



CPO REFINERIES

TENDER FOR

ENGAGEMENT OF CONSULTANT FOR CONDUCTING FINANCIAL AND TAX DUE DILIGENCE

REQUEST FOR QUOTATION

E-Tender System ID: 39960

CRFQ 1000305807

Tender Calendar Details		
Stage Name	Start Date	End date and Time
Tender release	09.05.2018	23.05.2018 11:00 hrs IST
Technical bid opening	23.05.2018, 11:30 hrs IST	
Priced Bid Opening	Will be intimated later	

REQUEST FOR QUOTATION

Engagement of Consultant for conducting Financial and Tax Due Diligence

- 1.0 This is a limited E-tender and only the bidder(s), who have been issued this e-tender, can submit their bid through e-platform.

Electronic digitally signed & sealed (encrypted) E-Bids are invited in 2 part bid system for the tender for 'Engagement of Consultant for conducting Financial and Tax Due Diligence' in complete accordance with tender documents and its attachments.

- 1.1 All prospective bidders are requested enroll onto our e-tendering platform <https://bpcleproc.in/> maintained by M/s. E-procurement Technologies Ltd, our authorized Service Provider for E-tendering.
- 1.2 Upon logging in to the e-procurement website, bidders can download the bid documents and shall thoroughly go through the same. All documents required for the bid, shall be uploaded on the appropriate place in the E-Procurement web site, digitally signed. No physical scanned documents need to be uploaded except those specifically indicated.
- 1.3 **As a pre-requisite for participation in the tender, bidders are required to obtain a valid Digital Signature Certificate of Class 2B or Class 3 (Signing and Encryption/Decryption) and above 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 bidder.**
- 1.4 Bidders are advised to read the Instructions for participating in the electronic tenders directly through internet (Bid Submission Manuals are available on the above mentioned e-procurement site) and get conversant with the process of online submission of the tenders well in time so as to submit tenders by the due date.
- 1.5 E-Bidding instructions are also attached along with the tender document for reference and guidance.

2.0 **BRIEF DESCRIPTION:**

As part of BPCL initiative to diversify into other areas we are looking into entering into a joint venture with a company having technological expertise and knowhow for setting up a plant utilizing biomass to transportation fuels at UP. For this a due diligence on techno - commercial aspects has to be carried out.

3.0 OFFER VALIDITY:

The Offer shall be valid for a period of 120 days from Tender Due Date / Extended Tender Due Date for placement of order.

4.0 TAXES AND DUTIES :

Your quoted lump sum basic price shall be inclusive of all Indian taxes and duties except Goods and Services Tax (GST). GST shall be quoted separately and shall be applicable extra on the quoted lump sum basic price.

5.0 EARNEST MONEY DEPOSIT (EMD) :

The interest-free Earnest Money Deposit (EMD) of Rs 1,00,000/- (Rupees One Lakh Only) to be submitted by way of crossed account payee Demand Draft drawn on any nationalized / scheduled bank in favour of "BHARAT PETROLEUM CORPORATION LTD" payable at Mumbai. The EMD shall be submitted to BPCL prior to the due date & time of opening of the "Technical Bid".

The following categories of bidders are however exempted from depositing EMD:

- a) Units falling under Micro & Small Enterprises (MSEs) category and registered with authorities specified under Public Procurement Policy for MSEs.
- b) Units registered with National Small Industries Corporation (NSIC).
- c) Bidders registered with BPCL.

Such bidders must upload appropriate proof along with their "Pre-qualification to show that they are eligible for the exemption from EMD. The exemption would be extended only if their registration is available for tendered item and registration certification is valid as on date of quotation.

Bidder(s) claiming exemption from EMD for being registered with BPCL shall submit documentary proof of their registration with BPCL. If required, such bidders can send email to CPO-R Dept for confirmation of their registration, at least one week prior to due date.

Registration with DGS&D will not entitle the Bidder to claim exemption from payment of EMD.

5.1 "Earnest Money Deposit" (EMD), wherever applicable, shall be paid separately by Demand Draft (DD)/ Banker's Cheque drawn in favour of Bharat Petroleum Corporation Limited and payable at Mumbai.

5.2 EMD can be deposited through Electronic Funds Transfer to BPCL's bank account.

Details of Bank for Electronic Fund Transfer:
Beneficiary-Bharat Petroleum Corporation Limited

Name of the Bank- Standard Chartered Bank,
M G Road, Address-90, M G Road, Fort, Mumbai-400 001,
IFSC Code-SCBL0036001,
MICR Code-400036002,
Type of Account-11(Current),
Account No:22205020115.

- 5.3 Alternatively EMD can also be paid by way of "Bank Guarantee" as per BG format attached, from any Bank recognized as Scheduled Bank by Reserve Bank of India, in favour of M/s. Bharat Petroleum Corporation Ltd. Mumbai.
- 5.4 The Bank Guarantee in lieu of EMD shall be furnished on non-judicial stamp paper of value not less than Rs. 500/- (Rupees Five hundred only) and in the prescribed Proforma given in the Tender Document.
- 5.5 The Bank Guarantee shall be kept valid for a period of 90 days beyond the validity period of the offer for claim.
- 5.6 Original DD/ Banker's Cheque or BG as the case may be, towards EMD shall be sent separately to DGM, CPO-Refineries, BPCL. Copy the DD/ Banker's cheque/ BG as the case may be, along with proof of dispatch to be uploaded along with "Pre-qualification Bid". Bids without EMD are liable to be rejected.
- 5.7 EMD of unsuccessful bidders shall be released after the completion of BQC evaluation/ Technical evaluation / Price bid evaluation as applicable. However, in case of successful bidder the EMD shall be released on receipt of performance bank guarantee.
- 5.8 Forfeiture of EMD - A tenderer who has submitted their bid shall not be permitted to alter/ amend or withdraw the bid, notwithstanding that the bid(s) has/ have not yet been opened/ finalized. A tenderer who purports to alter/ modify withdraw their offer after submission, within the validity of the offer shall be liable to have their offer rejected and their EMD forfeited/encashed.
- 5.9 The Earnest Money deposited by successful tenderer shall be forfeited if the successful tenderer fails to honour the offer terms prior to ordering and Contractual terms after issuance of FOI/ PO.
- 5.10 Offers received without scan copy of EMD (DD/BG/Valid NSIC Certificate) in the e-tender and physically not received within 7 days after "Pre-qualification Bid" opening date (as indicated in the NIT or corrigendum thereof) are liable to be rejected.
- 5.11 No interest shall be paid by BPCL on the earnest money deposit by the tenderer.

6.0 COMPLETION PERIOD

As described in the scope of work.

7.0 GENERAL TERMS AND CONDITIONS OF CONTRACT / SPECIAL CONDITIONS OF CONTRACT

Attached General Terms and Conditions of Contract and Special Conditions of contract shall be applicable for this contract.

8.0 SUBMISSION OF TENDER:

- 8.1 Bids should be submitted in "TWO BID SYSTEM", i.e., "Unpriced Technical Bid" & "Priced Bid" through e-tendering portal.
- 8.2 **"Un-Priced Technical Bid"**, i.e. Techno-Commercial Bid, shall be complete with all technical and commercial details (other than price) duly filled, signed and stamped essentially containing the following documents shall be submitted/ uploaded:-
- i) Declaration of Holiday Listing to be submitted properly filled.
 - ii) Scanned copy of Bidder's PAN, GST Registration certificate.
 - iii) Confidentiality Agreement duly acknowledged.
 - iv) Details of taxes and duties as per the format FORM-A attached.
 - v) Acceptance / Deviation : Bidders are requested to have all their queries clarified before bidding. Bidders are required to confirm and accept all the terms and conditions of the Tender. However, if they still have deviations from our Tender and the attachments, they can indicate deviations in the Form-B giving reference to clause no.
 - vi) Duly signed Tender document as a token of acceptance.
 - vii) Any other supporting documents/ information in support of the Un-priced Bid.
- 8.3 "Priced Bid" shall be submitted online. Bidders shall input their prices online in the template created in the E Tendering portal.
- 8.4 Bids complete in all respects should be uploaded in BPCL e-tendering portal on or before the due date & time. Each page of all documents, submitted by the bidder, shall be duly signed & stamped, and then scanned and uploaded in the portal. The offer shall be submitted in the Portal under the digital signature of the bidder.
- 8.5 Offer submitted by Telex/ Telegraphic/ Fax/ E-Mail or Hard copy in sealed covers, shall not be accepted.
- 8.6 BPCL shall not be responsible for any delay in uploading of offer.

9.0 TENDER OPENING:-

The deadline for bid submission is 11:00 Hrs on the due date mentioned. The bids can be submitted in the e-procurement website upto the tender due date and time. The Un-priced Technical bids will be opened online through e-procurement website <https://bpcleproc.in>, on the same day at 11.30 Hrs.

9.1 Un-priced Technical bids:- The Un-priced Technical Bids (Techno-Commercial Bid) will be opened first and evaluated.

9.2 Priced bids:- Priced Bids of only techno-commercially acceptable bidders will be opened subsequently. The date and time of opening Price Bids shall be intimated separately to the techno-commercially acceptable bidders and the price bids shall be opened through e-portal. Such Techno-Commercially acceptable bidders can view/ witness the "Price Bids" opening through the e-portal.

10.0 CONTACT PERSONS:

Please note that tender against tender enquiry is invited through e-tendering mode. In case of any clarification regarding the tender, following are the contact persons:-

10.1 FOR E-TENDERING RELATED ISSUES:

If tenderers need some clarifications or are experiencing difficulties while enrolling or while participating in this e-Tender, please E-Mail to the following E-Mail ID along with the snapshots of the errors being faced to:

M/s E-procurement Technologies Ltd,

E Mail - support@bpcleproc.in / ajay.nandangi@eptl.in & with a copy to: bhatepp@bharatpetroleum.in

(OR)

Contact the following helpdesk numbers:
Mr. Ajay Nandangi : Mobile 91 8433615195
All India +91 79 4027 0573

10.2 FOR TECHNICAL CLARIFICATIONS:

For any technical clarifications regarding this RFQ, please contact:

Shri. Rajeev C, DGM (Project Tech), BPCL, Mumbai Refinery
Tel. No. 91 22 25533311, Email: rajeevc@bharatpetroleum.in

Shri. Milind Dekate, Chief Manager (Project Tech), BPCL, Mumbai Refinery
Tel No. 91 22 25533184, E mail : dekatem@bharatpetroleum.in

10.3 FOR COMMERCIAL CLARIFICATIONS:

For any commercial clarifications regarding this RFQ, please contact:

Procurement Manager - Shri. P P Bhate, BPCL- Mumbai Refinery, Mahul, Mumbai,
Tel no. 91 22 - 25533010. Email: bhatepp@bharatpetroleum.in
(OR)

Procurement Leader - Shri. A.R.Menon, BPCL - Mumbai Refinery, Mahul, Mumbai,
Tel no. 91 22 - 25533142. Email: menonar@bharatpetroleum.in

11.0 INTEGRITY PACT (IP): NOT APPLICABLE**12.0 GENERAL POINTS:**

- 12.1. BPCL reserves the right to extend due dates of tender, accept or reject any tender in part or full, without assigning any reason whatsoever. BPCL also reserves its right not to accept the lowest rates quoted by the bidders and also to give purchase/price preference to eligible Enterprises, as admissible under the existing policies of Government of India and to JVs/ Subsidiaries as per BPCL guidelines.
- 12.2 COST OF BIDDING: The Bidder shall bear all costs associated with the preparation and submission of Bid, all activities in connection with bidding. BPCL will in no case be responsible or liable for these costs regardless of the conduct or outcome of the bidding process. Each Bidder accept and agrees, as a condition of submitting its Bid that it waives any and all claims against BPCL, its Co-ventures and their affiliates, for remuneration or restitution relating to its costs and expenses in.
- 12.3 CONTENTS OF BIDDING DOCUMENT: The Bidder is expected to examine carefully all instructions, conditions, forms and terms given in the Bidding Documents. Failure to furnish all information required by the Bidding Document or not responsive to the requirements of the Bidding Document will be at the Bidder's risk, and may result in rejection of the bid.

Amendment of Bidding document

BPCL may, for any reason either at their own initiative or in response to the clarification requested by prospective bidders, issue amendment in the form of addendum during the bidding period or subsequent to receiving the bids. Any addendum thus issued shall become part of bidding document and Bidder shall submit 'Original' addendum duly signed and stamped in token of his acceptance. If addendum is issued during the bidding period, Bidder shall consider the impact in his bid. If addendum is issued subsequent to receiving the bids, Bidder shall follow the instructions issued along with addendum with regard to submission of impact on quoted price/ revised price, if any.

- 12.4 **OWNER'S RIGHTS TO ACCEPT / REJECT ANY OR ALL BIDS:** BPCL reserves the right to reject any or all the tenders without assigning any reasons whatsoever. Also BPCL reserves the absolute right to reject any or all the bids/tenders solely based upon the past unsatisfactory performance by the bidder/bidders in BPCL, the opinion/decision of BPCL regarding the same being final and conclusive
- 12.5 **LANGUAGE OF BIDS:** The bid prepared by the Bidder and all correspondence and documents relating to the bid, exchanged by the Bidder and BPCL, shall be written in the English language. All information in the "Bid" shall be in English language. Information in any other language shall be accompanied with its translation in English. Failure to comply with this condition shall disqualify a "BID". In the event of any contradictions between meanings as derived from various languages of the "BID", the meaning as derived from English language copy of the "BID" shall govern.
- 12.6 **CONFIDENTIALITY OF BID DOCUMENT:** The bidder shall not disclose any information contained in the bid document or otherwise supplied in connection with this bid to any third party, except for the purpose of preparing its bid and shall require any such third party to treat such information as confidential. Bidders shall submit Confidentiality Agreement duly acknowledged as per format.
- 12.7 **PROCESS TO BE CONFIDENTIAL:** After the opening of bids, information relating to the examination, clarification, evaluation and comparison of bids and recommendations concerning to award of contract shall not be disclosed to Bidders. Canvassing in any form by the Bidder or by any other Agency on behalf of the Bidder after submission of the Bid may disqualify the said Bid. Any effort by a Bidder to influence the owner in the process of examination, clarification, evaluation and comparison of Bids, and in decisions concerning award of contract, may also result in the rejection of the said Bid.
- 12.8 **WRONG INFORMATION:** If the Bidder deliberately gives wrong information in his Bid to create circumstances for the acceptance of his Bid, Owner reserves the right to reject such Bids without any reference to the Bidder.
- 12.9 **CLARIFICATIONS OF BIDS:** As part of examination, evaluation and comparison of Bids, the Owner may at his discretion, ask Bidders individually for clarification or call them for discussion of their Bid.

For Techno-Commercial clarifications, bidders shall normally be given a cutoff date for furnishing clarifications. Clarifications received after the specified cutoff dates are liable not to be considered for evaluation. Technical Query (TQ)/Commercial Query (CQ) shall be issued to bidders through E-Mail/E Tendering platform. Reply of TQ/CQ shall also be received through E-Mail/E-Tendering platform.

- 12.10 **SIGNING OF BID:** The Bid must contain the name, designation, residence and place of business of the person or persons submitting the Bid, and must be signed and sealed by the Bidder with his usual signature. The names of all persons signing should also be typed or printed below their signature.

Satisfactory evidence of authority of the person signing on behalf of the Bidder shall be furnished with the Bid. The Bidder's name stated in the Bid shall be the EXACT

LEGAL NAME OF FIRM / COMPANY / CORPORATION, etc. as registered or incorporated.

The bid shall be signed by the bidder or a person or persons duly authorized to sign on behalf of the bidder. Such authorization shall be indicated by written power of attorney accompanying the bid.

- 12.11 **VENDOR HOLIDAY LISTING** : Vendors serving holiday listing order issued by BPCL, MOP&NG or any other Oil PSEs would not get qualified in the tenders floated in BPCL till the holiday listing order is revoked by the concerned authority and the proof of such revocation is submitted to the tendering department.

A declaration to be submitted by bidder indicating that they are not on holiday list by BPCL / MOP&NG or any other Oil PSEs as on due date of bid submission anywhere in the country. Offers not accompanied with such declaration shall make the bidders liable for rejection. Any wrong declaration in this context shall make the bidders liable for action under the Holiday Listing procedure.

- 12.12 **TAX DEDUCTED AT SOURCE** :

Income Tax deduction at source (TDS) at the applicable rates will be deducted from the running bills. Necessary certificates in this regard will be issued from BPCL.

- 12.13 **FIRM PRICES** : The Contract Price shall remain firm and fixed till the completion of Work in all respects and no escalation in prices on any account shall be admissible to the BIDDER / CONTRACTOR.

ATTACHMENTS TO THE TENDER

1. PROFORMA OF BANK GUARANTEE FOR EARNEST MONEY DEPOSIT
2. SCOPE OF WORK
3. GENERAL TERMS AND CONDITIONS OF CONTRACT AND SPECIAL CONDITIONS OF CONTRACT.
4. CONFIDENTIALITY AGREEMENT
5. BIDDER INFORMATION
6. FORM-A – FORMAT FOR TAXES AND DUTIES
7. FORM B – ACCEPTANCE -DEVIATION FORM
8. E-BIDDING INSTRUCTIONS.
9. PROFORMA OF DECLARATION OF HOLIDAY LISTING
10. VENDOR ADVISORY – ENVIRONMENTAL
11. QEHS POLICY
12. POLICY OF HOLIDAY LISTING OF VENDORS IN BPCL

SECTION-1

PROFORMA OF BANK GUARANTEE FOR EARNEST MONEY DEPOSIT

**PROFORMA OF BANK GUARANTEE
(On non-judicial paper of appropriate value)
FOR EARNEST MONEY**

To
Bharat Petroleum Corporation Ltd.
(CPO) Refineries
Mumbai Refinery, Mahul
MUMBAI 400074
Dear Sirs,

M/s.

_____ have taken tender for the supply of _____
_____ for Bharat Petroleum Corporation Ltd.

The tender Conditions of Contract provide that the Bidder shall pay a sum of Rs. _____ (Rupees _____) as earnest money /initial / full security deposit in the form therein mentioned. The form of payment of earnest money / security deposit includes guarantee executed by Schedule 'A' 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

SECTION 2
SCOPE OF WORK

SCOPE OF WORK

1. INTRODUCTION:

As part of BPCL initiative to diversify into other areas we are looking into entering into a joint venture with a company having technological expertise and knowhow for setting up a plant utilizing biomass to transportation fuels at UP. For this a due diligence on techno - commercial aspects has to be carried out.

The target company is in the business of converting bio mass into hydrocarbon fuels such a gasoline, diesel etc. and to provide consultancy and technology in the field of use of bio mass to generate power and fuels. The company proposes to set up a biomass based renewable fuel plant in the state of Uttar Pradesh.

The plant will utilize bagasse to produce transportation fuel of Bharat Stage VI (BS VI) specification. The project shall utilize Integrated Hydro pyrolysis and Hydro conversion (IH2) process developed by Gas Technology Institute USA and Licensed by CRI catalyst Company LLP (CRI) a wholly owned subsidiary of Royal Dutch Shell.

The target company has appointed EIL as a detailed engineering consultant for this project and they have carried out a detailed feasibility study and a Detailed Feasibility Study Report (DFR) submitted.

2. SCOPE OF WORK:

The Management is seeking to engage an independent Consultant to carry out the Financial and Tax due diligence of the target, in relation to the transaction. A scope of the activities to be undertaken has been listed below.

Due Diligence would cover all components of the financial statements and taxation related matters including but not limited to those mentioned below.

The appointed Consultant will also be required to liaise with other consultant / advisor appointed for transaction advisory and other diligences.

Scope and Basis of Work - Financial Due Diligence

Entity to be covered are the target company and its subsidiaries (Collectively referred as "Target").

Period to be covered ("historical period") "Audited financial statements for the years ended 31st March 2018, 31st March 2017 & 31st March 2016. For financial year ended 31st March 2018, provisional financial statements may be covered in case the Audited financial statements have not been prepared.

Corporate/Financial Information

1. Understand the group structure and obtain a list of companies/ firms which are a part of the business group to which Target belongs and analyze shareholder agreements, share subscription agreements of all rounds of funding raised by the target, MOA, AOA, existing joint venture agreements, strategic alliances and other key agreements entered into by the Company.
2. Obtain an organization chart for the Target with details of function performed by each of the "key Employees"

Financial information

3. Obtain and read the standalone financial statements of the Target as prepared under Indian Generally Accepted Accounting Principles ("GAAP") to note the accounting policies and procedures applied in preparation of the same and any changes in such policies and procedures applied.
4. Obtain and read the audit report along with any management letters issued by the Statutory Auditors during the period.
5. Read the internal audit reports of the Target, issued during the last two years.
6. Understand the management information systems and reporting procedures currently in place. Obtain and analyze management accounts including actual to budget commentary.
7. Analysis of key cost items (employee and general and selling costs) (to the extent the information is made available)
8. Analysis of subsidies/grant received by the company (if any), impact on profitability and review of related document.
9. Analysis of depreciation and interest costs.
10. Understand from management hedging mechanisms used, and the impact/ cost of the same on past financial results. Obtain current open forex exposures and hedge position details.
11. Analysis of revenues by business segments, customers and service lines and comment on key underlying drivers along with analysis of management information and narratives with a focus on components and timing of revenues along with variation analysis
12. Analyze direct and indirect costs by key business segments/customers, and service line for the historical period and comment on key underlying drivers including analysis of cost allocations between different business segments
13. Inquire into and comment on arrangements with senior management in relation to employment terms
14. Analyze costs that form part of the on-going business operations and the extent of costs that are one-time/ extraordinary costs, R&D costs.
15. Identify the extent of dependency of the Company on third parties for operations. Read and comment on the key terms of the contracts with such suppliers / customers.

16. Analyze profitability (at contribution, gross margin and EBITDA level) by key business segments, customers, regions, service line and domains for the historical period and comment on key underlying drivers.
17. Understand the impact of any exceptional, prior period or non-recurring items of income and expenditure during the period. Analysis of normalized EBITDA for the periods with variation analysis
18. Cash flow statements along with policy on cash flow management and working capital requirements.

Balance Sheet

19. Analyze the key line items in the balance sheet. Based on the discussions with management and performance of the other procedures in the agreed scope, identify areas of potential material overstatement of assets and or material understatement of liabilities.

Fixed Assets

20. Obtain physical verification reports and understand its periodicity.
21. Analysis of fixed assets (including intangible assets) and capital work in progress:
22. Capitalization, depreciation and replacement policies;
23. For completed projects inquire about budgeted cost, cost overruns, time overruns, any liabilities arising thereof and nature and adequacy of costs capitalized;
24. Discuss with management and understand current status of capital work in progress. Understand and comment on costs to completion, including funding commitments, etc.; and
25. Obtain and summarize capital commitments as at the latest period end.
26. Analysis of historical capital expenditures broken down between maintenance vs. growth with information on the following:
27. Historical experience of actual to budgeted amounts; and
28. Individually significant capital projects with the nature of any related purchase commitments.

Accounts receivables

29. Analyze accounts receivable balances with a view to identify any build-up in accounts receivable balances and consequent risk of bad debts.
30. Description of the credit policy, bad debt provision policy and details of write offs, doubtful receivables and provisions made.

Other current assets

31. Loans and advances and other deposits based on: (i) year on year variance, and (ii) relationship with relevant income statement and other balance sheet items; and
32. Assess recoverability of advances, deposits and other current assets and assess the adequacy of reserves for doubtful recoveries.

33. Obtain and analyze bank reconciliation statements for significant bank accounts and comment on material unusual reconciling items.

Accounts payables and accrued liabilities

34. Perform an analysis of accounts payable balances and accrued liabilities, establish the credit period offered by service providers, and analyze appropriateness of accrual for rebates and commissions.

Working capital

35. Obtain and analyze details of monthly \quarterly working capital for the historical period and comment on key trends and normalized operating capital levels.

Equity and reserves

36. Analyze shareholder agreements and information regarding shareholding and comment on key terms included therein.

37. Understand any significant movement in equity and reserves during the period.

Debt and financing

38. Analyze and comment on the composition and nature of borrowings and understand the terms, limits, interest rates and covenants on overdraft facilities and lines of credit available to the Target.

39. Obtain and analyze a schedule of borrowings by facility including interest rates, security and repayment obligations;

40. Read key financing agreements with banks and other parties in order to obtain an understanding of and comment on key terms and conditions, restrictive covenants, if any. Comment on compliance with financial covenants, if any, stipulated in the loan agreements during the historical period;

41. Summarize the repayment schedules of debt outstanding as at the latest balance sheet date and current date; and

42. Summarize debt position as at the latest period end and identify other potential debt like items.

Contingent liabilities and financial commitments

43. Analyze about pending or threatened disputes, litigations and claims and their financial exposure and discuss and comment on the likely impact.

44. Analyze schedules at the historical balance sheets for the financial impact of (i) bills discounted, (ii) performance guarantees, (iii) guarantees to third parties, (iv) litigations against and by the Target, (v) contractual obligations, and (vi) claims not acknowledged as debts.

45. Inquire about any pending capital or other financial commitments, potential liability for pending warranties given to customers, if any.

Related party transactions

46. Obtain details of transactions/agreements with related parties especially with respect to prices, payment terms, etc.

47. Understand the related party transactions and assess the potential impact on EBITDA;

48. Determine the extent of financing provided by / given to related parties and compare interest rates to market rates;

49. Discuss the payment terms and recoverability of amounts due from related parties; and

50. Inquire about any off-balance sheet transactions with related or third parties and be alert for any such transactions.

Commitments and agreements

51. Analyze material contracts or agreements of importance to the Company's business.

Tax Due Diligence - Direct Tax

Corporate Tax

52. Read copies of the tax returns filed for the past years, to identify and comment on potential legal claims;

53. Analysis of deductions/ exemptions claimed under the Income Tax Act (if any) and compliance with conditions prescribed for eligibility;

54. Analysis of the approvals documents for claiming tax holiday under the provisions of the Income Tax Act (if any);

55. Analyze potential liabilities on account of pending assessments and litigations. Read notices, appellate orders and status of litigations in respect of the income tax returns for the earlier years. Identification of potential liabilities on account of pending assessments and disputes;

56. Analyze balances of carry forward losses and unabsorbed depreciation, if any;

57. Contingent liabilities disclosed in the latest audited financial statements made available;

58. Analyse timeliness and adequacy of advance taxes deposited;

59. Read opinions, if any, issued by tax counsel

Withholding and Wealth tax

60. High level analysis of positions taken for withholding taxes and wealth tax returns.

61. Obtain and discuss status of compliances with withholding tax laws and filing requirement thereto for the last 3 quarters. This verification would be done on test check basis;

62. Analyzing as to whether tax has been appropriately withheld from the payments that are subject to withholding tax based on reading of Tax Audit Report for previous 2 financial years;

Tax assessments

63. Obtain the status of income tax and other direct tax assessments and assess current tax position, settlement of past liabilities, potential liabilities on account of pending assessments and disputes with the Appellate Authorities or Jurisdictional Courts.

Transfer pricing

64. High level analysis of the transfer pricing study and documentation being maintained by the company.

Tax Due diligence - Indirect tax

The work-scope would cover the following indirect tax laws to the extent applicable and found relevant to the target:

- " - Customs Act, 1962, ('Customs') for levy of duty on import of goods
- " - Central Excise Act, 1944 ('Excise') for levy of duty on manufacture of goods
- " - Finance Act 1994 for levy of Service Tax on services
- " - State VAT / Central Sales tax law for levy of tax on sale of goods ('VAT')
- " - Central, State and Integrated GST Acts

65. Comment based on high-level review of the following matters covering above indirect taxes to the extent found relevant to the Target and to the extent the information made available:

- 66. Contingent liabilities disclosed in the latest audited financial statements made available
- 67. Significant pending litigation /disputes, show cause notices, if any
- 68. Status of VAT assessments for manufacturing units
- 69. Last VAT audit report filed with the tax authorities for manufacturing units
- 70. Last audit report issued or observations made / shared by the excise and service tax authorities
- 71. Two VAT, CST and excise returns for the manufacturing unit each of the period under review
- 72. Service tax returns filed for the period under review
- 73. Two GST returns filed for manufacturing unit between July and September 2017
- 74. Obtain an understanding on key Indirect tax issues arising out of Indirect tax (excise duty, service tax, customs duty, VAT/ sales tax, and works contract tax, GST).
- 75. Read the Indirect tax returns filed for historical periods
- 76. Benefits availed under the indirect tax laws and compliance with the conditions attached to the same.
- 77. Discuss management's perception of the likely outcome of tax related disputes and comment on contingent liabilities potentially arising through issues under appeal/ pending assessments/ litigations.

Tax Structuring

78. Understand the current and proposed structure, rationale and objectives proposed to be achieved by the client. This will involve communication / / discussions with client and will include including gathering of information/ documents.
79. Provide implications on structure suggested by the Client.
80. Ideating alternate options for segregation of business based on the information gathered, if applicable;
81. Advising on the capital structure for the proposed investment by the Client;
82. Liaising with the lawyers and other advisors appointed by the Client in connection with the proposed structure;
83. Evaluate the options for the proposed transaction from the perspective of:
 - " Income Tax Act, 1961;
 - " Indirect tax to the extent applicable;
84. Assistance in obtaining opinions, if necessary, from Tax Counsel on critical issues arising from the proposed options, if any.
85. The deliverable would be a structure paper summarizing the structuring proposal and tax implications arising from the same. Pursuant to above, Client shall have the basis to decide and select the best suitable option with an understanding of the tax implications and the objectives of proposed transaction.
86. Assist the Client in evaluation and finalization of the appropriate option.

3. COMPLETION PERIOD :

The estimated time required for completion of the job will be around 30-35 days from the date of Letter of Acceptance (LOA).

Kick Off Meeting: To be held at Mumbai within one week of receiving LOA.

Draft Report: To be submitted within 4 (Four) weeks from the date of LOA

Final Report: To be submitted within one week of receiving comments from BPCL on the draft report.

Liquidated Damages clause :

In case the Consultant fails to complete the whole work within the stipulated period, he shall be liable to pay liquidated damages of 0.5% of the value of contract per week and or part thereof of the delay subject to a maximum of 5% of the value of the contract.

4. PAYMENT TERMS:

Payment shall be linked primarily to specified deliverables after satisfactory completion of works.

Performance Security Deposit Clause, as per General terms and Conditions, shall be applicable for this tender. The successful Bidder will have to provide security deposit of 10% of the contract value within 30 days of receipt by him of the notifications of acceptance of tender.

Payment terms shall be as follows:

- a. 50% after submission of Draft report & presentation by consultant and acceptance by BPCL Engr-in-charge.
- b. 50% after submission of final report and acceptance by BPCL Engr-in-charge.

5. OTHER TERMS AND CONDITIONS:

The bidder shall bear all costs associated with the preparation and submission of its bid, and the Purchaser shall in no case be responsible or liable for these costs regardless of the conduct or outcome of the bidding process.

Secrecy of information furnished with this tender document and subsequently has to be maintained. The technical details/ information contained in the document shall not be used by the recipient for any purpose other than preparation of the bid. The successful bidder will have to sign Confidentiality Agreement with BPCL as required for accessing the data.

Consultant has to quote a single lumpsum amount for the job. The lump-sum amount quoted by the Consultant for the job shall be inclusive of travel and other expenses and remuneration for any third party agency appointed by Consultant for carrying out any part of the job covered under this Scope of Work.

SECTION 3

**GENERAL TERMS AND CONDITIONS OF CONTRACT AND SPECIAL
CONDITIONS OF CONTRACT**

GENERAL TERMS AND CONDITIONS OF CONTRACT

1. DEFINITIONS:

In the contract documents as herein defined where the context so admits, the following words and expressions will have following meanings:

- (a) "BPCL/Company" means Bharat Petroleum Corporation Limited, incorporated in India having its registered office at 4 & 6, Currimbhoy Road, Ballard Estate, Mumbai - 400 001 or their successors or assigns.
- (b) "Consultant" means the person or the persons, firm or Company whose tender has been accepted by BPCL and includes the Consultant's legal representative, his successor and permitted assigns.
- (c) "Managing Director" shall mean the Chairman and Managing Director of Bharat Petroleum Corporation Limited or his successor in office designated by BPCL.
- (d) "Officer-In-Charge" shall mean the person designated as such by BPCL and shall include those who are expressly authorized by BPCL to act for and on his behalf for operation of this contract.
- (e) "Work" shall mean the works and/or services to be executed in accordance with the contract or part thereof as the case may be and shall include extra, additional, altered or substituted works and/or services as required for purpose of the contract.
- (f) "Contract Document" means collectively the Tender Document, Terms of Reference, agreed variations, if any, and such other document constituting the tender and acceptance thereof.
- (g) "Contract" shall mean the Agreement between BPCL and the Consultant for the execution of the works including therein all contract documents.
- (h) "Terms of Reference" shall mean the various works to be carried out, reports to be generated and commercial documents to be created in line with the law, as detailed in the tender document
- (i) "Tender" means the tender submitted by the Consultant for acceptance by BPCL.

- (j) "Alteration Order" means an order given in writing by the Officer-in-Charge to effect additions to or deletion from and alterations in the works.
- (k) "Completion Certificate" shall mean the certificate to be issued by the Officer-in-Charge to the Consultant when the works have been completed to his satisfaction.
- (l) "Final Certificate" in relation to a work means the certificate issued by the Officer-in-Charge after the period of liability is over for releasing the Security Deposit.
- (m) "Period of Liability" in relation to a work means the specified period during which the Consultant stands responsible for rectifying all defects that may appear in the services.

2. PROPRIETARY INFORMATION AND DATA:

All designs, drawings, specifications, data, computer printouts, files, documents, reports, manuals, analyses and all other items produced by Bidder in the performance of work and identified as deliverables, shall become and remain the property of BPCL, and Bidder shall deliver the same to BPCL in accordance with the provisions of this Contract and in any event upon termination of this Contract and shall be used only for this project.

"Proprietary Information", shall mean all the information which the bidder, directly or indirectly, acquires from BPCL or its Affiliates or for the performance of the work or any other information concerning the technical and business activities and know-how of BPCL or its Affiliates.

Bidder represents that it has policy and procedure designed to protect trade secret rights and its own proprietary information including notices to its employees to prevent unauthorized copying, publication and disclosure of such information. Bidder agrees that Proprietary Information shall be subject to such policy and procedure. In addition, Bidder agrees that it shall not disclose any Proprietary Information nor use Proprietary Information other than on BPCL's behalf, except as BPCL may otherwise authorize in writing. If disclosure to a third party is so authorized, Bidder shall first enter into a written confidentiality agreement with the said party containing the same terms and conditions with respect to use or disclosure of Proprietary Information.

The bidder also agrees to safeguard any documents and information which BPCL may provide to the bidder there under. Bidder may make copies of such documents only to the extent necessary for the performance of the work. On completion of the work, Bidder agrees to return to BPCL all documents supplied by BPCL and to destroy all copies thereof. Should the Bidder, however, desire to retain certain documents and receives BPCL's written approval therefore, Bidder shall treat said documents as it does Proprietary Information.

The bidder also agrees to enter into written confidentiality agreements with third parties upon BPCL's request and to keep in force confidentiality agreements concerning third parties' proprietary information, which agreements shall permit the bidder to use such parties' proprietary information in the work.

It is not BPCL's desire to be afforded access to Bidder's confidential information. It is therefore agreed that any information which Bidder provides to BPCL shall not be subject to any obligation of confidence, (notices on drawings, proposals, graphs, tables, specifications and the like to the contrary notwithstanding), and BPCL shall not be liable for any use or disclosure of any of such information unless such information is the subject of an express written confidentiality agreement between BPCL and Bidder. Bidder also agrees that it will not disclose to BPCL any information which is subject to an obligation of confidence by Bidder to any third persons.

On or before the date of the Certificate of Acceptance of the work, Bidder shall deliver or cause to be delivered to BPCL such licenses of all patents and other proprietary rights held by Bidder, any Subcontractor, or any of their respective Affiliates as may be required for BPCL in the optimal use of the Work in the manner intended.

3. PATENT INDEMNIFICATION:

Bidder shall indemnify BPCL against all loss, cost, damage and expense arising from any claim asserted against BPCL, that the work or part thereof, or any methods, designs or things furnished or specified by Bidder under this Contract, or any use thereof in the reasonable contemplation of the Parties at the time furnished, or any methods, processes or acts employed by Bidder in connection with the performance of its obligations hereunder, constitutes an infringement of any intellectual property right, patent, trade secret, proprietary information, know-how, copyright (statutory or non-statutory), unpatented invention or any unauthorized use of the work of others.

Bidder shall at his own expense defend any suit or proceeding based on any claim asserted against BPCL. BPCL shall give Bidder such assistance as Bidder may reasonably require in the defense of such suit, and shall have the right to be represented therein by counsel of its own choosing at its own expense. Neither BPCL nor Bidder shall settle or compromise any such suit or action without the written consent of the other if the settlement or compromise obligates the other to make any payments or part with any property or assume any other obligations or other rights or be subject to any injunction by reason of such settlement or compromise.

Persons included within Indemnity shall include BPCL, its Affiliates and their respective officers, directors, employees, servants, Bidders and agents, or any of them as the context may require.

4. CONFLICT OF INTEREST:

The Consultant shall avoid any conflict of interest while discharging contractual obligations and bring, before-hand, any possible instance of conflict of interest to the knowledge of the Client, while rendering any advice or service.

The Consultant must, act all times, in the interest of the Client and render any advice / service with professional integrity. A Consultant is expected to undertake an assignment / project, only in areas of its expertise and where it has capability to deliver efficient and effective advice / services to the Client.

5. PERFORMANCE OF DUTIES AND SERVICES BY CONSULTANT:

- a. The Consultant shall perform its Services in full accordance with the terms and conditions of the Contract and any applicable local laws and regulations and shall exercise all reasonable professional skill, care and diligence in the discharge of said project work.
 - i. Consultant shall in all professional matters act as faithful advisor to BPCL, and will provide expert commercial/technical advice and skills which are normally required for the class of services for which they are engaged.
 - ii. Consultant, its staff, employees shall carry out all its responsibilities in accordance with the best professional standards.
 - iii. Consultant shall prepare and submit documents /reports etc. in due time and in accordance with the Tender Conditions.
- b. Consultant will maintain for the performance of the Contract, personnel as determined to be responsible for carrying out the job and such persons shall not be replaced or substituted without written approval of BPCL.

6. PRIORITY OF WORKS:

BPCL reserves the right to fix up the priorities which will be conveyed by Officer-in-Charge and the Consultant shall plan and execute the work accordingly.

7. INTELLECTUAL PROPERTY RIGHTS:

Accessibility to the documents of BPCL shall be provided to the Consultant for performing necessary activities as per the requirement. The Consultant should maintain secrecy and should not divulge any information to any person/Organization in India or abroad.

8. REPORT / PRESENTATION:

The Consultant will submit copies of report, analysis from time to time as required during execution of the work for comments of BPCL. The scope of work involves giving presentation to Senior Management of BPCL if required for understanding of various activities and strategies to be finalized at different stages of the work.

9. SIGNING OF THE CONTRACT:

The successful tenderer shall be required to execute an agreement within a period of 30 days from the receipt of notification of acceptance of tender. The payment will not be processed until the agreement is executed.

10. MODIFICATION:

Any modifications or additions to the contract shall not be binding unless made in writing and agreed by both the parties.

11. RECTIFICATION PERIOD:

All services shall be rendered strictly in accordance with the terms and conditions stated in the contract.

No deviation from such conditions shall be made without BPCL'S agreement in writing which must be obtained before any work against the order is commenced. All services rendered by Consultant pursuant to the Contract (irrespective of whether any information has been furnished, reviewed or approved by BPCL) are guaranteed to be of the best quality of their respective kinds.

The Consultant shall rectify at his own cost any mistake in assumption of any data in the study or use of wrong data or faulty study observed within twelve months of the acceptance of the report and will submit the rectified report incorporating the changes wherever applicable within 30 days of observance of mistake.

12. INTERPRETATION OF CONTRACT DOCUMENT:

Except if and to the extent otherwise provided by the Contract, the provisions of the Contract Terms and Conditions shall prevail over those of any other documents forming part of the contract. Several documents forming the contract are to be taken as mutually explanatory. Should there be any discrepancy, inconsistency, error or omission in the contract or any of the matter may be referred to Officer-in-Charge, who shall give his decisions and issue to the Consultant instructions directing in what manner the work is to be carried out. The decision of the Officer-in-Charge shall be final and conclusive and the Consultant shall carry out work in accordance with this decision.

Singular and Plural: In the contract documents unless otherwise stated specifically, the singular shall include the plural and vice-versa wherever the context so requires. Words indicating persons shall include relevant incorporated companies/ registered as associations/ body of individual/ firm or partnership.

Notwithstanding the sub-division of documents into these separate sections and volumes, every part of each shall be deemed to be supplementary to and complementary of every other part and shall be read with and into the contract so far as it may be practicable to do so.

Wherever it is mentioned in the Terms of Reference that the Consultant shall perform certain work or provide certain facilities, it is understood that the Consultant shall do so at his own cost.

13. SECURITY DEPOSIT TOWARDS PERFORMANCE :

To ensure performance of the contract and due discharge of the contractual obligations, the successful contractor will have to provide security deposit of 10% of the contract value within 30 days of receipt by him of the notifications of acceptance of tender.

This Security deposit may be furnished in the form of an Account payee Demand Draft payable to BPCL or Bank Guarantee in the prescribed format. The contractor shall have the option to adjust any Earnest Money Deposit (EMD), if paid in forms other than Bank Guarantee, towards security deposit if he so desires.

In the case of security deposit submitted in the form of Bank guarantee, the Bank Guarantee shall be valid and remain in force till the completion of contractual completion period, defect liability period of 12 months plus a claim period of 3 months. The Bank Guarantee shall be in the form prescribed.

The security deposit will be retained till the successful completion of the work and thereafter till the expiry of the defect liability period, if applicable. This retention money/Bank guarantee held shall be released after the expiry of the defect liability period provided that any defects appearing during that period are corrected by the contractor and subject to Clause below.

If the Contract Value is in more than one currency, the Security deposit shall also be in multiple currencies amounting to 10% for each currency of awarded contract. In the case of value/rate/quantity contracts, the security deposit shall be based on individual release orders issued.

If the contractor/ sub-contractor or their employees shall break, deface or destroy any property belonging to the Owner or other agency during the execution of the contract, the same shall be made good by the Contractor at his own expenses and in default thereof, the

Engineer-in-Charge may cause the same to be made good by other agencies and recover expenses from the contractor (for which the certificate of the Engineer-in-Charge shall be final). These expenses can be recovered from the security deposit if recovery from other sources is not possible.

All compensation or other sums of money payable by the contractor to the Owner under terms of this contract may be deducted from his security deposit/retention money or from any sums which may be or may become due to the contractor by the Owner on any account whatsoever and in the event of his security deposit/retention money being reduced by reasons of any such deductions. The contractor shall within ten days thereafter make good any sum or sums, which may have been deducted from his security Deposit/retention money. No interest shall be payable by the Owner from sum deposited as security deposit/retention money.

The security deposit shall be held by the Owner, as security for the due performance of the Contractor's obligations under the contract, provided that nothing herein stated shall make it incumbent upon the Owner to utilize the security deposit/retention money in preference to any other remedy which the Owner may have, nor shall be construed as confining the claims of the Owner against the contractor to the quantum of the Security Deposit/retention money.

The Bank guarantee if submitted shall be from any Indian scheduled bank or an international bank of repute having a branch in India or a corresponding banking relationship with an Indian scheduled bank. The security deposit/retention money shall be in Indian Rupee in the case of domestic bidders and in the quoted currency in the case of foreign bidders (INR/USD/EURO as the case may be.)

14. FORFEITURE OF SECURITY DEPOSIT:

Whenever any claim against the Consultant for the payment of a sum of money arises out of or under the contract, the BPCL shall be entitled to recover such sum by appropriating in part or whole, security deposit of the Consultant, forming whole or part of such security being insufficient or if no security has been taken from the Consultant then the balance or the total sum recoverable, as the case may be, shall be deducted from any sum then due or which at any time thereafter may become due to the Consultant. The Consultant shall pay to the BPCL on demand any balance remaining due.

15. ACTION WHEN WHOLE OF SECURITY DEPOSIT IS FORFEITED:

In any case in which, under any clause or clauses of this contract, the Consultant shall have forfeited the whole of his security deposit (whether paid in one sum or deducted by installment) or have committed a breach of any of the terms contained in this contract the BPCL shall have power to adopt any of the following courses as he may deem best suited to his interest.

To rescind the contract (of which rescission notice in writing to the Consultant under the hand of the BPCL shall be conclusive evidence) in which case the security deposit of the Consultant shall stand forfeited and be absolutely at the disposal of the BPCL.

To measure up the work of the Consultant and to take such part thereof as shall be unexecuted out of his hand to give it to another Consultant to complete in which case any expenses which may be incurred in excess of the sum which would have been paid to the original Consultant, if the whole work had been executed by him (of the amount of which excess, the certificate in writing of the Officer-in-Charge shall be final and conclusive) shall be borne and paid by the original Consultant and may be deducted from any money due to him by the BPCL under the contract or otherwise or from his security deposit or from the proceeds of sale thereof, of a sufficient part thereof.

In the event of any of the above course being adopted by the BPCL, the Consultant shall have no claim to compensation for any loss sustained by him by reason of his entered into any agreements or made any advances on account of or with a view to the execution of the work of the performance of the contract. In case the Consultant shall not be entitled to recover or be paid any sum for any work actually performed under this contract unless the Officer-in-Charge will certify in writing the performance of such work and the value payable in respect thereof and he shall only be entitled to be paid the value so certified.

16. TIME OF PERFORMANCE:

The work covered by this contract shall be commenced as detailed in the purchase order or as per the instructions of the Engineer in charge and be completed in stages on or before the dates as mentioned in the time schedule of completion of work. The contractor should bear in mind that time is the essence of this agreement. Request for revision of Completion time after tenders are opened will not receive consideration.

Time Schedule of Completion: The general time schedule of completion is given in the tender document. Contractor should prepare a detailed monthly and weekly execution programme, jointly with the Engineer-in-Charge within two weeks of receipt of Letter of Intent or acceptance of tender. The work shall be executed strictly as per the time schedule given in this document. The period of completion given includes the time required for testing, rectifications, if any, retesting and completion in all respects to the entire satisfaction of the Engineer-in-Charge.

17. FORCE MAJEURE:

Any delays in or failure of the performance of either party hereto shall not constitute default here under or give rise to any claims for damages, if any, to the extent such delays or failure of performance is caused by occurrences such as Acts of God or the public enemy expropriation or confiscation of facilities by Govt./authorities, compliances with any order or request of any Government authorities, acts of war, rebellion or sabotage or fires, floods, explosions, riots or strikes. The contractor shall keep records of the circumstances referred

to above and bring these to the notice of Engineer-in-Charge in writing immediately on such occurrences.

18. EXTENSION OF TIME:

If the contractor shall desire an extension of the time for completion of the work on the grounds of his having been unavoidably hindered in its execution or on any other grounds, he shall apply in writing to the Engineer-in-Charge within two weeks of the date of hindrance on account of which he desires such extension as aforesaid, and the Engineer-in-Charge shall if in his opinion (which shall be final), reasonable grounds have been shown thereof, authorize such extension of time as may in his opinion be necessary or proper.

In the event of extension of Time of the contract, if granted, the contractor shall be required to suitably extend the period of Bank Guarantee if submitted, towards security Deposit/retention money suitably.

19. LIQUIDATED DAMAGES FOR DELAY:

Time is the essence of the contract. In case the contractor fails to complete the whole work within the stipulated period, he shall be liable to pay liquidated damages of 0.5% of the value of contract per week and or part thereof of the delay subject to a maximum of 5% of the value of the contract. The parties agree that this is a genuine preestimate of the loss/damage which will be suffered by the owner on account of delay on the part of the contractor and the said amount will be payable on demand without there being any proof of the actual loss or damages having been caused by such delay/breach. The owner shall be at liberty to adjust or deduct the said amount of liquidated damages from any amount due to the contractor including Security Deposit.

The owner shall be at liberty to deduct or retain from any amount payable to the contractor periodically, the proportionate or full amount of liquidated damages as the case may be for the delay periodically caused by the contractor.

20. PROJECT MANAGEMENT:

The project management will be the responsibility of the Officer-in-Charge, who will be nominated by BPCL. The Officer-in-Charge may also authorize his representatives to perform his duties and functions.

21. CONSULTANT'S TEAM:

Consultant shall nominate a qualified and experienced person as its Team Leader who will be the contact person between BPCL and Consultant for the performance of the Contract. The nomination shall be done at the time of filling the bid. Consultant shall notify BPCL in writing prior to the appointment of a new Team Leader.

BPCL shall be at liberty to object to any nomination and to require Consultant to remove Consultant's representative for good causes. Consultant shall replace immediately such person by competent substitute at no extra cost to BPCL.

Consultant's Representative shall be entitled to act on behalf of Consultant with respect to any decisions to be made under the Contract.

22. RETIRED/RESIGNED COMPANY OFFICER:

No officer of BPCL is allowed to work as a Consultant for a period of two years after his retirement/resignation from the employment of BPCL without the previous permission of BPCL. The contract, if awarded, is liable to be cancelled if either the Consultant or any of his employees is found at any time to be such a person, who had not obtained the permission of BPCL as aforesaid before submission of tender, or engagement in the Consultant's service as the case may be.

23. FIRM PRICE:

The fees quoted by the Consultant should be firm and not subject to any price escalation.

24. OWNER MAY DO PART OF WORK:

Upon failure of the consultant to comply with any instructions given in accordance with the provisions of the contract, the owner has the alternative right, instead of assuming charge for entire work to place additional manpower, technological solutions on such parts of the work, as the owner may designate or also engage another consultant to carry out the work. In such cases, the owner shall deduct from the amount which otherwise might become due to the consultant, the cost of such work and materials with ten percent added to cover all departmental charges and should the total amount thereof exceed the amount due to the consultant, the consultant shall pay the difference to the owner.

25. TERMINATION/OFFLOADING:

The Consultant fully understands that timely completion of work as per the schedule is of paramount necessity as otherwise it would lead to adversely affecting the schedules of other works/project with resultant financial and other losses to BPCL. In view of this, the Consultant unconditionally agrees and binds himself to be liable for all the consequences for non-completion of work within the stipulated time period.

In case a situation is brought about by the Consultant warranting termination/off-loading of the whole or any part of the work for any reason whatsoever, BPCL shall have the liberty and right to entrust/engage/award the work so terminated/off loaded at the risk and cost of the Consultant to any other Agency/Consultant by adopting any mode of inviting tenders, i.e. open/limited/ single party/negotiation basis etc. in order to ensure the completion of work as per the schedule or at the quickest possible time.

26. LIABILITIES:

The aggregate total liability of the Contractor to Owner under the Contract shall not exceed the total Contract Price, except that this Clause shall not limit the liability of the Contractor for following:

- (a)** In the event of breach of any Applicable Law;
- (b)** In the event of fraud, willful misconduct or illegal or unlawful acts, or gross negligence of the Contractor or any person acting on behalf of the Contractor; or
- (c)** In the event of acts or omissions of the Contractor which are contrary to the most elementary rules of diligence which a conscientious Contractor would have followed in similar circumstances; or
- (d)** In the event of any claim or loss or damage arising out of infringement of Intellectual Property; or
- (e)** For any damage to any third party, including death or injury of any third party caused by the Contractor or any person or firm acting on behalf of the Contractor in executing the Works.

Neither Party shall be liable to the other Party for any kind of indirect nor consequential loss or damage like, loss of use, loss of profit, loss of production or business interruption which is connected with any claim arising under the Contract.

27. PROFESSIONAL LIABILITY:

The Consultant is expected to carry out its assignment with due diligence and in accordance with prevailing standards of the profession.

28. INDUSTRIAL AND INTELLECTUAL PROPERTY:

In order to perform the services, Consultant must obtain at its sole account, the necessary assignments, permits and authorizations from the title holder of the corresponding patents, models, trademarks, names or other protected rights and shall keep BPCL harmless and indemnify BPCL from and against claims, proceedings, damages, costs and expenses (including but not limited to legal costs) for and/or on account of infringements of said patents, models, trademarks names or other protected rights.

All documents, reports, information, data collected and prepared by Consultant in connection with the scope of work submitted to BPCL will be the property of BPCL.

Consultant shall not be entitled either directly or indirectly to make use of documents, reports given by BPCL for carrying out of any services with the third parties.

Consultant shall not without the prior written consent of BPCL be entitled to publish studies or descriptive article with or without illustrations or data in respect of or in connection with the performance of services.

29. LIENS:

If, at any time, there should be evidence or any lien or claim for which BPCL might have become liable and which is chargeable to the Consultant, BPCL shall have the right to retain out of any payment then due or thereafter to become due an amount sufficient to completely indemnify BPCL against such lien or claim and if such lien or claim be valid, BPCL may pay and discharge the same and deduct the amount so paid from any money which may be or may become due and payable to the Consultant. If any lien or claim remain unsettled after all payments are made, the Consultant shall refund or pay to BPCL all money that the latter may be compelled to pay in discharging such lien or claim including all costs and reasonable expenses.

Consultant will not disclose details of work to any person or persons except those engaged in its performance, and only to the extent required for a particular portion of work being done. Consultant will not give any items concerning details of work to the press or news disseminating agency without prior written approval of BPCL.

30. SUB-LETTING AGREEMENT:

The Consultant shall not sub-let or assign the work or any part thereof to another party without the written consent of BPCL and no such sub-letting or assignment shall relieve the Consultant from full and entire responsibility of his obligation under the Agreement.

31. SUSPENSION OF WORKS:

The Consultant shall, if ordered in writing by the Officer-in-Charge or his representative, temporarily suspend the works or any part thereof for such period and such time as so ordered and shall not, after receiving such written order, proceed with the work therein ordered to be suspended, until he shall have received a written order to proceed therewith. The Consultant shall not be entitled to claim/compensation for any loss or damage sustained by him by reason of temporary suspension of the works aforesaid. An extension of time for completion, corresponding with the delay caused by any such suspension of works as aforesaid will be granted to the Consultant, should he apply for the same, provided that suspension was not consequent to any default or failure on the part of the Consultant.

32. CANCELLATION:

The Company shall at any and all times during the period stipulated for the work, has the right forthwith to cancel the agreement by giving written notice thereof to the Consultant

and in such case the Consultant shall be paid for such part of the work as has been executed by him up to the date of cancellation, on the basis of schedule of rates as per Purchase Order/Contract and shall be reimbursed by the Company for the cost and expenses incurred by him but which would now be wasted as a direct consequence of the cancellation of Agreement.

33. ARBITRATION:

Arbitration clause as per GCC stands replaced and shall be as mentioned below -

“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 ”

SETTLEMENT OF DISPUTE BETWEEN GOVT. DEPT. / PUBLIC SECTOR UNDERTAKINGS IN A PURCHASE OR SERVICE CONTRACT :

In the event of any dispute or differences between the VENDOR / CONTRACTOR / SUPPLIER and the OWNER, if the VENDOR / CONTRACTOR / SUPPLIER is a Government Department, a Government Company or a undertaking in the public sector, then in suppression of the provisions of above Arbitration clause, stands modified to the following extent:-

All disputes and differences of whatsoever nature arising out of or in relation to this Contract / Agreement or in relation to any subsequent contract / agreement between the parties shall be attempted to be resolved amicably by mutual discussions between the parties. If they are not settled at the implementation level of officers, then these unresolved disputes/ differences will be referred for resolution by discussions with the concerned Director of BPCL and the concerned Director of Vendor / Contractor / Supplier.

In case same does not resolve the difference within 30 days, arbitration clause as hereunder would apply.

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

34. JURISDICTION :

The contractor shall be governed by the Laws in force in INDIA. The contractor hereby submits to the jurisdiction of the Courts situated at Mumbai (Ernakulam-in the case of Kochi Refinery), for the purpose of actions and proceedings arising out of the contract and the courts at Mumbai (Ernakulam-in the case of Kochi Refinery), only will have jurisdiction to hear and decide such actions and proceedings.

35. OPERATION OF CONTRACT:

35.1 Law Governing:

Regardless of the place of contracting, place of performance or otherwise, this Agreement, and all amendments, modifications, alterations, or supplements, thereto shall be governed by the laws of India and respective state laws for the nature, validity and interpretation thereof.

35.2 Non-Waiver of Default:

Any failure by the Owner or Contractor at any time, or from time to time, to enforce or require the strict keeping and performance of any of the terms or conditions of this agreement, or to exercise a right hereunder, shall not constitute a waiver of such terms, conditions or rights, and shall not affect or impair same, or the right of the Owner or the Contractor, as the case may be at any time to avail itself of same.

36. PURCHASE PREFERENCE:

Owner reserves its right to allow Public Sector Enterprises (Central/State), purchase preference as admissible/applicable from time to time under the existing Govt. policy. Purchase preference to a PSE shall be decided based on the price quoted by PSE as compared to L1 Vendor at the time of evaluation of the price bid.

Owner 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.

37. RIGHT OF OWNER TO ACCEPT OR REJECT TENDER:

The right to accept the tender will rest with the Owner. The Owner, however, does not bind itself to accept the lowest tender, and reserves to itself the authority to reject any or all the tenders received without assigning any reason whatsoever.

The whole work may be split up between two or more contractors or accepted in part and not entirely if considered expedient.

Tenders in which any of the particulars and prescribed information are missing or are incomplete in any respect and/or the prescribed conditions are not fulfilled are liable to be rejected.

Canvassing in connection with tenders is strictly prohibited and tenders submitted by the tenderer who resort to canvassing will be liable to rejection.

Tender containing uncalled remarks or any additional conditions are liable to be rejected.

**SECTION - IX
VARIOUS PROFORMA**

**ANNEXURE 1
PROFORMA OF AGREEMENT**

CONTRACT AGREEMENT FOR THE WORK OF
..... DATED
..... between M/s
..... in the town of
..... hereinafter called the "CONTRACTOR" (which term shall unless excluded by
or repugnant to the subject or context include its successors and permitted assignees) of the one part and the Bharat Petroleum
Corporation Limited hereinafter called the "OWNER" (which term shall, unless excluded by or repugnant to the subject to context
include its successors and assignees) of the other part.

WHEREAS

- A. The Owner being desirous of having provided and executed works mentioned, enumerated or referred to in the tender documents including Short Tender Notice, General Tender Notice, General Conditions of Contract, Special Conditions of Contracts, Specifications, Drawings, Plans, Time Schedule for Completion of jobs, Agreed Variations, other documents, has called for Tender.
- B. The contractor has inspected the site and surroundings of the works specified in the tender documents and has satisfied himself by careful examination before submitting his tender as to the nature of the surface strata, soil, sub-soil and ground, the form and nature of site and local conditions, the quantities, nature and magnitude of the work, the availability of labour and material necessary for the execution of work, the means of access to site, the supply of power and water thereto and the accommodation he may require and has made local and independent enquiries and obtained complete information as to the matters and things referred to, or implied in the tender documents or having any connection therewith and has considered the nature and extent of all probable and possible situations, delays, hindrances, or interferences to or with the execution and completion of the work to be carried out under the Contract and has examined and considered all other matters, conditions and things and probable and possible contingencies and generally all matters incidental thereto and ancillary and thereof effecting the execution and completion of the work and which might have influenced him in making his tender.
- C. The Notice Inviting Tender, General Conditions of Contract, Special Conditions of Contract, Specification, Drawings, Plans, Time Schedule of Jobs, and other documents, copies of all which are hereto annexed and marked "A", the letter of submission of tender and Acceptance of Tender and statement of agreed variations with its enclosures, copies of which are also hereto annexed and marked "B" form part of his contract though separately set out herein and or included in the expression "CONTRACT" wherever herein used.

And whereas:

The Owner accepted the Tender of the Contractor for the Provision and the execution of the said work at the rates stated in the Schedule of Quantities of works and finally approved by Owner (hereinafter called the "Schedule of Rates") upon the terms and subject to the conditions of contract.

Now this Agreement Witnesseth And, it is hereby agreed and declared as follows:

In consideration of the payment to be made to the contractor for the work to be executed by him, the contractor hereby consents with the owner that the contractor shall and will duly provide, execute and complete the said works and shall do and perform all other acts and things in the contract mentioned or described or which are to be implied therefrom or may be reasonably necessary for the completion of the said works and at the said times and in the manner and subject to the terms and conditions or stipulations mentioned in the contract.

In consideration of the due provision, execution and completion of the said works, the Owner does hereby agree with the contractor that the Owner will pay to the contractor the respective amounts for the works actually done by him and approved by the Owner at the Schedule of Rates and such other sum payable to the contractor under provision of Contract, such payments to be made at such time in such manner as provided for in the contract.

AND

In consideration of the due provision, execution and completion of the said works the contractor does hereby agree to pay such sums as may be due to the Owner for the services rendered by the owner to the contractor, such as power supply, water supply and other as set for in the said contract and such other as may become payable to the Owner towards the controlled items of consumables materials or towards loss, damage to the Owner equipments, materials, construction equipments and machinery, such payments to be made at such time and in such manner as is provided in the contract.

It is specifically and distinctly understood and agreed between the Owner and the Contractor that the contractor shall have no right title or interest in the site made available by the Owner for the execution of the work or in the buildings, structures or works executed on the said site by the contractor or in the goods, articles, materials etc. brought on the said site (unless the same specifically belongs to the contractor) and the contractor shall not have or dressed to have any lien whatsoever charge for unpaid bills nor will be entitled to assume or retain possession or control of the site or structures and the Owner shall have an absolute and unfettered right to take full possession of the site and remove the contractor, their servants, agents and materials belonging to the contractor and lying on the site.

The contractor shall be allowed to enter upon the site for execution of the works only as a licensee simpliciter and shall not have any claim, right, titles or interest in the site or the structures erected thereon and the Owner shall be entitled to terminate such licence at any time without assigning reason.

The materials including sand, gravel, stone, loose earth, rock etc., dug up or excavated from the said site shall, unless otherwise expressly agreed under this contract, exclusively belong to the Owner and the contractor shall have no right

to claim over the same and such excavations and materials should be disposed off on account of the Owner according to the instructions in writing issued from time to time by the Engineer-in-Charge.
In witness whereof the parties have executed these presents in the day the year first above written

Signed and Delivered for and
on behalf of Owner i.e.
Bharat Petroleum Corporation Limited

Signed and Delivered for and
on behalf of Contractor
(Name, designation and address of authorized signatory)

DATE.....

DATE.....

PLACE.....

PLACE.....

In Presence of Two Witnesses

BPCL witnesses – Signature, Name & Address:-

Contractor's witnesses – Signature, Name & Address:-

1.

1.

2.

2.

Special Conditions of Contract

A. The provisions under the various clauses hereunder shall override the terms and conditions which appear elsewhere in this tender documents (changes/additions or deletions), as applicable for Works and Service contracts / tenders.

B. GTC stands for General Terms and Conditions.

1. Order of Precedence in General Terms and Conditions (GTC) for works / Services Contracts:

The order of precedence as applicable shall be specified in the GTC as follows:-

1. Contract Agreement (in GTC)
2. Detailed letter of Acceptance along with its enclosures
3. Letter of Award / Fax of Acceptance
4. Job Specifications (specific to particular job only)
5. Drawings
6. Special Conditions of Contract (SCC)
7. Technical Specifications
8. Instructions to Bidders
9. General Terms and Conditions of Contract (in GTC)
10. Other Documents

Additionally, any variation or amendment / change order issued after signing of formal contract shall take precedence over respective clauses of the formal contract and its Annexures.

2. Security Deposit (SD) / Contract cum Performance Guarantee (PBG) clause in GTC:

The following changes in the percentage of SD shall be applicable:

- In case of LSTK (Lump sum contracts) / EPC: PBG @ 10% within 15 days of notification of award (as against 30 days as per our current GTC)
- In case of Annual Rate Contracts (ARCs): Submission of PBG @ 10% of total Contract Value (TCV) **or** submission of initial security deposit @ 2.5% of TCV within 15 days of notification of award. In cases where only 2.5% of TCV has been submitted, 7.5% of individual release order shall be subsequently deducted from RA bills.

3. Limitation of Liability in GTC :

The aggregate total liability of the Contractor to Owner under the Contract shall not exceed the total Contract Price, except that this Clause shall not limit the liability of the Contractor for following:

- (a) In the event of breach of any Applicable Law;
- (b) In the event of fraud, willful misconduct or illegal or unlawful acts, or gross negligence of the Contractor or any person acting on behalf of the Contractor; or
- (c) In the event of acts or omissions of the Contractor which are contrary to the most elementary rules of diligence which a conscientious Contractor would have followed in similar circumstances; or
- (d) In the event of any claim or loss or damage arising out of infringement of Intellectual Property; or
- (e) For any damage to any third party, including death or injury of any third party caused by the Contractor or any person or firm acting on behalf of the Contractor in executing the Works.

Neither Party shall be liable to the other Party for any kind of indirect or consequential loss or damage like, loss of use, loss of profit, loss of production or business interruption which is connected with any claim arising under the Contract.

4. Termination for convenience under GTC :

BPCL shall, in addition to any other right enabling it to terminate the contract, have the right to terminate the contract at any time by giving prior written notice of at least 14 days to the contractor. Such termination shall be without prejudice to the rights of the parties that have accrued on or before the date of termination of the contract.

If the contract is terminated under this provision, the contractor is entitled to be compensated as under:-

- a. the contract price attributable to the works performed as at the date of termination

and

- b. the reasonable costs incurred by the contractor for termination of subcontractors or the repatriation of the contractors' and subcontractors' employees

less

the aggregate of all previous payments allocated to the works.

Any sums due to BPCL from the contractor accruing prior to the date of termination will be deducted from the amount to be paid to the contractor under the contract.

If, as a result of any such deductions, there is a negative amount payable to the contractor, then the contractor must pay an amount equal to such negative sum to BPCL within 15 days of BPCL intimating the contractor.

5. Variation in Contract Value under GTC :

Compensation for Reduction in Contract value due to change in quantity:

- Up to & inclusive of (-) 25% of Total Contract Value (TCV): No cost compensation.
- Beyond (-) 25% of TCV: Cost compensation @ 10% of reduction in the contract value from (-) 25% of TCV (i.e. 75% of TCV).

Discount to be obtained for Increase in contract value due to change in quantity:

- Up to & inclusive of (+) 50% of TCV: No discount.
- Beyond (+) 50% of TCV: Reduction @ 10% of increase in the contract value beyond (+) 50% of TCV.

6. Delay in Security Deposit Submission (GTC)

Vendors/contractors shall be asked to submit the SD within 15 days from the date of notification of award and in the event of delay in submission of SD, the contract can be terminated. However, if termination of contract is not in the interest of the work/ BPCL, an additional time up to 30 days can be allowed for submission of SD with the approval of the concerned GM/CGM, beyond which the contract may be terminated with subsequent actions following termination as per tender/procedure.

7. Force Majeure Clause (Existing clause replaced with the new one- GTC)

Circumstances leading to force majeure

- (a) Act of terrorism;
- (b) Riot, war, invasion, act of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection of military or usurped power;
- (c) 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;
- (d) epidemics, earthquakes, flood, fire, hurricanes, typhoons or other physical natural disaster, but excluding weather conditions regardless of severity; and
- (e) 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***

Contractor 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 Contractor 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 Contractor due to an event of Force Majeure.

Time extension for such cases will be worked out appropriately.

8. Defect Liability Period in Works & Services Contracts (Changes to existing clause-GTC)

The current clause provides for a Defect Liability Period (DLP) as under:-

- i. 12 months from the date of completion of works / services

In case the defect arises within the abovementioned DLPs and the same is repaired / replaced, the DLP for the repaired/replaced job/item will be extended suitably so as to cover the original DLP. However, in no case, such extension will exceed 24 months from date of start of initial DLP.

9. Progressive Payments for works & services contracts (Changes to existing clause - GTC)

Currently, our normal payment terms are on the 30th day after GR date unless specific stage-wise payment terms are included in the tender. However, for services / works contract, this needs a review to have a better liquidity /cash flow for contractors.

The following provisions shall be applicable in the progressive payment terms uniformly by the OPSUs:

- 75% payment of the Running Account bill (RA bill) shall be released within 15 calendar days of receipt of RA bill duly certified by Engineer-in-charge (EIC) and the balance payment shall be released within 30 days of receipt of RA bill by EIC after detailed scrutiny.

10. Taxes And Duties

Your quoted rates shall be inclusive of all applicable taxes and duties except Goods and Services Tax (GST) which shall be quoted separately in the enclosed form (Form-A). Please note that submission of this form along with Technical / Un-priced Bid is mandatory.

Your rates shall remain firm till completion of work. The applicability of GST as a percentage rate of total quoted price shall be clearly mentioned in this form. If the information is not provided, it will be assumed that GST is included in your quoted price. No claim for GST will be entertained subsequently. Please note that registration for GST is mandatory for receipt of GST payments from BPCL. In absence of valid registration, your offer will remain invalid and will not be considered for evaluation. In case GST is not applicable, please indicate the same as "Nil" while submitting this form.

GST, if applicable, shall be paid after verifying GST Registration no. Break up of Basic cost, GST as applicable shall be provided in all your invoices along with GST registration no. & SAC code for the services provided.

Any statutory variation in GST or introduction of any new taxes and duties within the contractual completion period shall be to BPCL account, against submission of documentary evidence for substantiating the variation by way of relevant notification. However in case of delay in completion period beyond the contractual date, for reasons attributable to contractor, any increase in these rates or any new taxes and duties introduced during the period beyond the contractual completion date shall be borne by the contractor, whereas any decrease shall be passed on to BPCL.

Input tax credit towards GST, if available to BPCL, shall be considered for evaluation.

11. Basis of Evaluation:

Evaluation shall be on the basis of landed cost along with applicable taxes and duties, less Input tax credit. Job will be awarded based on the lowest evaluated cost.

12. Income Tax & Corporate Tax:

Income Tax deduction at source (TDS) at the applicable rates will be deducted from the running bills. Necessary certificates in this regard will be issued from BPCL.

Corporate Tax Liability, if any, shall be to Contractor's account.

SECTION-4

CONFIDENTIALITY AGREEMENT

CONFIDENTIALITY AGREEMENT

This Agreement is made as of the Between.....
having its registered office at.....hereinafter referred as the Receiving Party which expression shall unless repugnant to the subject or the context mean and included its successors, nominees or assigns and Bharat Petroleum Corporation Limited having its registered office at 4&6 Currimbhoy Road, Ballard Estate, Mumbai 400001, herein after called "Disclosing Party" which expression shall unless repugnant to the subject or the context mean and include its successors, nominees or assigns.

Whereas in order to pursue the business purpose of this particular project as specified in Annexure A (the "Business Purpose"), the Disclosing Party recognizes that there is a need to disclose certain information to the Receiving Party, as defined in para 1 below, to be used only for the Business Purpose and to protect such confidential information from unauthorized use and disclosure.

In consideration of Disclosing Party's disclosure of such information, Receiving Party agrees as follows:

1. This Agreement will apply to all confidential and proprietary information disclosed by Disclosing Party to Receiving Party which the Disclosing Party identifies in writing as Confidential before disclosure to the Receiving Party ("Confidential Information").

Confidential Information consists of certain specifications, designs, plans, drawings, software, prototypes and/or technical information, and all copies and derivatives containing such Information, that may be disclosed to other part by Disclosing Party for and during the Purpose, which Disclosing Party considers proprietary or confidential ("Information").

2. Receiving Party hereby agrees that during the Confidentiality Period:

- a. It shall use Information only for the Business Purpose, shall hold Information in confidence using the same degree of care as it normally exercises to protect its own proprietary information, but not less than reasonable care, taking into account the nature of the Information, and shall grant access to Information only to its employees, who have a need to know, but only to the extent necessary to carry out the business purpose of this project as defined in exhibit A, shall cause its employees, to comply with the provisions of this Agreement. Receiving Party, shall reproduce Information only to the extent essential to fulfilling the Business Purpose, and shall prevent

disclosure of Information to third parties. Receiving Party may, however, disclose the Information to its Affiliates, consultants and contractors with a need to know; provided that by doing so, it agrees to bind those Affiliates, consultants and contractors to terms at least as restrictive as those stated herein, advise them of their obligations, and indemnify the Disclosing Party for any breach of those obligations.

"Affiliates" means, in relation to a Party, any company or legal entity that controls, or is controlled by, or that is controlled by an entity that controls, such Party. "Control" means the direct or indirect ownership of fifty (50) percent or more of the voting rights in a company or other legal entity.

- b. Upon the Disclosing Party's request, the Receiving Party shall either return to the Disclosing Party all Information or shall certify to the Disclosing Party that all media containing Information have been destroyed. Provided however that receiving party shall be entitled to keep one copy of every confidential information disclosed by the Disclosing Party thereof in a locked/protected location for tax, accounting and legal reasons. However confidentiality obligations contained in this Agreement shall continue to apply to such confidential information which is retained by the Receiving Party.

3. The foregoing restrictions on Receiving Party's use or disclosure of Information shall not apply to

Information that the Receiving Party can demonstrate:

- a. Was independently developed by or for the Receiving Party without reference to the Confidential Information, or was received without restrictions; or
- b. Has become generally available to the public without breach of confidentiality obligations of the Receiving Party. The information shall not be deemed to be available to the general public merely because it is embraced by more general information in the prior possession of the Receiving Party or of others, or merely because it is expressed in public literature in general terms not specifically in accordance with the Confidential Information; or
- c. Was in its possession without restriction or was known by it without restriction at the time of disclosure provided that the Receiving Party declares to the Disclosing Party of possession of such information within a day upon disclosure of Confidential Information by the Disclosing Party ; or

- d. is required to be disclosed Pursuant to a court order or is otherwise required by law to be disclosed', provided that Receiving Party has notified the Disclosing Party immediately upon learning of the possibility of any such court order or legal requirement and has given the Disclosing Party a reasonable opportunity and cooperates with the Disclosing Party to contest or limit the scope of such required disclosure including application for a protective order; or
- e. Is disclosed with the prior consent of the Disclosing Party; or
- f. The Receiving Party obtains or has available from a source other than the Disclosing Party without breach by the Receiving Party or such source of any obligation of confidentiality or non- use towards the Disclosing Party.

4. Receiving Party agrees not to remove any of the Disclosing party's Confidential Information from the premises of the Disclosing Party without the Disclosing Party's prior written approval and exercise extreme care in protecting the confidentiality of any Confidential Information which is removed, only with the Disclosing Party's prior written approval, from the Disclosing Party's premises. Receiving Party agrees to comply with any and all terms and conditions the Disclosing Party may impose upon any such approved removal, such as conditions that the removed Confidential Information and all copies must be returned by a certain date, and that no copies are to be made off of the premises.

5. Receiving Party recognizes and agrees that all of the Disclosing Party's Confidential Information is owned solely by the Disclosing Party (or its licensors) and that the unauthorized disclosure or use of such Confidential Information would cause irreparable harm and significant injury, the degree of which may be difficult to ascertain. Accordingly, Receiving Party agrees that the Disclosing Party will have the right to obtain an immediate injunction enjoining any breach of this Agreement, as well as the right to pursue any and all other rights and remedies available at law or in equity for such a breach.

6. As between the parties, all Information shall remain the property of the Disclosing Party. By disclosing Information or executing this Agreement, the Disclosing Party does not grant any license, explicitly or implicitly, under any trademark, patent, copyright, mask work protection right, trade secret or any other intellectual property right. The Disclosing Party disclaims all warranties regarding the information, including all warranties as to the accuracy or utility of such information. Execution of this Agreement and the disclosure of Information pursuant to this Agreement does not constitute or imply any commitment, promise, or inducement by Disclosing Party to make any purchase or sale, or to enter into any additional agreement of any kind.

7. The Disclosing Party hereby confirms that the confidential information provided to the Receiving Party does not violate or infringe intellectual property rights of any third party.

8. Disclosing Party's failure to enforce any provision, right or remedy under this agreement shall not constitute a waiver of such provision, right or remedy.

9. This Agreement will be construed in, interpreted and applied in accordance with the laws of India.

10. Any dispute arising out of, relating to, or in connection with this Agreement, including any question regarding its existence, validity, or termination, which cannot be amicably resolved between the parties shall be settled by Arbitration in accordance with the Arbitration and Conciliation Act, 1996 including any statutory modification or re-enactment thereof for the time being in force. The seat and venue of arbitration shall be Mumbai.

11. This Agreement and Exhibit A attached hereto constitutes the entire agreement of the parties with respect to the parties' respective obligations in connection with Information disclosed hereunder and supersedes all prior oral and written agreements and discussions with respect thereto. The parties can amend or modify this Agreement only by a writing duly executed by their respective authorized representatives. Neither party shall assign this Agreement without first securing the other party's written consent.

12. This Agreement will remain in effect for 5 YEARS from the date of last disclosure of Confidential Information, at which time it will terminate, unless extended by both the parties in writing.

13. With regard to the confidential information of Receiving Party disclosed to the Disclosing Party, The Disclosing Party agrees to comply with all the obligations of Receiving Party mentioned in this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers or representatives.

BPCL: _____
Signed

Bidder : _____
Signed

Exhibit A

1. Business Purpose: Financial and Tax Due Diligence

2. Confidential Information of BPCL

a. All communication/ information submitted to the Receiving Party for the purpose.

b. All information shared in oral or in written form by BPCL.

BPCL: _____

Signed

Bidder : _____

Signed

SECTION 5

BIDDER INFORMATION

FORMAT FOR BIDDER'S INFORMATION

Name of the Bidder	
Address	
Type of Organization: Government Dept. / Public Sector Undertaking / Public Limited Company / Private Limited Company / Partnership / Proprietorship / Others (Pl. specify)	
Location of Registered Office , in the case of Company	
Place and Year of the Incorporation	
Person Authorized to sign the bid document	
Phone, e-mail	
Does bidder has permanent establishment in India. If yes, please provide the address.	
Indian PAN No. (if available)	
In case of Foreign ,Tax Residency CERTIFICATE	
GST Registration number	
Whether the bidder falls under the category of Micro & Small Enterprises (MSE) as per the MSME Policy of Govt. of India. If YES, whether proof for the same enclosed with the bid?	
Indicate relationship with any of our Directors.	

SIGNATURE OF BIDDER :**STAMP OF THE BIDDER :**

SECTION-6

FORM A – FORMAT FOR TAXES AND DUTIES

FORM-A

A	NAME OF WORK :	<u>Engagement of Consultant for conducting Financial and Tax Due Diligence</u>
B	E-tender	CRFQ 1000305807 E Tender System ID : 39960
C	NAME OF BIDDER :	
D	SAC Code	
E	CGST Rate (Percentage of total quoted price)	
F	SGST Rate (Percentage of total quoted price)	
G	IGST Rate (Percentage of total quoted price)	
H	UTGST Rate (Percentage of total quoted price)	
I	INVOICING LOCATION	

SIGNATURE

NAME & ADDRESS

Note:

1. Filling up and submission of this form is mandatory for Indian Bidders.
2. A copy of GST registration certificate to be provided along with this form, for Indian Bidders.

Additional Notes:

1. Indian bidders are required to indicate GST (in percentage).
2. TDS (Tax Deducted at Source) :
 - a. Indian Bidders : TDS shall be deducted from the invoice value by BPCL and necessary certificate shall be issued by BPCL.

SECTION 7

FORM-B – ACCEPTANCE - DEVIATION FORM

FORM B**FORMAT FOR ACCEPTANCE AND DEVIATION**

A	NAME OF WORK :	<u>Engagement of Consultant for conducting Financial and Tax Due Diligence</u>
B	E-tender	CRFQ 1000305807 E Tender System ID : 39960
C	NAME OF BIDDER :	

TABLE – 1

Sl. No.	DOCUMENT	ACCEPTED	
		WITHOUT ANY DEVIATIONS	WITH DEVIATIONS
1	SCOPE OF WORK		
2	GENERAL TERMS AND CONDIITIONS		
3	SPECIAL CONDITIONS OF CONTRACT		

Note:- Bidders are required to confirm acceptance of all terms and conditions mentioned in the tender document. Duly filled in, Signed, stamped and scanned copies of Tender document, Scope of work, General Terms and Conditions, Special Conditions of Contract unpriced part of price schedule are to be uploaded in the web. The format given above in Table 1 is to be filled for all other documents. Any deviations, taken may be stipulated in the format given in Table 2 (below).

TABLE – 2

DEVIATIONS				
Sl. No.	Bid Document Reference		Subject	Deviation
	Page	Clause		
1				
2				
3				

I/We confirm that I/ we have studied all the Terms and Conditions of the RFQ/ tender document and confirm our acceptance of the same except for the clauses mentioned above in this deviation form.

In case our offer is successful, we will submit hard copies of all documents duly signed and stamped on all pages.

SIGNATURE WITH NAME & ADDRESS, SEAL AND DATE.

Note:

1. Filling up and submission of this form is mandatory.
2. If a document is accepted without any deviation, the vendor is required to put a tick mark in the respective column against the document. If there are deviations, the vendor is required to put a tick mark in the respective column against the document and indicate the deviation(s) in the format given for indicating the same.
3. Successful bidder is required to submit hard copies of all documents duly signed and stamped on all pages.

SECTION-8

E-BIDDING INSTRUCTIONS

INSTRUCTIONS TO BIDDERS ON E-TENDERING

1.0 GUIDELINE FOR E-PROCUREMENT SYSTEM:

Bharat Petroleum Corporation Ltd. has gone for online submission of bid through e-procurement system on <https://bpcleproc.in>. Bidders are advised to read the Instructions for participating in the electronic tenders directly through internet (Bid Submission Manuals are available on the above mentioned e-procurement site).

To participate on tenders hosted by BPCL on e-procurement site, bidders are required to have a digital certificate and do “Enrollment” (Register on site) by creating one User Id on the above site.

Bidders shall make their own arrangement for e-bidding. The Un-priced Technical Bids along with all the copies of documents should be submitted in e-form only through BPCL e-Procurement system. Before the bid is uploaded, the bid comprising of all attached documents should be digitally signed using digital signatures issued by an acceptable Certifying Authority (CA) in accordance with the Indian IT Act 2000. If any modifications are required to be made to a document after attaching digital signatures, the digital signature shall again be attached to the modified documents before uploading the same.

Late and delayed Bids / Offers after due date / time shall not be permitted in E-procurement system. However if bidder intends to change the bid already entered may change / revise the same on or before the last date and time of submission deadline. No bid can be submitted after the last date and time of submission has reached. The system time (IST) that will be displayed on e-Procurement web page shall be the time and no other time shall be taken into cognizance. Bidders are advised in their own interest to ensure that bids are uploaded in e-Procurement system well before the closing date and time of bid. No bid can be modified after the dead line for submission of bids.

BPCL shall not be responsible in any way for failure on the part of the bidder to follow the instructions. Further BPCL in any case will not be responsible for inability of the bidder in participating in the event due to ignorance, failure in Internet connectivity or any other reason. It is advised that the bidder uploads small sized documents preferably (up to 5 MB) at a time to facilitate in easy uploading into e-Procurement site. BPCL does not take any responsibility in case of failure of the bidder to upload the documents within specified time of tender submission.

Bidders are required to Login with their User ID & Password (along with Digital Certificate) on e-tendering site (<https://bpcleproc.in>), then click on “Dashboard”, click on “Action” button against required Tender, If the required tender number/ details are not available in the first displayed page, then they can click on “more” button, for proceeding to next page(s). They will get “Download files” as well as “Tender Common Forms” on the same page. For participating in tender and for download Tender Documents, click on “Participate”. In the same menu, one can upload the scanned, signed stamped documents in “Edit Bid Common Forms”.

For downloading Java, please click on “Download JRE 6” on login page or more details about Bidding steps. Also, “New User Instruction Manual” from log in page can be referred.

Bidders are required to save / store their bid documents for each item into their computers before submitting their bid into e-tender.

2.0 CONTACT PERSONS:-

FOR E-TENDERING RELATED ISSUES:

If tenderers need some clarifications or are experiencing difficulties while enrolling or while participating in this e-Tender, please E-Mail to the following E-Mail ID along with the snapshots of the errors being faced to:

Email - support@bpclproc.in

(OR) Contact the following helpdesk numbers: All India +91 79 4027 0573.

SECTION - 9

PROFORMA OF DECLARATION OF HOLIDAY LISTING

(Kindly fill at the appropriate location depending upon whether your company is Proprietary firm, Partnership Firm or Company. If Bidder is not Holiday Listed, kindly indicate / mention '**NIL**' at appropriate location.)

ANNEXURE – I

PROFORMA OF DECLARATION OF HOLIDAY LISTING

In the case of a Proprietary Concern:

I hereby declare that neither I in the name of my Proprietary concern M/s. _____ which is submitting the accompanying Bid / Tender nor any other concern in which I am a proprietor nor in any partnership firm in which I am involved as a Managing Partner have been placed on holiday list declared by Bharat Petroleum Corporation Limited/MOP&NG/any other Oil PSEs, except as indicated below:

(Here given particulars of holiday listing and in absence thereof state "NIL").

In the case of a Partnership Firm

We hereby declare that neither we, M/s. _____ submitting the accompanying Bid / Tender nor any partner involved in the management of the said firm either in his individual capacity or as proprietor of any firm or concern have or has been placed on holiday list declared by Bharat Petroleum Corporation Limited/MOP&NG/any other Oil PSEs, except as indicated below:

(Here given particulars of holiday listing and in absence thereof state "NIL").

In the case of Company

We hereby declared that we have not been placed on any holiday list declared by Bharat Petroleum Corporation Limited/MOP&NG/any other Oil PSEs, except as indicated below:

(Here given particulars of holiday listing and in absence thereof state "NIL").

It is understood that if this declaration is found to be false in any particular, Bharat Petroleum Corporation Limited shall have the right to reject my / our bid, and, if the bid has resulted in a contract, the contract is liable to be terminated.

Place: _____

Signature of the Bidder _____

Date: _____

Name of the Signatory _____

SECTION-10
VENDOR ADVISORY – ENVIRONMENTAL
(ATTACHED)

SECTION 11
QEHS POLICY
(ATTACHED)

SECTION 12

POLICY OF HOLIDAY LISTING OF VENODRS IN BPCL

(ATTACHED)