

**LPG BUSINESS UNIT**  
**BHARAT PETROLEUM CORPORATION LIMITED**  
**BHARAT BHAVAN II, CURRIMBHOY ROAD,**  
**BALLARD ESTATE, MUMBAI - 400 001**



**OPEN TENDER**

**For Cryogenic LPG Terminalling arrangement along Gujarat Coast for  
KGPL Connectivity, on long term basis (10 Years or more)**

CRFQ NO.: 1000313651

System ID: 45585

PREBID MEETING ON: 12/09/2018 AT 1100 HRS at Mumbai

DUE ON: 15/10/2018 AT 1500 HRS

Ref. 1000313651

01 September 2018

M/s.

Dear Sir/Madam,

Subject: **Invitation of bid for Cryogenic LPG Terminalling arrangement along Gujarat Coast for KGPL Connectivity, on long term basis (10 Years or more)**  
(CRFQ no. 1000313651 due on 15/10/2018 at 3 pm)

**1. About the Company**

Bharat Petroleum Corporation Ltd. (BPCL) is one of the leading Oil Refining and Marketing companies in India. The company produces a diverse range of products, from petrochemicals and solvents to aircraft fuel and specialty lubricants and markets them through its wide network of Petrol Stations, Kerosene Dealers, LPG Distributors and Lube Shoppe's.

**2. Objective of the Tender**

The objective of this tender is to invite bids from interested parties for Cryogenic LPG Import terminalling arrangement along the Gujarat coast for KGPL (Kandla-Gorakhpur Pipeline) Connectivity, for a long term period of 10 years or more commencing from 36 months of the LOI (Letter of Intent). This terminalling arrangement is envisaged for the product requirement of central India and Eastern U.P and transported through KGPL and Road. It is estimated that about 1.5 MMTPA (Million Metric Tons per Annum) of Propane/Butane/ LPG would have to be handled although no minimum guaranteed volume is being committed.

**3. Brief Scope of work and facilities required:**

To receive VLGC (Very Large Gas Carriers) cryogenic cargos of propane and/or butane into their import terminal, storing them in separate tanks, blending them as per IS 4576 to make LPG and dispatching Propane, Butane and/or LPG through Rail, Road, Pipeline (existing and/or proposed). The product will be positioned by BPCL through its own sources/Imports.

Facilities offered should be capable of delivering the afore-mentioned scope of work. They would inter-alia include,

- The cryogenic terminal either existing or new that should be in readiness to receive VLGC tankers and discharge entire cargo in a single berthing
- Separate storage facility for propane, Butane, LPG along with blending and other allied facilities
- Despatch facilities for
  - Propane and Butane through Road
  - LPG through Road
  - LPG through Pipeline to the existing industry KGPL.
- **The connection to the proposed KGPL at any one of the injection point (viz. Kandla LPG import Terminal, Mithi Rohar despatch station, Pipavav LPG import terminal, Dahej LPG import Terminal or Dumad despatch station);** this connection would have to be carried out by the

Operator at his cost including on account of necessary ROU/ROW, statutory approvals for laying, construction and laying cost, booster pumps etc.

All the above facilities should be in readiness by 36 months from the date of issue of LOI.

Successful bidder would also be required to obtain all the necessary statutory clearances required to operate the LPG terminal.

4. Only parties meeting the eligibility criterion specified in Annexure II (Bid Qualification Criteria) are eligible to quote.
5. This tender document consists of the following annexures, which are enclosed:
  - a) **Techno-commercial Bid:**
    - 5.1. Annexure I - Bid Qualification Criteria
    - 5.2. Annexure II - Instructions to tenderers
    - 5.3. Annexure III - Integrity Pact
    - 5.4. Annexure IV - Proforma of the Agreement
    - 5.5. Annexure V - Proforma for Bank Guarantee

Information pertaining to Credential Information, Technical Information and Relationship with Directors shall have to be submitted online.

**b) Price Bid:** A price bid shall also have to be submitted online as per the proforma given in Annexure II.

6. **INTEGRITY PACT (IP):** IP is a pact between BPCL (as a purchaser) on one hand and the bidder on the other hand stating that the two parties are committed to each other in regard to ensuring transparency and fair dealings in this procurement activity. Bidders shall have to essentially sign this pact (IP, mentioned in point 4.5 above), for participating in this tender, as per the pro-forma given at (Annexure - III). The salient features of this program are:
  - a. Proforma of Integrity Pact shall be uploaded by the bidder/s along with the bid documents, duly signed by the same signatory who is authorized to sign the bid documents. All the pages of the Integrity Pact shall be duly signed. Bidder's failure to upload the IP duly signed along with the bid documents shall result in the bid not being considered for further evaluation.
  - b. If the bidder has been disqualified from the tender process prior to the award of the contract in accordance with the provisions of the Integrity Pact, BPCL shall be entitled to demand and recover from the bidder Price reduction/ Liquidated damages amount by forfeiting the EMD/ Bid security as per provisions of the Integrity Pact.
  - c. If the contract has been terminated according to the provisions of the Integrity Pact, or if BPCL is entitled to terminate the contract according to the provisions of the Integrity Pact, BPCL shall be entitled to demand and recover from the operator, Price reduction/ Liquidated Damages amount by forfeiting the Security Deposit/ Performance Bank Guarantee/ Supply & Performance Guarantee amount as per provisions of the Integrity Pact.
  - d. Bidders may raise disputes/ complaints, if any, with the nominated Independent External Monitor whose name/ address/ contact numbers are as given below:

<b>To be contacted for All Clarifications/ Details Regarding This Tender:</b>			
1) Name of Procuring Officer- <b>PO</b>	Mahesh Kamble - <a href="mailto:kamblem@bharatpetroleum.in">kamblem@bharatpetroleum.in</a> J. Vedagiri - <a href="mailto:vedagirij@bharatpetroleum.in">vedagirij@bharatpetroleum.in</a>		
2) <b>PO's</b> Office Address	LPG- HQ, LPG Department Bharat Petroleum Corporation Ltd,5th Floor, BB-II, Ballard Estate, Mumbai - 400 001.		
3) <b>PO's</b> Contact Number	022 22714540/7506161188 022 22714527/9594096232		
<b>To be contacted for COMPLAINTS ONLY:</b>			
1. Name of <b>IEM</b> and E-Mail Id	<b>Shri. S.S.N. Moorthy- ssnm1950@yahoo.com</b>	<b>Shri. Shantanu Consul - shantanuconsul@gmail.com</b>	<b>Shri. Vikram Srivastava - vikramsrivastava1973@gmail.com</b>
2. <b>IEM's</b> Address	GFQ, Ist Floor, B. Block, Summit Apts. Mettupalayam Road, Coimbatore - 641 043	No.9MCHS (IAS Officers Colony), 16 <sup>th</sup> Main, 5 <sup>th</sup> C Cross, BTM 2 <sup>nd</sup> stage, Bangalore – 560 076	E-202, Second Floor , Greater Kailash Part 2, New Delhi - 110048
3. <b>IEM's</b> Mobile Number	Mob. 09500998610	Mob. 09740069318	Mob. 09810642323

7. All the documents associated with Techno-Commercial bid (consisting of all the afore-mentioned annexures, documents uploaded by the bidder and Techno-Commercial Information submitted) and price bid shall form the part of the tender. The entire bid shall be online only. General Instructions to vendors for e-tendering are as given in the Annexure III of this tender. Offers should strictly be in accordance with the tender terms & conditions and our Terms of Reference (TOR). Bidders are requested to carefully study all the documents/annexures and understand the conditions and TOR before quoting the rates and submitting this tender. In case of doubt, written clarifications should be obtained, but this shall not be a justification for request for extension of due date for submission of bids.
8. A pre-bid meeting shall be held on 12.09.2018 at 11.00 AM @ Bharat Petroleum Corporation Limited, 5<sup>th</sup> Floor, BB-II, Currimbhoy Road, Ballard Estate, Mumbai – 400 001. An advance intimation about your presence in this meeting along with your clarification/ suggestion (in the following format) need to be given to [kamblem@bharatpetroleum.in](mailto:kamblem@bharatpetroleum.in)

Annexure No./Clause No.:
Existing provision:
Clarification Required:
Suggested text for the amendment:
Rationale for the Clarification or amendment:

9. Please visit the website <https://bpcl.eproc.in> for participating in this tender process and submitting your bid online.
10. **BID SECURITY:** Bidders shall have to submit an Earnest Money Deposit (EMD) of **Rs 10 lakhs** in physical form at our office. For details, kindly refer Clause 8 of Annexure II

11. Your online bid to be submitted on or before the due date of this tender viz. 15<sup>th</sup> October, 2018 by 3 PM.
12. Instrument (EMD) to be submitted in physical form on or before the due date of this tender viz. 15<sup>th</sup> October, 2018 by 3 PM.
13. Bid submitted after the due date and time of closing of the tender or not in the prescribed format is liable to be rejected. BPCL does not take any responsibility for any delay in submission of online bids due to connectivity problem or non-availability of site and/or other documents/instruments to be submitted in physical form due to postal delay. No claims on this account shall be entertained.
14. Price bid of only those tenderers shall be opened whose techno-commercial bid is found to be acceptable.
15. **DIGITAL SIGNATURE:** The tender documents along with Annexure thereto and Price Bids shall be required to be digitally signed with a **Class II B** or above digital signature by the authorized signatory. The authorized signatory shall be:
  - i. Proprietor in case of proprietary concern.
  - ii. Authorized partner in case of partnership firm.
  - iii. Director, in case of a Limited Company, duly authorized by its Board of Directors to sign.

If for any reason, the proprietor or the authorized partner or director as the case may be, are unable to digitally sign the document, the said document should be digitally signed by the constituted attorney having full authority to sign the tender document and a scanned copy of such authority letter and also the power of attorney (duly signed in the presence of a Notary public) should be uploaded with the tender. *Online submission of the tender under the Digital Signature of the authorized signatory shall be considered as token of having read, understood and totally accepted all the terms and conditions of this tender.*
16. Vendors, on the Black/Holiday List of BPCL/ MoP&NG/ Oil PSE shall not be considered. BPCL reserves the right to accept or reject any or all the Offers at their sole discretion without assigning any reason whatsoever. BPCL's decision on any matter shall be **Final** & any vendor shall not enter into correspondence with BPCL unless asked for. BPCL may call for additional documents if required. BPCL would also consider information already available with them regarding Vendor's credentials.
17. **SUPPORT DESK:** In case of any clarification pertaining to E-Procurement Process, the vendor may contact **ETL** on Contact Numbers and E-Mail Ids, as appended below.
  - **All India** : +91 79 4001 6868 [support@bpcleproc.in](mailto:support@bpcleproc.in)  
: Satyanarayan Behera (90040 14223) [satyanarayan@abcprocure.com](mailto:satyanarayan@abcprocure.com)  
: Mr.Harshal Sapkale (6351896636) [mumbai.support@abcprocure.com](mailto:mumbai.support@abcprocure.com)
18. For clarifications, if any, please feel free to contact us on any working day between 10:00 am to 4:00 pm:
  - **PROCUREMENT OFFICER:** Mahesh Kamble 022-22714540 ([kamblem@bharatpetroleum.in](mailto:kamblem@bharatpetroleum.in))
  - **TENDER ENQUIRY ADDRESS:** Sr.Manager Operations, LPG-HQ, Bharat Petroleum Corporation Ltd, 5th Floor, BB II, Ballard Estate, Mumbai - 400 001.

Thanking you,

Yours faithfully,

for Bharat Petroleum Corporation Ltd.

J VEDAGIRI

GM (LPG infrastructure)

## BID QUALIFICATION CRITERIA

The bidder can be a Proprietorship, Partnership firm, LLP(Limited Liability Partnership), Registered co-operative society or any Company (including an Indian arm of a foreign company) incorporated in India under companies Act, 1956 or 2013 including any amendments thereto.

Such bidders intending to participate for the subject tender shall have to meet the following minimum requirements for qualifying in this tender.

### A. CAPABILITY CRITERIA:

The bidder should be in the business of developing (owning or constructing) and/or operating liquid cargo port terminals.

In-case of JV, the credential should be of JV and not of the parent Company.

In case bids are from a consortium:

- i. The lead partner should meet all the criteria of BQC.
- ii. The consortium will need to form a JV company within a period of 180 days from the date of issue of LOI.

Documents required: The bidder should submit document(s) to prove that he Owns/owned or operated/operating or constructed/constructing a liquid cargo port terminal anywhere in the world

### B. FINANCIAL CRITERIA:

#### a) Turnover Criteria :

The Bidder should have a **minimum average annual financial turnover of INR 45 crores (\$ 6.5 mn)** as per their audited Financial statements (including Balance sheet and Profit & Loss account) during last 3 consecutive accounting /financial years prior to bid due date.

#### b) Net-worth Criteria :

- The net worth of the bidder should be positive as per the latest audited financial statement.

“Net Worth” = “Equity + Reserves & Surplus”

For the purpose of afore-said turnover and net-worth calculations, the turnover and net-worth of the parent company can also be considered provided the parent company holds minimum 50% share in the company submitting the bid.

**Document to be submitted –** Audited balance sheets and Profit & Loss account statement of the bidder for the last 3 consecutive financial accounting years prior to the due date of bid submission.

**C. FACILITY CRITERIA:**

- a) The cryogenic terminal of the Bidder should be able to receive full VLGC (Very Large Gas Carriers of 45 – 46 TMT capacity) cargos of Propane & Butane in single berthing.

**Document to be submitted –**

Letter from the respective port authorities confirming their capability for safe navigation and handling of VLGC LPG carriers (Very Large Gas Carriers of 45 – 46 TMT) either on date or letter from the port authorities confirming the readiness by Port to handle VLGC carriers of capacity of 45 – 46 TMT in 36 months from the date of LOI.

- b) Priority Berthing/ first cum first serve Criteria – The priority berthing shall be as under:
- For multi-product jetty priority shall be given to LPG vessels
  - Among LPG vessels the sequence of berthing will be first come first serve basis

**Document to be submitted –**

A letter from port authority to above effect shall be submitted.

Offers received without the proof for bid-qualification are liable for rejection without any further reference to the bidders. BPCL reserves the right to crosscheck the documents/ information so provided and seek additional documents/information. Decision of BPCL in this regard is final and binding on the Bidders.

**INSTRUCTIONS TO BIDDERS**

1. Interested parties may download the tender from BPCL website (<http://www.bharatpetroleum.in>) or the CPP portal (<http://eprocure.gov.in>) or from the e-tendering website (<https://bpcleproc.in>) and participate in the tender as per the instructions given therein, on or before the due date of the tender. The tender available on the BPCL website and the CPP portal can be downloaded for reading purpose only. For participation in the tender, please fill up the tender online on the e-tender system available on <https://bpcleproc.in>.
2. **Corrigendum/ Amendment**, if any, shall be notified on the site <https://bpcleproc.in>. In case any Corrigendum/ Amendment is issued after the submission of the bid, then such vendors who have submitted their bids, shall be intimated about the Corrigendum/ Amendment by a system-generated email. It shall be assumed that the information contained therein has been taken into account by the vendor. They have the choice of making changes in their bid before the due date and time.
3. To maintain secrecy and security of bids and the data exchanged, the system operates with the “Digitally signed Certificate” from buyer as well as seller. Data exchanged in the system shall have double encryption which is enabled by a “Digitally signed Certificate”. This ensures maximum possible security and the bids can be viewed only after the tender opening by BPCL / Service provider / participating vendors.
4. As a pre-requisite for participation in the tender, vendors are required to obtain a valid Digital Certificate of **Class IIB** and above (having both signing and encryption certificates) as per Indian IT Act from the Licensed Certifying Authorities operating under the Root Certifying Authority of India (RCIA), Controller of Certifying Authorities (CCA). **The cost of obtaining the digital certificate shall be borne by the vendor.**
5. In case any vendor so desires, he may contact our e-procurement service provider M/s. **E-Procurement Technologies Ltd.**, Ahmedabad (Contact no. Tel: +91 79 4001 6868) for obtaining the **Digital Signature Certificate**.
6. Directions for submitting online offers, electronically, against e-procurement tenders directly through internet:
  - (i) Vendors are advised to log on to the website (<https://bpcleproc.in>) and arrange to register themselves at the earliest.
  - (ii) The system time (IST) that will be displayed on e-Procurement web page shall be the time considered for determining the expiry of due date and time of the tender and no other time shall be taken into cognizance.
  - (iii) Bidders are advised in their own interest to ensure that their bids are submitted in e-Procurement system well **before the closing date and time of bid**. If the bidder intends to change/revise the bid already entered, he may do so any number of times till the due date and time of submission deadline. However, no bid can be modified after the deadline for submission of bids.



(iv) Bids/ Offers shall not be permitted in e-procurement system after the due date/ time of tender. Hence, no bid can be submitted after the due date and time of submission has elapsed.

(v) No manual bids/ offers along with electronic bids/ offers shall be permitted.

7. The entire tender document along with Annexure, Bid Qualification Criteria (if any), Techno-commercial and other Details, Price Bid as well as all the uploaded documents shall form the part of the tender. Offers should strictly be in accordance with the tender terms & conditions and our Terms of Reference (ToR). Tenderers are requested to carefully study all the documents/ annexure and understand the conditions, specifications etc, before submitting the tender and quoting rates. In case of doubt, written clarifications should be obtained, but this shall not be a justification for request for extension of due date for submission of bids.

**8. Bid Security (EMD):**

- i. The bidder shall submit an interest-free Earnest Money Deposit of **Rs. 10 lakh (Rupees ten lakh only)** by crossed account payee **Demand Draft** drawn on any nationalised/ scheduled bank in favour of **“BHARAT PETROLEUM CORPORATION LTD”** payable at **Mumbai**.

**OR**

Bank Guarantee (BG) issued by any Scheduled Bank approved by Reserve Bank of India (RBI) as per proforma published herewith is acceptable. The BG shall be valid for a period of **fourteen months** from the due date of opening of the tender.

- ii. **Bid Security should be submitted in physical form** in a sealed cover addressed to LPG HQ boldly super-scribed on the outer cover –

- CRFQ number: XXXXXXXX
- Item: YYYYYYYYYYYYYYYY.
- Closing date/Time:

It should be dropped in the tender box or sent by Registered Post/Courier to the following address so as to reach on or before the due date & time of the tender:

**Bharat Petroleum Corporation Limited,  
LPG HQ,  
5<sup>th</sup> Floor, Bharat Bhavan II,  
Currimbhoy Road, Ballard Estate,  
Mumbai-400001**

BPCL will not be responsible for non-receipt of instrument(s) due to postal delay/loss in transit etc.

- iii. Cheques, cash, Money Orders, Fixed deposit Receipts, Bank guarantees etc. towards bid security are not acceptable. Similarly, request for adjustment against any previously deposited bid security/Pending Dues/Bills/Security Deposits of other contracts etc. will not be accepted towards bid security.
- iv. Bid received without the Bid Security is liable to be rejected. Even if Bidder registered with BPCL, he has to submit EMD.

- v. Units registered with National Small Industries Corporation (NSIC) and/or Micro or Small Enterprises (MSE) are exempted from payment of Bid Security, subject to:
- The unit being registered with NSIC for the item tendered.
  - Registration certificate being valid as on date of quotation.

Such bidders must upload a photocopy of valid NSIC Registration Certificate/ Review certificate duly attested by a gazetted officer/notarised, (photocopy of application for registration as NSIC or for renewal will not be acceptable) and/or a valid MSE registration with any notified body specified by Ministry of Micro, Small and Medium Enterprises, failing which such bid will be treated as bid received without bid security and liable to be rejected.

- vi. Registration with DGS&D will not entitle the bidder to claim exemption from payment of Bid Security.
- vii. Bid Security is liable to be forfeited and/or bidder is liable to be put on a holiday list of up to 1 (one) years in the event of:
- i. Withdrawal of offers during the validity period of the offer. (Refer clause no. 12 of this Annexure)
  - ii. Non-acceptance of LOI/order, if and when placed.
  - iii. Any unilateral revision in the offer made by the bidder during the validity of the offer.
  - iv. Non-submission of Performance Bank Guarantee against Lol and/or non execution of the Contract Agreement (in the prescribed format) within the stipulated period of 15 days from date of Lol/Order.
- viii. Bid Security shall be refunded to the successful bidder after he submits the Performance Bank Guarantee.
- Bid Security shall be refunded to all the unsuccessful bidders after finalization of order on the successful bidder.
9. Bidders are required to **complete the following process online** on or before the due date of closing of the tender:

**A. Techno-Commercial bid**

- a. Accept the contents of the following annexure barring deviations notified in the form provided for this purpose:
- |                               |               |
|-------------------------------|---------------|
| (i) Proforma of the Agreement | - Annexure IV |
|-------------------------------|---------------|
- b. Accept the contents of the following annexures in toto by clicking on the button provided on the screen below each one of them:
- |                                  |                |
|----------------------------------|----------------|
| (i) Instructions to bidders      | - Annexure II  |
| (ii) Proforma for Bank Guarantee | - - Annexure V |
- c. Proforma of **Integrity Pact (IP)** has been uploaded as Annexure III of tender documents **duly signed on all its pages by BPCL "FOR THE PRINCIPAL"**. Bidder shall be required to download and print it such that it is legible. All pages of the printed copy of IP should be duly signed by the authorized signatory and stamped all the pages, with two witnesses name, address & signature and place & date. Thereafter, that copy should be scanned and uploaded by bidder along with other bid documents. **This document is essential and binding.**

- d. Online fill in information in the Credential Information Form, Technical Information Form and Declaration form.
- e. Upload the following documents:
- (i) Document covering Past Experience, with covering note, in support of Experience criteria.
  - (ii) Copies of Audited Balance Sheet and Profit & Loss Account statements for the last available three (3) consecutive accounting years prior to the due date of bid submission.
  - (iii) Integrity Pact duly signed and witnessed.
  - (iv) A valid NSIC Registration Certificate [if applicable]
  - (v) Copy of the certificate stating that the bidder is a Micro and Small Enterprises (MSEs) [if applicable]
  - (vi) Copy of PAN Card
  - (vii) Certified copies of Partnership Deed/ Memorandum & Articles of Association & Certificate of registration with the Registrar of Companies' (if applicable).
  - (viii) Authority letter and power of attorney in favor of constituted attorney (if applicable). Labour Registration Certificate
  - (ix) Documentary evidence that the bidder owned/owns or operated/operating or constructed/constructing a liquid cargo port terminal anywhere in the world
  - (x) Letter from the respective port authorities confirming their capability for safe navigation and handling of VLGC LPG carriers (Very Large Gas Carriers of 45 – 46 TMT) either on date or letter from the port authorities confirming the readiness by Port to handle VLGC carriers of capacity of 45 – 46 TMT in 36 months from the date of LOI.
  - (xi) Letter from port on priority berthing for LPG vessels in multi-product jetty and among LPG vessels that the sequence of berthing will be first come first serve basis.

All the supporting documents should be legible and duly signed and stamped before uploading them online.

- f. Additionally, bid security [if applicable] has to be submitted in physical form.

#### **B. Price bid**

Online fill in the quotes in the price bid form provided.

The quoted price (terminalling rate) shall be excluding all Taxes (including GST), Duties etc.

**For bidding it is suggested that bidders should not wait for last date/ tender due date for their bid preparation as several documents are to be uploaded in the offer and prices are to be entered on screen for all items. There is a facility to keep the bid ready in the system for final submission, however bidders are requested to keep sufficient time margin with them for modifications, connectivity issues etc.**

10. If the vendor intends to change/ revise the bid already submitted, they shall have to withdraw their bid already submitted, change/ revise the bid and submit once again. However, if the vendor is not able to complete the submission of the changed/ revised bid within due date & time, the system would consider it as no bid has been received from the vendor against the tender and consequently the vendor will be out of contention. The process of change/ revise may do so any number of times till the due date and time of submission deadline. However, no bid can be modified after the deadline for submission of bids. Once the entire process of online bid submission is complete, bidders will get

an auto mail from the system stating they have successfully submitted their bid in the following tender with tender details.

11. No responsibility will be taken by BPCL and/or the e-procurement service provider for any delay due to connectivity and availability of website. They shall not have any liability to bidders for any interruption or delay in access to the site irrespective of the cause. Vendors are advised to start filling up the tenders much before the due date/ time so that sufficient time is available with him/ her to get acquainted with all the steps and seek help if they so require. It should be noted that the bids become viewable only after opening of the bids on/ after the due date/ time. Please be reassured that your bid will be viewable only to you and nobody else (including E-Tendering Service Provider as well as BPCL Officials) till the tender is opened. BPCL and/or the E-Procurement Service Provider shall not be responsible for any direct or indirect loss or damages and or consequential damages, arising out of the bidding process including but not limited to systems problems, inability to use the system, loss of electronic information etc. No claims on this account shall be entertained.
12. **Bid Validity:** Tender submitted by bidders shall remain valid for acceptance for a period of **twelve months** from the last date of bid submission. The bidder shall not be entitled during the said period of twelve months, without the consent in writing of the Owner, to revoke, or cancel his tender or vary the tender given or any term thereof. In case of bidder revoking or cancelling his tender, varying any terms in regard thereof without the consent of Owner in writing, appropriate penal action will be taken by BPCL as deemed fit including putting the bidder/operator on 'Holiday listing'/'Delisting' barring the bidder/operator from participating in future tenders for an appropriate period from the date of revocation/cancellation/varying the terms. Further in the case of operators who are not registered with BPCL, the earnest money deposited by him will be forfeited. Once the quotation is accepted the rates quoted shall be firm till the entire work is completed.

### 13. ACCEPTANCE OF BIDS BY THE CORPORATION:

- Based on the information and documents submitted, all bidders meeting the following criterion qualify in the bid:
  - (i) BPCL should have received their Bid Security or proof of exemption thereof.
  - (ii) They should meet bid qualification criterion
  - (iii) They should have submitted the Integrity Pact duly signed and witnessed.
  - (iv) They should not have been debarred or black listed by BPCL and/or Oil PSEs and/or MOP&NG for a period that is not over as on the due date of this tender.
  - (v) They should accept all the documents given by us or the deviations notified by them should be acceptable to BPCL.
  - (vi) The cryogenic LPG terminal offered (either an existing terminal or a proposed new terminal) should be along the coast of Gujarat and have adequate facilities to receive Propane and Butane separately.
- To facilitate examination, evaluation and comparison of bids the Company may, at its discretion, ask the Bidder for clarifications of its bid. The request for clarification and the response shall be in writing and no change in the price or substance of the bid shall be sought, offered or permitted.

**Price bid of only those bidders shall be opened who qualify in the Techno-commercial bid.**

For the purpose of price bid evaluation, it would be assumed that total quantity to be handled would be 1.5 MMTPA.

Price bid evaluation methodology is given in the price bid format, appearing at the end of this tender document. **Price bid evaluation would be done on lowest cost basis.**

**However, Payment would be made based on actual product handled after award of job @ quoted/negotiated terminalling charges. Further, no minimum throughput is assured by BPCL.** If throughput exceeds 1.5 MMTPA, BPCL shall apply a uniform discount of 10% on the terminalling charge including both fixed and variable on the quantity over and above 1 MMTPA.

14. BPCL reserves the right to accept any offer in whole or part or reject any or all offers without assigning any reason. We are also not bound to accept the lowest Bid.
15. BPCL reserves its right to select one or more bidder(s) subject to BPCL requirement.
16. The successful bidder will be issued the Letter Of Intent (LOI). The same has to be accepted by the successful bidder and submit a Bank Guarantee of Rs.50 Crores, within fifteen (15) days. In case the successful bidder rejects the same and/or fails to submit the Bank Guarantee of Rs.50 Crores, he will be disqualified from subsequent enquiries of BPCL in future and the EMD will be forfeited.
17. The LOI holder has to execute an agreement with BPCL before the commencement of the contract. The proforma of the contract agreement is as per Annexure (IV) and the proforma for the Bank Guarantee is as per Annexure (V).
18. PURCHASE PREFERENCE:  
BPCL reserves its right to allow Micro and Small Enterprises (MSEs) and MSEs owned by Scheduled Caste (SC) or the Scheduled tribe (ST) entrepreneurs, purchase preference as admissible/applicable from time to time under the existing Govt. policy. Purchase preference to a MSE and a MSE owned by SC/ST entrepreneurs shall be decided based on the price quoted by the said MSEs as compared to L1 Vendor at the time of evaluation of the price bid.
19. No counter terms and conditions shall be acceptable to us.
20. It shall be understood that every endeavor has been made to avoid error which can materially affect the basis of Tender and the successful Vendor shall take upon himself and provide for risk of any error which may subsequently be discovered and shall make no subsequent claim on account thereof. No advantage is to be taken either by the Corporation or the Vendor of any clerical error or mistake may occur in the general specification, schedules and plans.
21. If any of the information submitted by the bidder is found to be incorrect at any time including the contract period, BPCL reserves the right to reject the tender/ terminate the contract and reserves all rights and remedies available.
22. Bidders are advised not to enclose unwanted and unasked documents with the tender. Any such documents if received shall not be considered.
23. A tender may not be considered, if BPCL is unable to evaluate that offer for want of any Information.
24. Although, all the details presented in this bid document (Terms of Reference, Terms & Conditions of the Contract and other documents) have been compiled with all reasonable care, it is the Bidder's responsibility to ensure that the information provided is adequate and clearly understood.

25. POLICY ON HOLIDAY LISTING

The guidelines and procedures for Holiday Listing are available separately in BPCL website and shall be applicable in the context of all tenders floated and consequently all orders/ contracts / purchase orders. It can be accessed using the following link: <http://bharatpetroleum.in/pdf/holidaylistingpolicyfinal.pdf>.

26. ANTI –COMPETITIVE AGREEMENTS/ABUSE OF DOMINANT POSITION:

The Competition Act, 2002 as amended by the Competition (Amendment) Act, 2007 (the Act), prohibits anti-competitive practices and aims at fostering competition and at protecting Indian markets against anti- competitive practices by enterprises. The Act prohibits anti-competitive agreements, abuse of dominant position by enterprises, and regulates combinations (consisting of acquisition, acquiring of control and M&A) wherever such agreements, abuse or combination causes, or is likely to cause, appreciable adverse effect on competition in markets in India. Besides taking punitive action as enshrined under Integrity Pact, BPCL reserves the right to approach the Competition Commission established under the Act of Parliament and file information relating to anti-competitive agreements and abuse of dominant position. If such a situation arises, then tenderers shall be bound by the provisions of the said statute.

**INTEGRITY PACT**

**Between**

Bharat Petroleum Corporation Limited (BPCL) hereinafter referred to as "The Principal",

**And**

M/s.....hereinafter referred to as "The Bidder/Service provider/Supplier"

**Preamble**

The Principal intends to award, under laid down organization procedures, contract/s **for the job of providing and Operating Cryogenic LPG Terminalling arrangement along Gujarat Coast for JLPL Connectivity, on long term basis (10 Years or more)**. The Principal values full compliance with all relevant laws and regulations, and the principles of economic use of resources, and of fairness and transparency in its relations with its Bidder/s, Service provider/s and Supplier/s.

In order to achieve these goals, the Principal cooperates with the renowned international Non-Governmental Organization "Transparency international" (TI). Following TI's national and international experience, the Principal will appoint an Independent External Monitor who will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

**Section 1 - Commitments of the Principal**

(1) The Principal commits itself to take all measures necessary to prevent Corruption and to observe the following principles:

- a. No employee of the Principal, personally or through family members, will in connection with the tender, or the execution of the contract, demand, take a promise for or accept, for himself/herself or third person, any material or immaterial benefit which he/she is not legally entitled to.
- b. The Principal will, during the tender process, treat all Bidders with equity and reason. The Principal will, in particular, before and during the tender process, provide to all Bidders the same information and will not provide to any Bidder confidential / additional information through which the Bidder could obtain an advantage in relation to the tender process or the contract execution.
- c. The Principal will exclude from the process all known prejudiced persons.

(2) If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the relevant Anti-Corruption Laws of India, or if there be a substantive suspicion in this regard, the Principal will inform its Vigilance Office and in addition can initiate disciplinary actions.

## **Section 2 - Commitments of the Bidder / Service provider/Supplier**

- (1) The Bidder / Service provider/Supplier commits itself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.
  - (a) The Bidder / Service provider/Supplier will not, directly or through any other person or firm, offer, promise or give to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person, any material or immaterial benefit which he/she is not legally entitled to, in order to obtain in exchange, any advantage of any kind whatsoever during the tender process or during the execution of the contract.
  - (b) The Bidder / Service provider/Supplier will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelisation in the bidding process.
  - (c) The Bidder / Service provider/Supplier will not commit any offence under the relevant Anti-Corruption Laws of India; further the Bidder / Service provider/Supplier will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
  - (d) The Bidder / Service provider/Supplier will, when presenting his bid, disclose any and all payments he has made, is committed to, or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.
- (2) The Bidder / Service provider/Supplier will not instigate third persons to commit offences outlined above or be an accessory to such offences.

## **Section 3 - Disqualification from tender process and exclusion from future contracts**

If the Bidder, before contract award, has committed a transgression through a Violation of Section 2 or in any other form such as to put his reliability or credibility as Bidder into question, the Principal is entitled to disqualify the Bidder from the tender process or to terminate the contract, if already signed, for such reason.

- (1) If the Bidder/Service provider/Supplier has committed a transgression through a violation of Section 2 such as to put his reliability or credibility into question, the Principal is also entitled to exclude the Bidder / Service provider/Supplier from future contract award processes. The imposition and duration of the exclusion will be determined by the severity of the transgression. The severity will be determined by the circumstances of the case, in particular the number of transgressions, the position of the transgressors within the company hierarchy of the Bidder and the amount of the damage. The exclusion will be imposed for a minimum of 6 months and maximum of 3 years.
- (2) A transgression is considered to have occurred if the Principal after due consideration of the available evidences, concludes that no reasonable doubt is possible.
- (3) The Bidder accepts and undertakes to respect and uphold the Principal's absolute right to resort to and impose such exclusion and further accepts and undertakes not to challenge or question such



exclusion on any ground, including the lack of any hearing before the decision to resort to such exclusion is taken. This undertaking is given freely and after obtaining independent legal advice.

- (4) If the Bidder / Service provider/Supplier can prove that he has restored / recouped the damage caused by him and has installed a suitable corruption prevention system, the Principal may revoke the exclusion prematurely.

#### **Section 4 - Compensation for Damages**

- (1) a) No employee of the Principal, personally or through family members, will in connection with the tender, or the execution of the contract, demand, take a promise for or accept, for himself/herself or third person, any material or immaterial benefit which he/she is not legally entitled to.

b) The Principal will, during the tender process, treat all Bidders with equity and reason. The Principal will, in particular, before and during the tender process, provide to all Bidders the same information and will not provide to any Bidder confidential / additional information through which the Bidder could obtain an advantage in relation to the tender process or the contract execution.

- (2) If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to Section 3, the Principal shall be entitled to demand and recover from the Service provider/Supplier liquidated damages equivalent to Security Deposit / Performance Bank Guarantee.

- (3) The Bidder agrees and undertakes to pay the said amounts without protest or demur subject only to condition that if the Bidder / Service provider/Supplier can prove and establish that the exclusion of the Bidder from the tender process or the termination of the contract after the contract award has caused no damage or less damage than the amount of the liquidated damages, the Bidder / Service provider/Supplier shall compensate the Principal only to the extent of the damage in the amount proved.

#### **Section 5 - Previous Transgression**

- (1) The Bidder declares that no previous transgression occurred in the last 3 years with any other Company in any country conforming to the TI approach or with any other Public Sector Enterprise in India that could justify his exclusion from the tender process.
- (2) If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

#### **Section 6 - Equal treatment of all Bidders / Service providers / Suppliers / Sub-contractors**

- (1) The Bidder/Operator/Supplier undertakes to demand from all sub-contractors a commitment in conformity with this Integrity Pact, and to submit it to the Principal before contract signing.
- (2) The Principal will enter into agreements with identical conditions as this one with all Bidders, Service providers/Suppliers and sub-contractors.

- (3) The Principal will disqualify from the tender process all Bidders who do not sign this Pact or violate its provisions.

**Section 7 – Punitive Action against violating Bidders / Service providers / Suppliers / Sub-contractors**

If the Principal obtains knowledge of conduct of a Bidder, Service provider, Supplier or sub-contractors, or of an employee or a representative or an associate of a Bidder, Service provider, Supplier or sub-contractors which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the Vigilance Office.

**Section 8 - Independent External Monitors**

- (1) The Principal has appointed competent and credible Independent External Monitors for this Pact. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.
- (2) The Monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. He reports to the Chairperson of the Board of the Principal.
- (3) The Bidder/Service provider/Supplier accepts that the Monitor has the right to access without restriction to all Project documentation of the Principal including that provided by the Bidder/Service provider/Supplier. The Bidder/Service provider/Supplier will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to this project documentation. The same is applicable to sub-contractors. The Monitor is under contractual obligation to treat the information and documents of the Bidder/Service provider/Supplier/ sub-contractors with confidentiality.
- (4) The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the Principal and the Bidder/Service provider/Supplier. The parties offer to the Monitor the option to participate in such meetings.
- (5) As soon as the Monitor notices, or believes to notice, a violation of this agreement, he will so inform the Management of the Principal and request the Management to discontinue or heal the violation, or to take other relevant action. The Monitor can in this regard submit non-binding recommendation. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action. However, the Independent External Monitor shall give an opportunity to the Bidder/Service provider/Supplier to present its case before making its recommendations to the Principal.
- (6) The Monitor will submit a written report to the Chairperson of the Board of the Principal within 8 to 10 weeks from the date of reference or intimation to him by the 'Principal' and, should the occasion arise, submit proposals for correcting problematic situations.
- (7) If the Monitor has reported to the Chairperson of the Board a substantiated suspicion of an offence under relevant Anti-Corruption Laws of India, and the Chairperson has not, within reasonable time, taken visible action to proceed against such offence or reported it to the Vigilance Office, the Monitor may also transmit this information directly to the Central Vigilance Commissioner, Government of India.

(8) The word 'Monitor' would include both singular and plural.

**Section 9 - Pact Duration**

This Pact begins when both parties have legally signed it. It expires for the Service provider/Supplier 12 months after the last payment under the respective contract, and for all other Bidders 6 months after the contract has been awarded.

If any claim is made / lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified above, unless it is discharged / determined by Chairperson of the Principal.

**Section 10 - Other provisions**

- (1) This agreement is subject to Indian Law. Place of performance and jurisdiction is the Registered Office of the Principal, i.e. Mumbai. The Arbitration clause provided in the main tender document / contract shall not be applicable for any issue / dispute arising under Integrity Pact.
- (2) Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.
- (3) If the Bidder/Service provider/Supplier is a partnership this agreement must be signed by all partners members.
- (4) Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

-----  
For the Principal

-----  
For the Bidder/Service provider/ Supplier

Place .....

Witness 1: -----  
(Signature/Name/Address)

Date .....

Witness 2: -----  
(Signature/Name/Address)

**# # # # #**

Proforma of the agreement

TERMINALLING AND SAFE KEEPING AGREEMENT BETWEEN

BHARAT PETROLEUM CORPORATION LIMITED

AND

XXXXXX Company Limited

This TERMINALLING AND SAFE KEEPING AGREEMENT (hereinafter referred to as the "AGREEMENT") is made and entered into on this -----, by and between:

**BHARAT PETROLEUM CORPORATION LIMITED., a company incorporated under the Indian Companies Act, 1913 having its registered office at Bharat Bhavan, 4 & 6 Currimbhoy Road, Ballard Estate, Mumbai 400 001 (hereinafter referred to as "BPCL" which expression shall, unless repugnant to the context, mean and include its representatives, successors and permitted assigns).**

\_\_\_\_\_, a Company incorporated under the Companies Act, 1956, and having its registered office at \_\_\_\_\_, (hereinafter referred to as "XXXXXXX", which expression shall, unless repugnant to the context, mean and include its representatives, successors and permitted assigns)

\_\_\_\_\_ and BPCL are collectively referred to as "the Parties" or individually referred to as "the Party" as the context requires.

**WHEREAS**

- A. BPCL is engaged in refining and marketing of petroleum products and is also engaged in the supply and distribution of the Petroleum Products, including Liquefied Petroleum Gas (LPG).
- B. XXXXXX has set up a port and a terminal or an LPG Terminal at Village YYYYYYY, near ZZZZZ, District KKKKKKK along with facilities for storage and handling of Chemical/LPG (“Facilities”) and is providing storage and handling services there at.
- C. XXXXXXXX has established and set up a Liquefied Petroleum Gas import, storage, and handling facility at YYYYYY (“the Terminal”), from where it is desirous of offering terminalling services to BPCL. BPCL is agreeable to use the said services for its products from the Terminal that is, for receipt, storage and dispatch of the Products to be imported into India and / or coastally moved by BPCL. Provision for the connecting pipeline to be added here
- D. XXXXXXXX has agreed to connect the existing industry pipeline namely \_\_\_\_\_ at \_\_\_\_\_, at his cost. The cost shall include ROU/ROW, Pipeline and Pipeline laying cost, Booster pumps and any other related cost attributable to connect these pipelines.
- E. XXXXXX has agreed to provide terminalling services to BPCL in relation to the Products as delivered on BPCL account from the ship and conforming to specifications set out in **Annexure B** at the Terminal, and for this purpose will receive the Products at the unloading arm located at \_\_\_\_\_ jetty **through VLGCs** and transfer the Products through pipeline from jetty to Terminal and store the Products in the storage tanks at XXXXXXXX Terminal, blend, handle and deliver the Products through various modes of transportation as per the directions of BPCL, subject to and upon the terms and conditions of the Agreement.

**DEFINITIONS AND INTERPRETATION**

1. **“Agreement”** shall mean this agreement including all its Annexures, as may be supplemented, amended, restated or replaced from time to time in accordance with the provisions hereof.
2. **“Claim”** shall mean loss, damage, cost and expense suffered, by the Claimant due to the loss, destruction or damage of any property (including the property of the Claimant) or from any damage to the environment or from the death or injury of any person (including the Claimant) and any demand or legal proceedings made or instituted in respect of such Claim, including the costs (including solicitor and client costs) and expenses of such demand or proceedings, but excluding economic or consequential loss or loss of profits suffered by the Claimant.
3. **“Defective LPG”** shall include any damage, defect, contamination or off-specification of the LPG.
4. **“Facilities”** shall include storage tanks, tank-truck loading racks, Tank wagon Loading, pipelines, and all the related and ancillary facilities for the purpose of receiving, storing, handling and delivery into tank- truck of LPG, Tank Wagon of LPG and pipeline transfer of LPG
5. **“Port Facility”** shall mean all or any part of the port facilities provided by the \_\_\_\_\_ at, \_\_\_\_\_.

6. **“Jetty”** shall mean all or any part of Berth at Village -----, near ----- including operator’s unloading arm, control systems, valves, associated pipelines, fittings and instrumentation.
7. **“Connecting Pipeline”** shall mean the pipeline that the Operator would be required to lay, maintain and operate at his cost from his terminal to the injection point viz. \_\_\_\_\_
8. **“Products”** shall mean imported / indigenous LPG (Mixture of Propane and butane hydrocarbons conforming to IS specifications) or Propane or butane.
9. **“TERMINALLING Services”** shall mean any operation carried out or to be carried out by the operator, in respect of Products pursuant to the Agreement, which would include the receipt at port facility, storage, handling and delivery into tank-truck, Tank Wagon, Pipeline or other modes, administrative/accounting management of products, but excluding outer harbour ship handling and ship discharging.
10. **“Notices”** shall mean: All applications, orders, instructions, notices, requests, descriptions, directions, declarations, permission, consents and other communication required or permitted under the Agreement to be made or given to by either XXXXXX or BPCL.
11. **“BPCL”** shall mean Bharat Petroleum Corporation Limited
12. **“JLPL”** shall mean Jamnagar Loni LPG Pipeline
13. **“KGPL”** shall mean Kandla Gorakpur LPG pipeline
14. **“GAIL”** shall mean Gas Authority of India Limited
15. **“TAMP”** shall mean Tariff advisory for Major Port
16. **“OMC”** shall mean Oil Marketing Company
17. **“MOP&NG”** shall mean Ministry of Petroleum & Natural Gas
18. **“VLGC”** Shall mean Very Large Gas Carrier
19. **“ROW”** shall mean Right Of Way
20. **“ROU”** shall mean Right Of Use
21. **“LOI”** shall mean Letter Of Intent
22. **“PSE”** shall mean Public Sector Enterprise
23. **‘CCOE’** means Chief Controller of Explosives or their nominated officials.
24. **‘PESO’** means Petroleum & Explosives Safety Organisation.
25. **‘Change in Law’** shall mean the occurrence after the Effective Date of any enactment of new Indian Law or the modification of existing Indian Law, or the repeal or re-enactment of any Indian Law.
26. **‘Change Order’** shall mean the order to be issued by BPC on the Operator for carrying out any change in scope of work (addition / deletion) as mutually agreed.

27. **‘Commercial Operation Date’** shall mean the date as agreed to by BPC on which the Storage Facility is declared by the Operator to be operational.
28. **‘Contract Period’** shall mean the period during which the Agreement is valid and subsisting.
29. **‘Despatch’** shall mean loading the Petroleum Products for the purpose of transportation to various destinations.
30. **‘Expiry Date’** shall mean the date of expiry of contract period.
31. **‘Handling’** shall mean transportation and storage of the Petroleum Products within the Storage Facility and includes responsibility of delivery of Products to BPCL
32. **‘Law’** shall mean the Constitution of India and any act, rule, regulation, notification, directive, ordinance, order or instruction having the force of law enacted or issued by the Government.
33. **‘LPG’** means Liquefied Petroleum Gas
34. **‘Month’** means each of the months of January to December;
35. **‘MT’** means metric ton;
36. **‘Operation Period’** shall be the period during which the Storage Facility is operative and the Operator is providing the Services.
37. **‘Operator’** shall mean the terminal Operator and his successors, authorised representative and permitted assigns.
38. **‘Party’** shall mean either BPC or the Operator as the context requires and their respective successors, authorised representative and permitted assigns.
39. **‘Permits’** shall mean all consents, licenses, approvals, permits, no objection certificates or other authorization of whatever nature which is required to be granted by the Government or under Law for the purpose of implementation of this Agreement and the Bid Package.
40. **‘Petroleum Products’** shall mean the products mentioned in the Bid document or any product which gets added in future.
41. **‘Standard Industry Practices’** means the practices, methods, techniques, and standards that are applicable in India from time to time and commonly used in the Indian petroleum industry for the construction, operation and maintenance of independent LPG storage terminals of the size and having the other characteristics of the Storage Facility in a safe, prudent and reliable manner consistent with the parameters for such operation and maintenance set forth in this Agreement.
42. **‘Receipt’** shall mean acceptance of LPG at the Storage Facility.
43. **‘Storage’** shall mean the keeping or storing of LPG in the Storage Facility.
44. **‘Storage Facility’** shall mean LPG facility available in the Terminal.
45. **‘Tax’** shall mean any Indian tax, duty, import or levy of any nature whatsoever and wherever charged levied, imposed by the Government together with any interest and penalties in relation

thereto other than interest and penalties imposed directly as a result of any act or omission by the Operator.

**Interpretation:**

- (a) References in the singular shall include references in plural & vice-versa. The words denoting natural persons shall include partnerships, firms, companies, corporations, joint ventures, trusts, association, organization or other entities (whether or not having a separate legal personality).
- (b) References to a particular clause, paragraph, sub-paragraph or schedule shall, except where the context otherwise requires, be a reference to that clause, paragraph, sub-paragraph or schedule in or to this tender.
- (c) The word “include” & “including” are to be construed without any limitation.
- (d) No permit/license shall be treated as having been granted for the purpose of this tender unless such permit/license has been finally granted or issued by the relevant competent authority without such grant or issue being subject to any appeal, but the possibility of proceedings for judicial review of such permit being instituted shall not prevent a permit being treated as granted unless such judicial review proceedings have, in fact, been instituted.
- (e) In determining whether any permit has been granted or renewed, or whether any written confirmation in respect of any permit has been given, on a timely basis, regard shall be had to:
  - (i) the practice & procedure of the Government having jurisdiction in respect of the relevant permit :
  - (ii) any representation made by BPC, the Operator or the responsible Govt regarding the expedition with which applications for the relevant permit are to be determined & :
  - (iii) any reasonable request (having due regard to sub para (i) & (ii) above) regarding the period with in which BPC/Operator seeks the determination of its application for the relevant permit, and the materiality of the implications of any delay in such determination, which have been made known to the Govt upon the making of its’ application or in the course of its determination.

**NOW, THEREFORE,** in consideration of the premise and the mutual terms and conditions hereinafter set forth, the Parties agree as follows:



## 1. ENGAGEMENT

BPCL hereby engages the Terminalling services of XXXXXX hereby agrees to provide the said terminalling services at Terminal for handling of the Products of BPCL subject to and on the terms and conditions contained in this Agreement. The detailed description of the Terminal is given in **Annexure A**.

The arrangement of XXXXX to provide the services and use of the Terminal by BPCL shall be effective from 36 months from the date of LOI------. BPCL hereby agrees and accepts that XXXXXX has the right to provide terminalling services at the Terminal to third parties other than BPCL during the currency of this agreement.

BPCL hereby agrees to use XXXXXX's Terminal for storage and handling of the Products conforming to the specifications as detailed in Annexure B and as amended from time to time by the competent authority (BIS), during the validity / subsistence of this Agreement.

BPCL & XXXXXX shall comply with all applicable laws, statutory requirements and regulations being in-force from time to time relating to terminalling services at the Terminal and shall have the required permits, licenses and approvals to carry out their respective obligations under this Agreement.

XXXXXX shall adhere to standard operating and safety procedures under practice by oil industry while providing terminalling services.

## 2. STORAGE AND TERMINALLING SERVICES

### 2.1. Storage Facility:

It is understood by the parties that the storage and other allied facilities provided at the cryogenic terminal by the operator should have all the necessary statutory compliances for LPG operation and shall comply with all applicable statutory standards with regard to qualitative and safety requirement for handling of the Products in line with existing Industry practices. BPCL will be in no way responsible for any lapses on the part of the operator.

### 2.2. Broad Description of Terminalling Services to be Provided by Bidder:

The Operator hereby agrees to provide the facilities/services mentioned hereinafter to BPCL during the validity of this Agreement on the terms and conditions herein after appearing. The facilities/services to be provided by the party, includes safe discharge of product into cryogenic terminal storage tanks, storage therein, blending segregated Propane & Butane and delivery into tank trucks/Tank Wagons arranged by BPCL and through Pipelines for the under mentioned activities.

- (a) To coordinate with the Independent Quantity & Safety Surveyors appointed by BPCL on behalf of BPCL/Operator as mutually agreed, to carry out quantity / safety checks of the ship as required by port authorities and to ensure prompt drawing of sample from the ship containing imported/ Indigenous LPG and to test the same as per Quality Control Manual of BPCL in the presence of Surveyor, as and when directed by BPCL. In case surveyor is appointed by party, its fees shall be reimbursed by BPCL based on the actual bills of the Surveyor including all statutory levies for BPCL quantities.
- (b) To store duty paid Product brought through the ship in the name of BPCL, or by any other ship nominated by BPCL. Both Operator and BPCL to comply with respective customs and excise formalities required in this regard.
- (c) BPCL shall make its own arrangement for payment of customs duty, excise duty or any other related payments including statutory levies in connection with the ship discharging and Terminalling at Party's Terminal.
- d) To provide all facilities/ services for safe discharge of products from the ship arranged by BPCL, or nominated by BPCL and positioned at the port jetty and physically supervise such discharge activities.
- (e) To assess the quantity of LPG discharged from ship in the presence of the Surveyor.
- (f) To store the LPG discharged from the ship in the storage tanks belonging to the operator.
- (g) To dose the LPG with Ethyl Mercaptan and to carry out necessary quality tests and deliver the product conforming to Annexure II into BPCL's tank trucks, Tank Wagons, Pipelines or any other modes.
- (h) To allow BPCL's employees and/or representative to inspect the operations of the aforesaid activities provided written notice is given to Operator. This would be subject to such representatives being accompanied by the representatives of Operator and further they complying with the internal policies and directions of operator in regard to safety and any other direction notified by party
- (i) To prepare all related documentation as may be required by BPCL and/or any other statutory/regulatory authority for carrying out the aforesaid activities. This includes all documentation to be maintained as per BPCL's requirement / to be submitted to Customs/ Excise department. All relevant data pertaining to BPCL to be provided by BPCL.
- (j) To keep, during the currency of this Agreement, all the Government / statutory approval valid and in force which may be required from time to time.
- (k) All other activities which are incidental to the aforesaid activities from time to time.

**2.3.** The operator will use Jetty and allied Port facilities at \_\_\_\_\_ to discharge party's obligations towards BPCL. In no case shall operator be liable for any non-performance due to non-availability of the said port infrastructure/ non-performance of the ship or non-availability of the ship or berthing facilities or any reason whatsoever. However after placement of the ship, any demurrage due to Operator's failure except failures due to force majeure, shall be on Operator's account. Any demurrage due to BPCL's failure or any other reason except Operator's failure shall be to the sole account of BPCL.

The Operator shall not be responsible for demurrage, if any, incurred by BPCL's vessels due to delay in berthing or during the waiting period at anchorage for whatsoever reason unless that delay is attributable to the gross negligence or wilful act on part of operator.

**In the event of the operator unable to handle VLGC vessels for any reasons whatsoever, not attributable to BPCL, the excess amount incurred by BPCL for bringing the products through non-VLGCs over and above the amount that would have been incurred had the product been brought in through VLGCs, shall be borne by the operator. The same will be deducted from their payment. This deduction would continue till such time the Port / Jetty/ Terminal can safely receive, store and handle full discharge of a VLGC tanker in a single berthing.**

**Similarly, if the operator is unable to provide connecting pipeline and/or tank wagon loading facility, then the differential cost incurred by BPCL for transporting the product by an alternate mode, would be recovered from the Operator.**

- 2.4.** The services to be provided by operator under the Agreement shall be available round the clock. Only in case of delivery by road, timing can be limited from 0600 hrs to 2200 hrs on Mondays to Saturdays excluding declared holidays for the cryogenic terminal. However, in case the volume / workload demands extended hour working, operator shall try to accommodate the same on "best endeavour basis".
- 2.5.** All vessel-related port charges i.e. berth hire, pilotage, mooring charges, light-house charges etc. and Wharfage charges shall be paid by BPCL or their authorized shipping agent/ shipping agent engaged by the ship owner on actual basis subject to the maximum of the approved TAMP rate of Deenadayal Port (Kandla). Any charges in excess of the said TAMP rate should be borne by the operator
- 2.6.** BPCL vessels should get priority berthing, at no additional cost to BPCL, as under:
- For multi-product jetty, priority shall be given to LPG vessels
  - Among LPG vessels the sequence of berthing on first come first serve basis

### **3. PRODUCT IMPORT**

#### **3.1. CONDITION OF PRODUCT ON ARRIVAL**

- 3.1.1** BPCL shall furnish the operator with a clear and accurate written description of Product for ship delivery in accordance with the specifications provided. The operator is not obliged to accept or retain in storage BPCL's product if as per the test result they do not correspond with their description and particulars so furnished.
- 3.1.2** The operator shall immediately upon detection of any damage or defective condition including contamination or off-specification of the product or of such means, materials or containers which is apparent at the time of delivery, notify BPCL regarding the same, giving a full and complete description as possible regarding the damage/ defective condition.

- 3.1.3 If BPCL's product arrives in a damaged or defective condition including contamination or off-specification or operator has reason to suspect such condition, operator is entitled to do all things necessary to safeguard its interests or that of BPCL at the latter's risk and expense including arranging for a third operator involvement to be made as evidence of the status of product. When such an event occurs, party, shall notify BPCL within reasonable time.
- 3.1.4 The operator shall take over control of product, from the unloading arm flange onwards on the ship receipt line at the port. The Product diversion to the operator commences at this point and ends at the point the products are loaded into tank truck /Tank Wagon of BPCL or Pipeline of Industry/BPCL or its JV.

### **3.2. DETERMINATION OF QUANTITY AND QUALITY OF PRODUCT**

- 3.2.1 Operator to arrange /ensure determination of the actual ships discharge quantity through mutually agreed independent surveyor appointed by BPCL. The quantity as above as certified by the surveyor, shall be construed as the BPCL's cargo quantity received at the cryogenic terminal and the operator will be responsible to redeliver the same quantity of the product to BPCL, save and except the permissible operation loss of 0.05% (Point Zero Five Percent). In case the operator is not able to redeliver the quantity received, suitable recovery shall be made for the value of the said shortage from any amount payable to the operator. For this purpose, the rate of recovery would be the weighted average of import cost including duties during the reconciliation period irrespective of the fact as to whether the product type is imported or indigenous. In case the damages recoverable are greater than the Terminalling charges payable for the month. The operator shall forthwith make the balance payment by the 15<sup>th</sup> day of the first month of the following quarter in which the stock loss has occurred. For any delay beyond the stipulated date, interest at SBI's PLR plus one percent p.a. is payable for the no. of days of delay in making such payment.
- 3.2.2 The pre-discharge test of product for the conformity of product quality specification as per contract between BPCL and the supplier of product shall have to be carried out by the operator if advised by BPCL, immediately on arrival of the ship/ tendering of NOR by the ship but not exceeding 24 hours from the time of NOR to the complete testing of product. Cost of the testing will be reimbursed to the operator by BPCL.

### **3.3. GENERAL CONDITIONS**

- 3.3.1 It shall be the responsibility of BPCL to make all arrangements for evacuation of Product for creating adequate ullage for receipt of ship parcels. It will be the responsibility of the operator to ensure timely evacuation as per the plan provided by BPCL so that ship is not detained. However no charges shall be payable by the operator in case such detention arises out of inadequate planning by BPCL. If BPCL does not evacuate BPCL's products as per agreed schedule to create adequate ullage for receipt of ship parcels, any financial implication (e.g. demurrage on account of detention of ship for want of ullage) including any loss or damage to the operator shall be borne exclusively by BPCL.

- 3.3.2 The operator shall ensure and take all necessary steps so that the ship discharge activities can be completed in shortest possible time in confirmation with all terms and conditions contained herein on best “endeavour basis”.
- 3.3.3 The operator shall arrange at his cost, Fire and allied Risk insurance with cover for extended perils like STFI, Earthquake, theft, pilferage, Tsunami, act of terrorist as considered prudent by it. Operator would also be compulsorily required to take insurance cover at his cost for the BPCL product stored in their terminal. This policy obtained by the party, shall name the operator as the primary insured and shall have BPCL named as additional insured. The party/ BPCL shall provide necessary information/data as required by insurance company for settlement of claims.
- 3.3.4 BPCL shall arrange insurance cover of the product on High seas right from Load port till party’s Terminal.
- 3.3.5 Public liability insurance as statutorily required shall have to be arranged by the operator at his cost and renewed from time to time. Proof of having arranged proper insurance coverage shall be produced on request.
- 3.3.6 The operator shall take all necessary, precautions and comply with all statutory requirements during the discharge operations and BPCL shall not be responsible in any manner for any reason whatsoever in this connection. Any delay in compliance with and consequent loss/damage shall be responsibility of the operator.

The operator is fully responsible for the quantity and quality of BPCL’s PRODUCT kept under the safe custody account and any product contamination during discharge of the ship, storage in their storage tanks, blending operations and/or loading of PRODUCT into BPCL’s tank trucks or Tank wagons or Pipelines, shall be the responsibility of the operator. The operator shall be liable for the loss or damage suffered by BPCL for such shortage or contamination and shall compensate BPCL for such loss/ damage within 7 days from the demand made by BPCL. Responsibility of evacuating such contaminated product shall be of XXXXL. Both parties understand and recognize that there is a normal practice of co-mingling of PRODUCT and use of common pipeline in terminalling operations.

- 3.3.7 The operator shall provide adequate office space/ facilities (to accommodate 2 officials) for BPCL’s employees/representatives to enable them to carry out the necessary jobs, as required by BPCL.
- 3.3.8 The operator shall ensure, and is totally responsible, for compliance and implementation of all Laws, Rules and Regulations as applicable more particularly Workmen’s Compensation Act 1923, Employees’ Provident Fund and Miscellaneous Provision Act,1952, Employees state Insurance Act, 1948, Minimum Wages Act 1948, Payment of Wages Act, Contract Labour (Regulation and Abolition) Act, 1970, Industrial Disputes Act, 1947, payment of Bonus Act, 1965, Payment of Gratuity Act, 1972 and other relevant labour/other legislations in force and also their amendments from time to time. BPCL shall in no event, be liable or responsible for any default that will arise out of non observance/compliance of such laws/ rules on the part of

GCPTCL and that GCPTCL shall indemnify and keep indemnified BPCL against the same and from any proceedings in respect thereof.

- 3.3.9 BPCL shall provide Bill of Lading, test certificates and other relevant shipping documents to XXXXXL at least 3 working days in advance before the arrival of the ship at the ----- Port. The test certificate shall include Load port quality test report.
- 3.3.10 All documentation as per BPCL's requirement, for loading of PRODUCT from the party's storage tanks to BPCL'S nominated tank trucks, tank wagons and pipelines will be carried out by the operator. Necessary Authorisation letter shall be given by BPCL.
- 3.3.11 The operator shall be solely and exclusively responsible for engaging or employing qualified and experienced persons for handling imports, unloading/discharges operations as well as handling indigenous PRODUCT, storage, dispatch and other activities required in connection with fulfilling the party's obligations to BPCL under this Agreement. All persons engaged or employed by the operator shall be on the party's account and BPCL has absolutely no liability whatsoever concerning the employees of the operator.
- 3.3.12 The operator shall observe and abide by all fire safety and environment regulations stipulated by Explosives Department, Environment and /or Pollution Control Board as well as under any applicable Statutes/norms and as desired by BPCL. The operator shall be bound to follow and ensure compliance of all safety and security regulations including disaster control and management plans and other statutory rules applicable to the area. In the event of any mishap, damage or loss or sufferance caused due to non-observance of such rules and regulations, the operator shall be solely responsible for the same and shall keep BPCL indemnified against all such losses and claims arising from the same.

#### **4. PRODUCT DELIVERY INTO TANK TRUCK/TANK WAGON/PIPELINES**

##### **4.1. DETERMINATIONS OF QUANTITY AND QUALITY OF PRODUCT**

- 4.1.1 Quantity of Product delivered to BPCL into tank-trucks, tank wagons and pipelines shall be measured by weight on a metric tonnage basis in accordance with the industry practice in India. Such delivery should be made in accordance with the Loading Advice (LA) issued by BPCL. The net weight shall be determined by the difference in the gross weight and the net weight of tank trucks. For pipeline and tank wagons, the measurement will be through the mass flow meter installed by the operator on all the pipelines.
- 4.1.2 To establish the quality of PRODUCT, it is hereby agreed and understood that:
- (a) Before commencement of delivery operations for each shift, the operator would ascertain the vapour pressure of PRODUCT samples and maintain records thereof.
  - (b) The findings made by the operator shall be used in the Certificates of Quality to be issued by the operator.

- (c) The operator will not dispatch any product from terminal which are not meeting IS 4576 as existing or revised from time to time.
- 4.2 All disputes/ issues related to tank truck loading shall be governed by the Bulk PRODUCT transport Contract entered by BPCL with their transporters and the operator shall have no direct or indirect liability in this regard and BPCL shall keep the operator completely indemnified against such claims and the likes in this regard.
- 4.3 The operator is obliged to deliver BPCL tank truck with PRODUCT during normal working hours as per the schedule given by BPCL.
- 4.4 BPCL shall be responsible for and shall ensure that the tank truck used for transporting PRODUCT shall conform and comply fully with the industry standards, Government and relevant authorities' rules and regulations apart from the party's Health, Safety, Security and Environmental standards. The operator reserves the right to reject tank-truck which does not conform and comply with the above said standard or regulations will have no liability for any delay caused due to third parties in this regard. BPCL shall fully indemnify the operator in this regard.
- 4.5 BPCL to furnish a list of authorized signatories with specimen signatures who shall sign the loading Advice. Further, BPCL shall also furnish the Directory of the Tank Trucks under operations with BPCL
- 4.6 All disputes/ issues related to tank wagon loading shall be governed by the Bulk PRODUCT transport Contract entered by BPCL with Railways and XXXXXL shall have no direct or indirect liability in this regard and BPCL shall keep the operator completely indemnified against such claims and the likes in this regard.
- 4.7 The operator is obliged to deliver BPCL tank wagon with PRODUCT within the free time permitted by railways, in accordance with the standard industry practices. In case of delay, if any, the demurrage shall be borne by the operator.
- 4.8 The operator is obliged to deliver the PRODUCT in the Pipeline of BPCL or Pipelines owned by BPCL JVs or any other pipeline where BPCL has entered into agreement, as per the schedule given by BPCL.
- 4.9 The Import Terminal and the connected Jetty should be capable of handling VLGC tankers and unloading should be done within the stipulated time permitted by the port. Any additional cost arising out the delay beyond the stipulated time has to be borne by the operator.

Any changes on above shall also be communicated to the operator from time to time.

## **5. FACILITIES**

### **5.1. MAINTENANCE REPAIR AND RESTORATION OF FACILITIES**

- 5.1.1. Whenever the operator deems necessary to inspect and carry out any works for the routine maintenance or repairs or necessary alteration or addition to the Facilities or if required by

laws, rules, regulations or directives by the Government or other authorities, the operator shall carry out repairs or alterations to the Facilities within reasonable time.

- 5.1.2. However for any interruption in service up to 2 days, the operator will inform BPCL at least 48 Hrs. in advance to arrange alternate supply. Interruption in service for more duration shall be informed by the operator at least 30 days in advance to facilitate ships nomination accordingly.
- 5.1.3. For any emergency/breakdown maintenance, the operator shall make best endeavours to complete the maintenance within the shortest possible time. The operator shall be responsible for liability, if any, (like demurrage, dry-outs in the market etc.) in such case. The operator shall not be bound to provide BPCL any advance notice for such emergencies.

## **5.2. ACCESS TO THE FACILITIES**

BPCL, at its own expense, shall be entitled to employ Inspector(s), (including Inspectors(s) of Third Party Inspection Agencies) of its selection at the terminalling facilities where the products are being stored, blended and/or handled. Such Inspector(s) shall have free access to all parts of the facilities to inspect and test the Products as well as their storage/blending/handling processes and QCC being done and records being maintained thereof. In order to enable BPCL's representative(s) to witness the tests/ inspections/ processes/QCC at the operator's premises, all required facilities and records shall be provided by the operator at his costs. BPCL shall give advance written notice of at least 24 hrs to the operator regarding such visit.

## **6. THROUGHPUT**

No minimum throughput is assured by BPCL by this Agreement. BPCL and the operator also agree that the operator will be at liberty to give its storage facilities to any third parties on co-mingled basis subject to the condition that the quality of the BPCL's Product lying in the tank is maintained as per the agreed specifications, and provided that BPCL does not suffer any increased cost or damage or levy of any tax/ duty, for this reason.

*The bidder may offer part of their total terminal capacity for other Indian OMCs. However they should mention the offered capacity to BPCL and other Indian OMCs.*

## **7. PERIOD**

### **7.1. Period**

Subject to terms of this Agreement, the operator will make available to BPCL and BPCL will use the Facility for a period of ten (10) years from the date of the agreement. However, throughput guarantee of any quantity is not assured during this period.



**Extension**

Extension for another maximum 5 years will be at the discretion of BPCL on same terms and conditions. This option shall be exercised by giving a notice 18 months prior to the expiry of the contract at the end of 10<sup>th</sup> year.

**8. TERMINALLING CHARGES**

BPCL shall pay Operator terminalling charges as given in the contract subject to deductions as mentioned in clauses 2.3 and 2.5 above, for the actual quantity of products handled. In case throughput exceeds 1.5 MMTPA, BPCL shall apply a uniform discount of 10% in terminalling charges.

**9. TAXES & DUTIES**

Operator shall pay all taxes, levies, duties and statutory payments payable under all or any of the statutes etc., now or hereafter imposed, increased from time to time in connection with the facilities offered and services rendered to BPCL at their facilities including fees for CCOE license, factory license, land rentals, etc. Operator shall defend, indemnify and hold BPCL harmless from any liability or penalty which may be imposed by the Central, State or local authorities by reason of any violations by them of such laws, regulations or requirements and also from all claims, suits or proceedings that may be brought against BPC arising under, growing out of, or by reasons of the work provided for in this agreement, by third parties, or by Central or State Government ' authorities or any administrative sub-division thereof or local authorities. Operator shall, in case any such demand is raised against BPCL, and BPCL has no way but to pay and pays/makes payment of the same, BPCL shall have the right to deduct the same from the amounts due and payable to Operator. Operator shall not raise any demand or dispute in respect of the same but may have recourse to recover/receive from the concerned authorities on the basis of the certificate of BPCL issued in that behalf.

However, all taxes, duties, levies and cesses on the PRODUCT belonging to BPCL like but not limited to customs duty, excise duty VAT and applicable taxes as mentioned in 8 above will be paid by BPCL.

**10. PAYMENTS**

- 10.1.** The operator will invoice BPCL on monthly basis for the actual dispatched quantity. BPCL shall settle such invoices within 30 (thirty) days of receipt of invoices along with all relevant particulars and documents.
- 10.2.** If BPCL has to recover any dues from the party, formal claim should be sent to the operator for settlement, which shall be paid within seven days. In case, the claims of BPCL are disputed by the party, the same should be mutually discussed and settled at appropriate level.
- 10.3.** All payments of Terminalling charges and other dues payable to the operator by BPCL, shall be paid either by local cheque or money transfer through Bank.

- 10.4.** The operator shall not be obliged to recover from third operator any sum to adjust its dues from BPCL and vice-a-versa.

## **11. PRODUCT ACCOUNTING**

- 11.1.** The operator shall be responsible only for the quantity of PRODUCT received as per clause no: 3.2 (3.2.1) In case of abnormal loss, BPCL shall arrange to take up with the shipper and arrange recovery for over and above the permissible quantity as per Charter party agreement

- 11.2.** Total permissible operating loss during receipt, storage and handling at the cryogenic terminal shall be 0.05% of the quantity discharged from the Ship as certified by the Independent surveyors which shall be jointly reviewed on the basis of Methodology spelt out under Clause 3.2 (3.2.1)

For any additional loss, recoveries shall be made as per the provisions of clause 3.2.1 of this agreement.

- 11.3.** Products reconciliation shall be carried out on day to day basis by the operator as per BPCL's guidelines. Summary statement shall also be made available to BPCL on monthly basis. BPCL may depute its representative at any time to verify the stocks at party's tanks as well as for joint reconciliation.

- 11.4.** BPCL product shall not be delivered to any other party unless approval for doing so is taken in writing by operator from BPCL.

## **12. ASSIGNMENTS**

Either party shall not have the right to assign this Agreement, in whole or in part, or any rights hereunder without the prior written consent of the other party. This written consent shall not be unreasonably withheld or delayed and any reason for disapproval shall be given in writing, setting out the grounds for reaching the decision. In the event of any assignment by either Party, the assigning Party shall remain permanently liable to the other party for all obligations contained in this Agreement regardless of whether such obligations were part of or covered by the assignment.

The operator may assign the agreement, in whole or in part, to another party provided it indemnifies BPCL for any consequences of non-performance by the assignee

## **13. STAMP DUTY**

BPCL and XXXXXL shall equally share the costs of an incidental to the stamping of any documents evidencing the Agreement and the duplicate thereof.

## **14. CONFIDENTIALITY**

- 14.1.** All information supplied by either Party to the other in connection with this Agreement as well as the contents of this Agreement are confidential between the Parties, who will cause their employees, consultants and agents to maintain such confidentiality.

- 14.2.** Neither Party shall disclose or allow to be disclosed any such confidential information, including with respect to any information, specifications or other commercial or business information to any third party, except to its relevant officers and employees and then only to such extent as may be necessary for the performance of their obligations under this Agreement. The Parties shall take all necessary precautions to keep the confidential information secret and confidential and to restrict its use in the manner provided herein.
- 14.3.** The above obligations shall not apply to information disclosed by any Party to the others which;
- a) at the time of such disclosure is in the public domain;
  - b) disclosure of the information is required by court order or applicable law; or disclosure of the information is required for the purpose of enforcing this Agreement

## **15. WAIVER**

The failure of either Party to insist in any one or more instances upon the performance of any term or conditions of this Agreement, or to exercise any right afforded to such Party herein, shall not be construed as a waiver or relinquishment of the future performance of any such term or conditions by the other Party, or the future exercise of such right, and the respective obligations of the parties as to their future performances shall continue in full force and effect.

## **16. INDEMNITY**

Both parties shall hold each other and other party's affiliates and Representatives harmless and indemnified from and against any and all losses, damages, costs, charges and expenses of any nature and legal costs incurred arising out of breach of this Agreement or obligations by them or due to a breach of its representation and warranties set out at clause 17 hereof. This clause 16 shall survive the termination of this agreement without limit in point in time.

## **17. REPRESENTATIONS AND WARRANTIES**

Both XXXXXL and BPCL represents and warrants as under:

- a) They shall obtain and maintain during the Term of this Agreement and will have in full effect and force all permits, clearances, consents, licenses and the like that are required to be held by it under the applicable laws, in connection with the performance of its business and obligations hereunder.
- b) Neither the execution nor delivery of this Agreement, nor the fulfillment nor compliance with the terms and provisions hereof, will conflict with, or result in a breach of terms, conditions or provisions of, or constitute a default under, or result in any violation of its charter or by-law, if any, or any agreement, restrictions, instrument, order, judgment, decree, statute, law, rule or regulation to which it is subject, or require any consent, approval or other action by any court or administrative or government body.

## **18. MODIFICATION / AMENDEMENTS**

This Agreement may be amended during the currency of the Agreement by mutual consent in writing between the parties; particularly where there are changes in policy by Government of India or any of the State Governments, which may be relevant to this Agreement.

## **19. LAW & LANGUAGE**

The Parties agree that this Agreement shall be governed by and interpreted and construed in accordance with Indian Laws.

## **20. NO AGENCY**

Save for the provision contained in this Agreement, nothing herein shall create or constitute a relationship of agency between BPCL and XXXXXL, and XXXXXL undertakes that it shall not conduct itself out as agents of BPCL in any measure or under any circumstance whatsoever.

## **21. COMPLIANCE WITH LAWS AND REGULATIONS**

Each Party to this Agreement shall conform to all applicable provisions of every statute, statutory instrument, bye-laws or regulations from time to time in force affecting this Agreement and will give all necessary notices and obtain every requisite sanction or approval in respect of this Agreement under every such statute, instrument, bye-law, or regulations. BPCL shall be responsible and obliged to inform and keep XXXXXL updated on any and all statutory and other compliance requirements, only to the extent BPCL is bound by the obligations under the provisions of the Indian laws, in relation to storage of BPCL's PRODUCT by operator.

The non-conforming Party shall indemnify the other Party against any fines, penalties, losses, costs or expenses incurred by the other Party in respect of any non-compliance with the provisions with the laws and /or regulations.

## **22. TERMINATION**

### **Grounds of Termination**

- 22.1.** At any time after the day of execution of this Agreement, either Party may terminate this Agreement upon the occurrence of any of the following events:
- 22.2.** A breach or failure to comply with any material provision of this Agreement in such a way that it becomes impossible for the other Party to honour and comply with the terms of this Agreement and such failure continues for more than 30 (Thirty) days following written notice thereof by the other Party to the Party in breach; or

Upon liquidation, whether voluntary or otherwise or the passing of an effective resolution for winding up of either of the party. The appointment of any receiver, or manager or administrator or any order is passed for the winding up or liquidation of either of the party.

- 22.3.** Notwithstanding happening, or non-happening of any of the above events, either party shall have the right to terminate this Agreement by giving 1 (one) year notice in writing without giving

any reasons. As from the date this agreement is terminated, except for the liability to be bound by the provisions under this agreement to discharge each other's obligations including payment obligations as they accrued hereto till date of termination, both the parties shall be discharged under this agreement.

### 23. NOTICE

Any notice or other communications required or permitted under this Agreement shall be in writing and shall be given by registered post, hand delivery, courier services, telex, or telefax addressed to the relevant Party at the Address set forth below or such other address as may be designated from time to time.

**A. In case of XXXXXX, to:**

Attention: Managing Director -XXXXXXXX Port Terminal Co. Ltd

P.O. : Petrochemicals, Via.: YYYYY

Tal.: ?????, Dist.: ZZZZ – 392 130

**B. In case of BPCL, to:**

Attention: Executive Director (LPG), BPCL

BHARAT BHAVAN, 4 & 6 CURRIMBHOY ROAD,

BALLARD ESTATE,

MUMBAI 400 001

### 24. ENTIRE AGREEMENT

This agreement pertaining to storage and terminalling of PRODUCT supersedes all prior written or contemporaneous oral undertakings relating to the storage and distribution of PRODUCT and there are no other agreement or undertaking between the Parties to this subject matter.

### 25. FORCE MAJEURE

Definition of Force Majeure:

Circumstances leading to force majeure

- (a) Act of terrorism;
- (b) Riot, war, invasion, act of foreign enemies, hostilities (whether war be declared or not),
- (c) civil war, rebellion, revolution, insurrection of military or usurped power;
- (d) Ionising radiation or contamination, radio activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive assembly or nuclear component;

- (e) epidemics, earthquakes, flood, fire, hurricanes, typhoons or other physical natural disaster, but excluding weather conditions regardless of severity; and
- (f) freight embargoes, strikes at national or state-wide level or industrial disputes at a national or state-wide level in any country where Works are performed, and which affect an essential portion of the Works but excluding any industrial dispute which is specific to the performance of the Works or the Contract.

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

- Notification of Force Majeure

Operator shall notify within [10(ten)] days of becoming aware of or the date it ought to have become aware of the occurrence of an event of Force Majeure giving full particulars of the event of Force Majeure and the reasons for the event of Force Majeure preventing the Affected Party from, or delaying the Affected Party in performing its obligations under the Contract.

- Right of either party to terminate

If an event of Force Majeure occurs and its effect continues for a period of 180 (one hundred eighty days) or more in a continuous period of 365 (three hundred sixty five) days after notice has been given under this clause, either Party may terminate the Contract by issuing a written notice of 30 (thirty) days to the other Party.

- Payment in case of termination due to Force Majeure

The Contract Price attributable to the Works performed as at the date of the commencement of the relevant event of Force Majeure.

The Operator has no entitlement and Owner has no liability for:

- a) Any costs, losses, expenses, damages or the payment of any part of the Contract Price during an event of Force Majeure; and
  - b) Any delay costs in any way incurred by the Operator due to an event of Force Majeure.
- Time extension for such cases will be worked out appropriately.

## 26. ARBITRATION

Any dispute or difference whatsoever arising out of or in connection with this Agreement including any question regarding its existence, validity, construction, interpretation, application, meaning, scope, operation or effect of this contract or termination thereof shall be referred to and finally resolved through arbitration as per the procedure mentioned herein below :

- a) The dispute or difference shall, in any event, be referred only to a Sole Arbitrator
- b) The appointment and arbitration proceedings shall be conducted in accordance with SCOPE forum of Arbitration Rules for the time being in force or as amended from time to time
- c) The Seat of arbitration shall be at Mumbai.
- d) The proceedings shall be conducted in English language
- e) The cost of the proceedings shall be equally borne by the parties, unless otherwise directed by the Sole Arbitrator.

**27. JURISDICTION:**

The agreement shall be governed by the Laws in force in INDIA. Both BPCL and the operator hereby submits to the jurisdiction of the Courts situated at Mumbai, for the purpose of actions and proceedings arising out of the contract and the courts at Mumbai, only will have jurisdiction to hear and decide such actions and proceedings.

The agreement shall be deemed to have been made, executed and delivered in two (2) originals.

**IN WITNESS WHEREOF BOTH THE PARTIES HAVE SET THEIR RESPECTIVE HANDS AND SEALS THROUGH THEIR AUTHORISED REPRESENTATIVES ON THE DATE AND YEAR FIRST HERE IN ABOVE MENTIONED**

For and on behalf of Operator

XXXXXX.

Sign:

Name: Shri -----

Design: Managing Director

WITNESS:

Sign:

Name:

Design:

Date: \_\_\_\_\_

Place: Mumbai

For and on behalf of

**Bharat Petroleum Corporation Ltd.**

Sign:

Name: Shri \_\_\_\_\_

Design: Executive Director (LPG)

WITNESS:

Sign:

Name:

Design:

Date: \_\_\_\_\_

Place: Mumbai

**Annexure A**

**FACILITIES AT XXXXL's PRODUCT TERMINAL AT YYYYYY NEAR ZZZZ**

Location: YYYYYY NEAR ZZZZZ

Total Storage Capacity: \_\_\_\_\_ KL (Double wall cryogenic Tank)

Product Handled : imported / indigenous LPG (Mixture of commercial Propane and butane commercial hydrocarbons conforming to IS specifications) or commercial butane or propane

Jetty Facilities : \_\_\_\_\_ LTCS Loading arm for LPG – Butane

\_\_\_\_\_ LTCS Loading arm for LPG – Propane

Jetty Pipelines : \_\_\_\_\_ LTCS Dock line of ~ \_\_\_\_\_ KM in length

Pipelines from terminal to BPCL or JV pipeline:

Tank Truck Loading : One Gantry with loading rate of ~ \_\_\_\_\_ MT/day

Pipeline pumping rate

Fire fighting facilities:

TERMINAL : As per all applicable statutory guidelines

JETTY : As per all applicable statutory guidelines



## Annexure B

## SPECIFICATIONS FOR LIQUEFIED PETROLEUM GASES AS PER IS 4576 1999

Sl. No.	Characteristics	Requirement for Commercial			Method of Test Ref. To:
		BUTANE	LPG	PROPANE	
(1)	(2)	(3)	(4)	(5)	(6)
i	Vapour pressure at 40°C, kPa, gauge, Max (Note 1)	520	1050 (Note 2)	1550	D 1267
ii	Composition, liquid mole percentage				
a)	C2 Hydrocarbons	--	Report	Report	D 2163
b)	C3 Hydrocarbons	Report	Report	95.0 min	
c)	C4 Hydrocarbons	Report	Report	4.0 max.	
d)	C5 Hydrocarbons & heavier	2.5 max.	2.5 max.	0.2 max.	
e)	Unsaturated hydrocarbons / OLEFINS	NIL	NIL	NIL	
	OR				
	Volatility :				
	Evaporation Temp. In °C for 95% by vol. at 760 mm Hg pressure, max.	2.0	2.0	-38.0	D 1837
iii	Total volatile sulphur ppm, Max.	150	150	150	D 2784 D 3246

iv	Copper Strip Corrosion at 38°C for 1 hour	Not worse Than	No.1	D 1838
v	Hydrogen Sulphide	Pass	Pass	Pass
vi	Free water content	None	None	None
				D 2420 (Note 3)
				Visual

**ASTM Test Methods can be followed till “P” of IS1448 method under revisions are finalized**

Note 1 – Vapour pressure may be determined at any other temperature and converted to 40°C by means of suitable vapour pressure – temperature graph. The same can also be determined by analyzing the gas by means of a gas chromatograph and then using the composition, the vapour pressure can be calculated 40°C from the standard values of vapour pressures at various temperatures.

Note 2 – Each consignment of PRODUCT mixture shall be designated by its maximum vapour pressure in kPa at 40°C. Further, if purchaser and the supplier agreed, the minimum vapour of that mixture shall be not lower than 200 k Pa gauge compared to the designated maximum vapour pressures and in any case the minimum for the mixture shall be not lower than 520 kPa at 40°C.

Note 3 – ‘Pass’ test indicates Hydrogen Sulphide not more than 5 ppm

Note 4 – Subject to agreement between the purchaser and the supplier, odour requirements of PRODUCT may be changed for certain applications when unodourized PRODUCT is required.

Note 5 – Product shall contain 20 ppm minimum ethyl mercaptan at the first dispatching location to ensure the detection of odour.

To detect the odour, the following procedures may be adopted:

5ml Doctor Solution + 8 ml Iso-Octane + Pinch of Sulphur powder in 25 ml stoppered cylinder. Shake and add 2 ml PRODUCT (Aq). Shake slowly by releasing pressure.

Odour is adequate if Sulphur turns yellowish brown

P: 75, Odour test Method is also acceptable as an alternate method.

PROFQRMA OF BANK GUARANTEE

(On non-judicial paper of appropriate value)

FOR EARNEST MONEY / SECURITY DEPOSIT TOWARDS PERFORMANCE

To

Bharat Petroleum Corporation Ltd.

Dear Sirs,

M/s. \_\_\_\_\_ have taken tender for the work  
\_\_\_\_\_ CRFQ No/PO

No

\_\_\_\_\_ for Bharat Petroleum Corporation Ltd.

The tender Conditions of Contract provide that the Operator shall pay a sum of Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_) as earnest money/security deposit in the form therein mentioned. The form of payment of earnest money/security deposit includes guarantee executed by Scheduled Bank, undertaking full responsibility to indemnify Bharat Petroleum Corporation Ltd. in case of default.

The said \_\_\_\_\_ have approached us and at their request and in consideration of the premises we \_\_\_\_\_ having our office at \_\_\_\_\_ have agreed to give such guarantee as hereinafter mentioned.

1. We \_\_\_\_\_ hereby undertake and agree with you that if default shall be made by M/s. \_\_\_\_\_ in performing any of the terms and conditions of the tender or in payment of any money payable to Bharat Petroleum Corporation Ltd. We shall on demand pay to you in such matter as to you may direct the said amount of Rupees \_\_\_\_\_ only or such portion thereof not exceeding the said sum as you may from time to time require.

2. You will have the full liberty without reference to us and without effecting this guarantee postpones for any time or from time to time the exercise of any of the powers and rights conferred on you under the contract with the said \_\_\_\_\_ and to enforce or to for bear from endorsing any power of rights or by reason of time being given to the said which under law relating to the sureties would but for provision have the effect of releasing us.

3. Your right to recover the said sum of Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_) from us in manner aforesaid will not be affected or suspended by reason of the fact that any dispute or disputes have been raised by the said M/s. \_\_\_\_\_ and/or that any dispute or disputes are pending before any officer, tribunal or court.

4. The guarantee herein contained shall not be determined or affected by the liquidation or winding up, dissolution or change of constitution or insolvency of the said \_\_\_\_\_ but shall in all respects and for all purposes be binding operative units payment of all money due to you in respect of such liabilities is paid.

5. Our liability under this guarantee is restricted to Rupees \_\_\_\_\_. Our guarantees shall remain in force until \_\_\_\_\_ unless a suit or action to enforce a claim under \_\_\_\_\_ Guarantee is filed against us within six months from \_\_\_\_\_ (which is date of expiry of guarantee) all our rights under the said guarantee shall be forfeited and shall be relieved and discharged from all liabilities thereunder.

6. We have power to issue this guarantee in your favour under Memorandum and Articles of Association and the undersigned has full power to do under the Power of Attorney dated \_\_\_\_\_ granted to him by the Bank.

Yours faithfully

\_\_\_\_\_ Bank by its Constituted Attorney Signature of a person duly authorized to sign on behalf of the bank.

### Techno-Commercial Information Form

Sr. No.	Details	Bidder's Information
1	Name of the Bidder	
2	Constitution of the firm	
	a) Sole Proprietor/Partnership	
	b) Private Limited Company	
	c) Public Limited Company	
	d) Any other	
3	Name & address of the Proprietors / Partners / Directors with % of share holding	
4	Names of the persons holding the Power of Attorney, their Designations, addresses and telephone Nos.	
5	Indicate the details of your sister concerns/ firms having Common partner(s) in case of Partnership Firms/ Shareholder(s) in case of Private Limited companies.	
6	Year of Establishment / Registration & Date.(Certified copy of the Registration Certificate issued by Registrar of firms/ Companies to be enclosed)	
	Registration No.:	
	Under Companies Act :	
	Small Scale Industries :	
	DGTD :	
	GST Registration Number (Copies of Regn. Certificates for all above to be enclosed)	
7	Details of Capital Investment:	
	(Authorised share capital, subscribed share capital, paid up capital)	
8	Net worth of the company	
	2015-16	
	2016-17	
	2017-18	
9	Annual Turnover in the last 3 yrs.	
	2015-16	
	2016-17	
	2017-18	
	(Certified copies of Audited Balance Sheets and P&L Statements to be enclosed)	

10	Credit arrangement with Bankers along with the limit for Bank Guarantee.	
11	Details of experience	
12	Name of the VLGC compliant port proposed for this contract	
	Is the Terminal and port ownership same directly and indirectly	
13	Is it an existing terminal or proposed	
14	If it is an existing terminal, any plans for augmentation and timelines	
15	If it is a proposed facility , please attach a separate sheet to provide the latest status on Environment Clearance, CRZ clearance, other statutory clearances, land etc.	
16	whether this is an All Season Port	
17	Area of Terminal and distance from Jetty	
18	Water Draft (min & max)	
19	Air Draft (min & max)	
20	Number of hours taken for discharge of VLGC in single berthing	
21	Separate Propane & Butane Tanks (Cryogenic) with capacity?	
22	Separate Arms and pipeline for Propane & Butane?	
23	Blender facility with capacity	
24	Dispatch facilities	
	(a). For segregated Propane and Butane TTs	
	(b). For LPG TTs	
	(c). For Tank wagons	
	(d). For Pipeline	
25	At which Injection point (Kandla LPG import Terminal, Mithi Rohar despatch station, Pipavav LPG import terminal, Dahej LPG import Terminal, Dumad despatch station), the connectivity from the terminal to KGPL is proposed	
26	Night Operations facilities (Vessel Berthing, PLT, Rail, TT loading)	
27	Associated facilities details like TTs Parking Drivers Rest room, canteen etc.	
28	What is maximum Capacity of Terminal and what maximum capacity can be offered to BPC	
29	Any other additional details.	

**Price Bid Form**

S.No.	Pipeline	Qty to be Handled (MMTPA)	Terminalling Charges (For Rail/Road/Pipeline dispatches including all facilities) [Rs./MT]
1	KGPL	1.5	

**Notes:**

1. The rate quoted shall be excluding Taxes (including GST), Duties etc. Any tax variation after the bid submission date shall be paid on the basis of actual applicable in any particular period.
2. Terminal operator shall connect and operate their own pipeline to an injection point of their choice from the following 5 options: Kandla LPG import Terminal, Mithi Rohar despatch station, Pipavav LPG import terminal, Dahej LPG import Terminal, Dumad despatch station.
3. For price bid evaluation purpose total cost for 1500 TMTpa transported through pipeline shall be based on terminalling charges and KGPL tariff@ Rs. 3.95 /MT/km from the injection point to Indore
4. Pipeline Transportation cost from injection point to Indore will be paid by BPCL to the pipeline carrier (i.e. KGPL).
5. L1 shall be evaluated on cash outflow by BPCL over a 10-year period (annual outflow x 10).