The vendor shall not be liable for consequential losses on account of production, revenue or profit.

37.0 **Use of white/ erasing fluid**

In case the bidder has been asked to submit price bid/ price implication in physical form, the use of white/ erasing fluid for correcting the rates is banned. Wherever the rates are corrected with white/ erasing fluid, the bids will be summarily rejected.

* * * *

FORM OF BANK GUARANTEE IN LIEU OF EARNEST MONEY DEPOSIT

(On non-judicial stamp paper of appropriate value)

BG NO: _____

DATED: _____

VALID UPTO: _____

To,
 Indian Oil Corporation Limited
 (Refineries Division)

[Address]

Dear Sirs,

In consideration of the Indian Oil Corporation Ltd. [Address]....., (hereinafter called the "Corporation", which expression shall include its successors and assigns) having agreed inter alia to consider the tender of _____ (Name) _____, (Constitution) _____ (Address) _____ (hereinafter referred to as the "Tenderer" which expression shall wherever the subject or context so permits include its successors and assigns) for supply of materials to be awarded under Tender No. _____ upon the Tenderer furnishing an undertaking from the Bank as hereinafter appearing in lieu of payment of the Earnest Money.

We _____ (name) a body corporate registered/constituted under the laws of _____ and having a branch at [Indian branch address with IFSC Code] (hereinafter called "the Bank" which expression shall include its successors and assigns), at the request of the Tenderer and with the intent to bind the Bank and its successors and assigns do hereby unconditionally and irrevocably undertake to pay the Corporation at New Delhi forthwith on first demand without protest or demur or proof or satisfaction or condition and without reference to the Tenderer, all sums payable by the Tenderer as and by way of Earnest Money to the Corporation, for an amount of Rs. _____ (Rupees _____) only or US Dollar _____ (United States Dollars _____)

AND THE BANK DOETH HEREBY FURTHER AGREE AS FOLLOWS:

1. The amount stated by the Corporation in any demand, claim or notice made or given with reference to this Guarantee/Undertaking shall as between the Bank and the Corporation for the purpose of this Guarantee/Undertaking be conclusive of the amount payable by the Bank to the Corporation hereunder.
2. This Guarantee/Undertaking shall not be determined or affected by the liquidation or winding up or dissolution or change of constitution or insolvency of the Tenderer or by any change in the legal constitution of the Bank or the Corporation.
3. Without prejudice to any other mode of service, a demand or claim or other communication may be transmitted by the Corporation to the Bank either by post or by email. If transmitted by email, the transmission shall be complete as soon as the mail is delivered to the mail id of the Bank mentioned in the BG.

4. Notwithstanding anything to the contrary contained herein above:
- i. The Bank's liability under this Guarantee/Undertaking shall not exceed Rs./ US\$_____ (Rupees / United States Dollars_____ only).
 - ii. This Guarantee/Undertaking shall remain in force upto (fill in date) and any extension(s) thereof; and
 - iii. The Bank shall be released and discharged from all liability under this Guarantee/Undertaking unless a written claim or demand is issued to the Bank on or before the midnight of_____and if extended, the date of expiry of the last extension of this Guarantee/Undertaking.
5. Our Guarantee will be governed and construed in accordance with Indian Laws and subject to exclusive jurisdiction of Courts in India.
6. The Bank doth hereby declare that Shri [designation] is authorised to sign this Guarantee/Undertaking on behalf of the Bank and to bind the Bank thereby.

This_____day of_____20

Yours faithfully,

Signature:_____

Name & Designation:_____

Name of the Branch:_____

.....

NOTES:

1. The Bank Guarantee in lieu of Earnest Money Deposit shall be strictly as per above proforma and shall be through a Scheduled Bank operating in India, including the Indian Branch of a foreign bank recognized as a Scheduled bank in India.
2. The Bank Guarantee shall be typed on stamp paper applicable to an agreement in the State in which the Bank Guarantee is issued.
3. This Bank Guarantee shall be sent by the Bank directly to:- Dy. General Manager (Materials), IOCL (Refineries Division).

[IRREVOCABLE LETTER OF CREDIT- FORMAT]

To:

This communication is to be considered as our credit instrument and is subject to the Uniform Customs and Practice for Documentary Credit 1993 revision, I.C.C. publication No. 500.

At the request of Indian Oil Corporation Ltd. (hereinafter called "the Corporation" which expression shall include its successors and assignees) we hereby establish our irrevocable Letter of Credit No. _____ dated _____ in favour of :

(Beneficiary)

for a sum not exceeding (Currency in figures and words) which is payable at sight at the counter of [Beneficiary's Bank] in [Address], covering the FOB/CIF/C&F port supply of Material(s) and equipment under Purchase Order No.[] for the Unit/Refinery of Indian Oil Corporation Ltd.. (IOCL).

This Letter of Credit shall be valid up till [Date]

TERMS OF PAYMENT

Payments under this Letter of Credit shall be made of _____ % of the value of the Invoice(s) drawn by the Beneficiary on IOCL under the said Purchase Order against presentation of the following documents:

Imported Materials:

- i. Invoice;
- ii. Clear Bill of Lading/Airway Bill covering the Materials(s) invoiced;
- iii. Packing list for the consignment;
- iv. Inspector's Certificate covering the invoiced Material(s);
- v. Test/Composition Certificate;
- vi. Certificate of origin;
- vii. Drawing(s)/Catalogue(s) covering the Material(s);
- viii. Export Certificate, wherever applicable;
- ix. Invoice of Inspector's charges, wherever applicable;
- x. Freight Memo(s) if the freight particulars are not shown in the Bill of Lading/Airway Bill.
- xi. Copy of faxed/e-mail intimation of the shipment to IOCL certified by the Beneficiary to be a true copy of the faxed intimation of shipment to IOCL

Indigenous Supply:

- i. Invoice
- ii. Clear Railway Receipt/Truck Receipt/Goods Receipt covering the Material(s) invoiced;
- iii. Packing list for the consignment;
- iv. Third Party Inspector's Certificate covering the invoiced Material/Release Note;
- v. Test/Composition Certificate; _
- vi. IBR Certificate/CMRS Certificate;
- vii. Drawing(s)/Catalogue(s) covering the Material(s);

- viii. Guarantee/Warranty Certificate(s), wherever applicable;
- ix. Invoice of Inspector's charges, wherever applicable;
- x. Freight Memo(s) if inland freight is not included in the Price and the RR/TR/GR does not give the freight particulars.
- xi. Copy of faxed/e-mail intimation of the shipment to IOCL certified by the Beneficiary to be a true copy of the faxed intimation of shipment to IOCL.

SPECIAL INSTRUCTIONS

- * All Bank charges and commissions outside India shall be borne by the Beneficiary
- * Drawing permitted in not more than 3 (three) tranches.
- * Partial shipment is not permitted.
- * Trans-shipment not permitted.
- * Negotiating Bank to reimburse itself after giving 7 (seven) banking days notice to the Issuing Bank from Issuing Bank's account with _____ (Name of the Issuing Bank's correspondent in _____) at maturity under telex/cable advice to the Issuing Bank indicating the amount claimed.
- * IOCL to be intimated the shipping details by fax immediately on shipment.
- * Documents to be dispatched to Issuing Bank by courier within 7 banking days of receipt by Negotiating Bank.
- * Documents must be presented within _____ days after the date of shipment/dispatch to ensure receipt thereof 7 days prior to the arrival of the vessel.

* * * *

[PROFORMA OF BANK GUARANTEE (PERFORMANCE)]

(On non-judicial stamp paper of appropriate value)

To
Indian Oil Corporation Ltd.[Address]

Dear Sirs,

In consideration of the Indian Oil Corporation Ltd. (hereinafter called the "Corporation" which expression shall include its successors and assigns) having awarded to [Name], [Constitution] _____ [Address] _____ (hereinafter referred to as the "Supplier" which expression shall wherever the subject or context so permits include its successors and assigns) a Supply Contract in terms inter alia, of the Corporation(s) Purchase Order No. [] dated (hereinafter referred to as the "Contract") upon the condition of the Supplier's furnishing security in lieu of cash deposit for the Performance of the Supplier's obligations and/or discharge of the Supplier's liabilities under and/or in connection with the said Supply Contract upto a sum of Rs./US\$ [] [Rupees/United States Dollars _____] only amounting to __% (___ percent) of the total contract value.

We _____ (name) a body corporate registered/constituted under the laws of _____ and having a branch at [Indian branch address with IFSC Code] (hereinafter called "the Bank" which expression shall include its successors and assigns) with the intent to bind the Bank and its successors and assigns, hereby undertake to pay the Corporation at New Delhi on first demand in writing without protest or demur or proof or satisfaction or condition and without reference to the Supplier, any and all amounts from time to time demanded by the Corporation from the Bank with reference to this Guarantee/Undertaking upto an aggregate limit of Rs./US\$ [] only or [Rupees / United States Dollars _____].

AND THE BANK DOTH HEREBY FURTHER AGREE AS FOLLOWS:

1. This Guarantee/Undertaking shall be in addition to any other guarantee or any other security whatsoever that the Corporation may now or at any time anywise have in relation to the Supplier's obligations and/or liabilities under and/or in connection with the Contract and the Corporation shall have full authority to take recourse to or reinforce this Guarantee/Undertaking in preference to the other guarantee(s) or security(ies) at its discretion, and no failure on the part of the Corporation in enforcing or requiring enforcement of any other guarantee or security shall have the effect of releasing the Bank from its full liability hereunder.
2. The Corporation shall be at liberty without reference to the Bank and without affecting the full liability of the Bank hereunder to take any other security in respect of the Supplier's obligation(s) and/or liability(ies) under/or in connection with the Contract and/or to vary the terms vis-a-vis the Supplier of the Contract and/or to grant time and/or indulgence to the Supplier or to reduce or to increase or otherwise vary the prices or the total contract value or to release or to forebear from enforcement of all or any of the obligations of the Supplier under the Contract and/or the remedies of the Corporation under any other guarantee(s) or security(ies) now or hereafter held by the Corporation and no such dealing(s), variation(s), reduction(s) or other indulgence(s) or arrangement(s) with the Supplier or release or forbearance whatsoever shall have the effect of releasing the Bank from its full liability to the Corporation hereunder or of prejudicing the rights of the Corporation against the Bank.
3. This Guarantee/Undertaking shall not be determined or affected by the liquidation

or winding up or dissolution or change of constitution or insolvency of the Supplier or any change in the legal constitution of the Bank or of the Corporation.

4. The Bank hereby waives all rights at any time inconsistent with the terms of this Guarantee/Undertaking and the obligations of the Bank in terms hereof shall not be anyway affected or suspended by reasons of any dispute or disputes having been raised by the Supplier (whether or not pending before any Arbitrator, Officer, Tribunal or Court) or any denial of liability by the Supplier or any other order or communication whatsoever by the Supplier stopping or preventing or purporting to stop or prevent any payment by the Bank to the Corporation in terms hereof.
5. Notwithstanding anything to the contrary contained herein above:
 - a) The Bank's liability under this Guarantee/Undertaking shall not exceed (currency in figures) (currency in words only) ;
 - b) This Guarantee/Undertaking shall remain in force upto _____ (here put the entire period required for the performance of the Contract and the defect liability period plus 3 (three) months) and any extension(s) thereof; and
 - c) The Bank shall be released and discharged from all liability under this Guarantee/Undertaking unless a written claim or demand is issued to the Bank on or before _____ and if extended, the date of expiry of the last extension of this Guarantee/Undertaking.
6. Our Guarantee will be governed and construed in accordance with Indian Laws and subject to exclusive jurisdiction of Courts in India.
7. Without prejudice to any other mode of service, a demand or claim or other communication may be transmitted by the Corporation to the Bank either by post or by email. If transmitted by email, the transmission shall be complete as soon as the mail is delivered to the mail id of the Bank mentioned in the BG.
8. The Bank doth hereby declare that Mr. _____ [name & designation of the person authorised to sign on behalf of the Bank] is authorised to sign this Guarantee/Undertaking on behalf of the Bank and to bind the Bank thereby.

Yours faithfully,
(Authorised Signature)
NAME & DESIGNATION

NAME OF THE BANK

**PROFORMA OF BANK GUARANTEE
(FULL VALUE OF FREE ISSUE MATERIALS)**

(On non-judicial stamp paper
Of appropriate value)

To

Indian Oil Corporation Ltd.
[Address]

Dear Sirs,

In consideration of the Indian Oil Corporation Ltd. [address] (hereinafter called the "Corporation" which expression shall include its successors and assigns) having awarded to _____ [Name], _____ (Constitution) _____ (Address) (hereinafter referred to as the "Supplier" which expression shall wherever the subject or context so permits include its successors and assigns) a Supply Contract in terms, interalia, of the Corporation(s) Purchase Order No. [] dated [] (hereinafter referred to as the "Contract") and having agreed to provide certain free issue material(s) hereinafter referred to as "Free Issue Material" to the Supplier for incorporation in the materials(s) to be supplied under the Contract) upon the condition of the Supplier's furnishing security in lieu of cash for the said Free Issue Material(s) upto a sum of Rs./US\$..... (Rupees/ United States Dollars _____ only] being the value of the Free Issue Material(s):

We _____ [name] a body corporate registered/constituted under the laws of [Country] and having a branch at [Indian branch address with IFSC code] (hereinafter called "the Bank" which expression shall include its successors and assigns) with the intent to bind the Bank and its successors and assigns, hereby undertake to pay the Corporation at New Delhi on first demand in writing without protest or demur or proof or satisfaction or condition, and without reference to the Supplier, any and all amounts from time to time demanded by the Corporation from the Bank with reference to this

Guarantee/Undertaking upto an aggregate limit of Rs./US\$ _____ (Rupees/ United States Dollars _____ only]

AND THE BANK DOTH HEREBY FURTHER AGREE AS FOLLOWS:

1. This Guarantee/Undertaking shall be in addition to any other guarantee or any other security whatsoever that the Corporation may now or at any time anyway have in relation to the Supplier's obligations and/or liabilities under and/or in connection with the Contract and/or the Free Issue Material and the Corporation shall have full authority to take recourse to or enforce this Guarantee/Undertaking in preference to the other guarantee(s) or security(ies) at its discretion, and no failure on the part of the Corporation in enforcing or requiring enforcement of any other guarantee or security shall have the effect of releasing the Bank from its full liability hereunder.
2. The Corporation shall be at liberty without reference to the Bank and without affecting the full liability of the Bank hereunder, to take any other security in respect of the Supplier's obligation(s) and/or liability(ies) under or in connection with the Contract or the Free Issue Material and to vary the terms vis-a-vis the Supplier of the Contract or the Free Issue Material and/or to grant time and/or indulgence to the Supplier and/or to reduce or to increase or otherwise vary the prices or the total contract value or the value of the Free Issue Material or to release or to forebear from enforcement of all or any of the obligations of the Supplier under the Contract and/or the remedies of the Corporation under any other guarantee(s) or security(ies) now or hereafter held by the Corporation and no such dealing(s), variation(s), reduction(s) or other indulgence(s) or arrangement(s) with the Supplier or release or forbearance whatsoever shall have the effect of releasing the Bank from its full liability to the Corporation hereunder or of prejudicing the rights of the Corporation against the Bank.
3. This Guarantee/Undertaking shall not be determined or affected by the liquidation or winding up or dissolution or change of constitution or insolvency of the Supplier or any change in the legal constitution of the Bank or of the Corporation.
4. The Bank hereby waives all rights at any time inconsistent with the terms of this Guarantee/Undertaking and the obligations of the Bank in terms hereof shall not be anyway affected or suspended by reasons of any dispute or disputes having been raised by the Supplier (whether or not pending before any Arbitrator, Officer, Tribunal or Court) or any denial of liability by the Supplier or any other order or communication whatsoever by the Supplier stopping or preventing or purporting to stop or prevent any payment by the Bank to the Corporation in terms hereof.
5. Notwithstanding anything to the contrary contained herein above:
 - a. The Bank's liability under this Guarantee/Undertaking shall not exceed [currency in figures]. [currency in words] only.
 - b. This Guarantee/Undertaking shall remain in force upto the midnight of (here put the scheduled date of delivery of the Free Issue Material + 3 months) and any extension thereof.
 - c. The Bank shall be released and discharged from all liability under this Guarantee/Undertaking unless a written claim or demand is issued to the Bank on or before [] and if extended, the date of expiry of the last extension of this Guarantee/Undertaking.

6. The Bank doth hereby declare that Mr. _____ (name & designation of the person authorised to sign on behalf of the Bank) is authorised to sign this Guarantee/Undertaking on behalf of the Bank and to bind the Bank thereby.
7. Our Guarantee will be governed and construed in accordance with Indian Laws and subject to exclusive jurisdiction of Courts in India.
8. Without prejudice to any other mode of service, a demand or claim or other communication may be transmitted by the Corporation to the Bank either by post or by email. If transmitted by email, the transmission shall be complete as soon as the mail is delivered to the mail id of the Bank mentioned in the BG.

Yours faithfully,
(Signature)
NAME & DESIGNATION
NAME OF THE BANK

NOTES:

1. The Bank Guarantee shall be for the full value of the Free Issue Material(s) as specified by IOCL and shall be strictly as per above proforma and shall be through a Scheduled Bank operating in India, including the Indian Branch of a foreign bank recognized as a Scheduled Bank in India.
2. The Bank Guarantee shall be typed on stamp paper applicable to an agreement in the State in which the Bank Guarantee is issued.
3. This bank guarantee shall be sent by the Bank directly to:- Dy. General Manager (Materials), IOCL [Address].

**PROFORMA OF BANK GUARANTEE
(FOR THE FULL VALUE OF REJECTED MATERIALS)**

(On non-judicial stamp paper
Of appropriate value)

To

Indian Oil Corporation Ltd.
[Address]

Dear Sirs,

In consideration of the Indian Oil Corporation Ltd. (hereinafter called the "Corporation" which expression shall include its successors and assigns) having awarded to [Name], (Constitution) (Address) (hereinafter referred to as the "Supplier" which expression shall wherever the subject or context so permits include its successors and assigns) a Supply Contract in terms inter alia, of the Corporation(s) Purchase Order No. [] dated [] (hereinafter referred to as the "Contract") and having agreed to permit the Supplier to remove certain rejected material(s) for which the Corporation has paid the Supplier (hereinafter referred to as the "Rejected Material(s)") upon the condition of the Supplier furnishing security for the satisfactory replacement of the Rejected Material(s) upto a sum of Rs./US\$ [] (Rupees/United State Dollars _____ only) amounting to the full value of the Rejected Material(s).

We _____ [name] a body corporate registered/constituted under the laws of [Country] and having a branch at [Indian branch address with IFSC Code] (hereinafter called "the Bank" which expression shall include its successors and assigns) with the intent to bind the Bank and its successors and assigns, hereby undertake to pay the Corporation at New Delhi on first demand in writing without protest or demur or proof or satisfaction or condition, and without reference to the Supplier, any and all amounts from time to time demanded by the Corporation from the Bank with reference to this Guarantee/Undertaking upto an aggregate limit of Rs./US\$ [] [Rupees/United States Dollars].

AND THE BANK DOTH HEREBY FURTHER AGREE AS FOLLOWS:

1. This Guarantee/Undertaking shall be in addition to any other guarantee or any other security whatsoever that the Corporation may now or at any time anyway have in relation to the Supplier's obligations and/or liabilities under and/or in connection with the Contract or the Rejected Material(s) and the Corporation shall have full authority to take recourse to or reinforce this Guarantee/Undertaking in preference to the other guarantee(s) or security(ies) at its discretion, and no failure on the part of the Corporation in enforcing or requiring enforcement of any other guarantee or security shall have the effect of releasing the Bank from its full liability hereunder.
2. The Corporation shall be at liberty without reference to the Bank and without affecting the full liability of the Bank hereunder, to take any other security in respect of the Supplier's obligation(s) and/or liability(ies) under or in connection with the Contract and/or the Rejected Material(s) and to vary the terms vis-a-vis

the Supplier of the Contract or Rejected Material(s) and/or to grant time and/or indulgence to the Supplier and/or to reduce or to increase or otherwise vary the prices of the total contract value or the value of the Rejected Material or to release or to forebear from enforcement of all or any of the obligations of the Supplier under the Contract or otherwise in respect of the Rejected Material and/or the remedies of the Corporation under any other guarantee(s) or security(ies) now or hereafter held by the Corporation and no such dealing(s), variation(s), reduction(s) or other indulgence(s) or arrangement(s) with the Supplier or release or forbearance whatsoever shall have the effect of releasing the Bank from its full liability to the Corporation hereunder or of prejudicing rights of the Corporation against the Bank.

3. This Guarantee/Undertaking shall not be determined or affected by the liquidation or winding up or dissolution or change of constitution or insolvency of the Supplier or any change in the legal constitution of the Bank or of the Corporation.
4. The Bank hereby waives all rights at any time inconsistent with the terms of this Guarantee/Undertaking and the obligations of the Bank in terms hereof shall not be anyway affected or suspended by reasons of any dispute or disputes having been raised by the Supplier (whether or not pending before any Arbitrator, Officer, Tribunal or Court) or any denial of liability by the Supplier or any other order or communication whatsoever by the Supplier stopping or preventing or purporting to stop or prevent any payment by the Bank to the Corporation in terms hereof.
5. Notwithstanding anything to the contrary contained herein above:
 - a. The Bank's liability under this Guarantee/Undertaking shall not exceed [currency in figures]. [currency in words only]
 - b. This Guarantee/Undertaking shall remain in force upto (put date fixed for replacement of the Rejected Material + 3 months) and any extension(s) thereof;) and
 - c. The Bank shall be released and discharged from all liability under this Guarantee/Undertaking unless a written claim or demand is issued to the Bank on or before [] and if extended, the date of expiry of the last extension of this Guarantee/Undertaking.
6. The Bank doth hereby declare that Mr. _____ (name & designation of the person authorised to sign on behalf of the Bank) is authorised to sign this Guarantee/Undertaking on behalf of the Bank and to bind the Bank thereby.
7. Without prejudice to any other mode of service, a demand or claim or other communication may be transmitted by the Corporation to the Bank either by post or by email. If transmitted by email, the transmission shall be complete as soon as the mail is delivered to the mail id of the Bank mentioned in the BG.
8. Our Guarantee will be governed and construed in accordance with Indian Laws and subject to exclusive jurisdiction of Courts in India.

Yours faithfully,
(Signature)
NAME & DESIGNATION

NOTES:

1. The Bank Guarantee for full value of Rejected Material(s) shall be strictly as per above proforma and shall be through a Scheduled Bank operating in India, including the Indian Branch of a foreign bank recognized as a Scheduled Bank in India.
2. The Bank Guarantee shall be typed on stamp paper applicable to an agreement in the State in which the Bank Guarantee is issued.
3. This bank guarantee shall be sent by the Bank directly to:- Dy. General Manager (Materials), IOCL [Address].

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PROFORMA OF BANK GUARANTEE
(ADVANCE)
(On non-judicial paper of appropriate value)

To
Indian Oil Corporation Ltd.
(Refineries Division)

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.....
.....

Dear Sirs,

WHEREAS INDIAN OIL CORPORATION LIMITED (REFINERIES DIVISION) (Hereinafter called "The IOCL" which expression shall include its successors and assigns) has awarded M/s _____ (hereinafter called "The Supplier" which expression shall include its successors and assigns) the work of designing, manufacturing, fabricating and supply of in terms of a contract as constituted by Purchase Order No. dated _____ issued by the IOCL to the Supplier (hereinafter called "The Contract" which expression include all the amendments and/or modifications of the Purchase Order).

AND WHEREAS the IOCL has agreed to advance the Supplier a sum of Currency _____ (Currency _____) hereinafter called "The Advance" as financial assistance to the Supplier under the Contract on the condition, inter alia, that the advance shall be secured by a Bank Guarantee as hereinafter appearing.

We _____ (name) a body corporate registered/constituted under the laws of _____ and having a branch at [Indian branch address with IFSC Code] (hereinafter called "The Bank" which expression shall include our successors and assigns) in consideration of the aforesaid promises and at the request of the Supplier DO HEREBY bind ourselves and our successors and assigns, and irrevocably undertake to pay the IOCL at New Delhi on first demand in writing without protest or demur or proof or condition and without reference to the Supplier any and all amounts at any time and from time to time claimed by you, as due to you under or in respect of the said advance, and demanded by you from us, with reference to this undertaking upto an aggregate limit of Currency (Currency _____).

AND, we, the Bank DO HEREBY further agree as follows:

- i. The IOCL shall have the fullest liberty without reference to the Bank and without affecting in any way the liability of the Bank under this Guarantee/Undertaking, at any time and/or from time to time to anywise vary the Contract and/or any of terms and conditions thereof or of or relative to the advance and to extend time for the performance of the Contract and/or repayment of the advance or to postpone for any time or from time to time the obligations of the Supplier and to waive or postpone exercise of any of the rights available to the IOCL against the Supplier or to forebear from enforcing any of the terms or conditions of the Contract and/or the advance or any security(ies) available to the IOCL, AND the liability of the Bank shall remain in full force and effect notwithstanding any exercise by the IOCL of the liberty with reference to any or all the matters aforesaid or by reason of time being given to the Supplier or any forbearance, waiver, act or omission on the part of the IOCL or any indulgence by the IOCL to the Supplier or any other act, matter or thing whatsoever which under the law relating to sureties would have the effect of releasing the Bank from its liability hereunder or any part thereof, AND the BANK DOTH HEREBY waive all rights at any time inconsistent with the terms of this Guarantee/Undertaking.
- ii. It shall not be necessary for the IOCL to proceed against the Supplier before proceeding against the Bank and this guarantee/undertaking shall be enforceable against the Bank as principal debtor notwithstanding the existence of any other security for any indebtedness of the Supplier to the IOCL (including relative to the advance) and notwithstanding that any such security shall at the time when claim is made against the Bank or proceedings taken against the Bank be outstanding or unrealised.

- iii. As between the Bank and the IOCL for the purpose of this guarantee/undertaking the amount claimed by the IOCL from the Bank with reference to this guarantee/undertaking shall be final and binding upon the bank as to the amount payable by the Bank to the IOCL hereunder.
- iv. The liability of the Bank to the IOCL under this guarantee/undertaking shall remain in full force and effect notwithstanding the existence of any difference or dispute between the Supplier and the IOCL, the Supplier and the Bank and/or the Bank and the IOCL, or otherwise howsoever touching or affecting these presents or the liability of the Supplier to the IOCL, and notwithstanding the existence of any instructions or purported instructions of the Supplier or any other person(s) to the Bank not to pay or for any cause withhold or defer payment to the IOCL under these presents with the intent that notwithstanding the existence of such difference, dispute or instruction, the Bank shall be and remain liable to make payment to the IOCL.
- v. This guarantee/undertaking shall not be affected by any change in the constitution of the Bank or that of the Supplier or the IOCL, or any irregularity in the exercise of borrowing powers by or on behalf of the Supplier.
- vi. This guarantee/undertaking shall be valid for all claims/demands made by the IOCL to or upon us upto the business hours of _____ provided always that if for any reason, the Supplier is unable to complete supplies under the Contract, the Bank shall at the request of the IOCL and without recourse to the Supplier extend the validity of this guarantee/undertaking for a further period of six months. For the purpose of this clause, the IOCL's statement that the Supplier is unable to complete supplies under the contract shall be conclusive and final binding on us.
- vii. Notwithstanding anything to the contrary contained herein above:
 - a. The Bank's liability under this Guarantee/Undertaking shall not exceed Currency..... (Currency..... only),
 - b. This Guarantee/Undertaking shall remain in force upto..... (Expiry date) and any extension(s) thereof; and
 - c. The Bank shall be released and discharged from all liability under this Guarantee/Undertaking unless a written claim or demand is issued to the Bank on or before____ (Claim Expiry date i.e. ____months from the BG Expiry date quoted in point (b) above) and if extended, the claim expiry date of the last extension of this Guarantee/Undertaking.
- viii. Without prejudice to any other mode of service, a demand or claim or other communication may be transmitted by the Corporation to the Bank either by post or by email. If transmitted by email, the transmission shall be complete as soon as the mail is delivered to the mail id of the Bank mentioned in the BG.
- ix. Our Guarantee will be governed and construed in accordance with Indian Laws and subject to exclusive jurisdiction of Courts in India.
- x. The Bank DOTH HEREBY declare that Mr. _____ (name of the person signing on behalf of the Bank) who is _____ (his designation), is authorised to sign this guarantee/undertaking on behalf of the Bank and to bind the Bank thereby.

Dated this _____ day of _____

Yours faithfully

For _____

Signature _____

Name & Designation _____

Name of the Branch _____