



**TENDER DOCUMENT:**  
**APPOINTMENT OF AGENTS AT NEPAL AND**  
**BANGLADESH FOR EXPORT OF POLYMERS**  
**PRODUCED/ MARKETED BY GAIL (INDIA)**  
**LIMITED**  
**OPEN INTERNATIONAL COMPETITIVE**  
**BIDDING**

**TENDER REF. NO: GAIL/NOIDA/PMG/2024-25**



# **SECTION-I**

# **INVITATION FOR BID (IFB)**



**SECTION-I**

**"INVITATION FOR BID (IFB)"**

**Ref No: GAIL/NOIDA/PMG/2024-25**

**Date: 29.08.2024**

To,

**PROSPECTIVE BIDDERS**

**SUB: TENDER DOCUMENT FOR APPOINTMENT OF AGENTS IN NEPAL AND BANGLADESH FOR POLYMER EXPORT ON OPEN INTERNATIONAL COMPETITIVE BIDDING BASIS**

**Dear Sir/Madam,**

1.0 **GAIL (India) Limited, New Delhi [having registered office at 16, Bhikaji Cama Place, New Delhi 110066 CIN No. L40200DL1984GOI018976],** the largest state-owned natural gas processing and distribution company and the Maharatna, invites bids from bidders for the subject job, in complete accordance with the following details and enclosed Tender Documents.

2.0 The brief details of the tender are as under:

<b>(A)</b>	NAME OF WORK / BRIEF SCOPE OF WORK/JOB	Appointment of Agents in Nepal and Bangladesh for Polymer export.  Refer Section VI of tender document for Scope of Work									
<b>(B)</b>	TENDER NO. & DATE	Tender Ref. no.: <b>GAIL/NOIDA/PMG/2024-25</b> <b>Dated 29.08.2024</b>									
<b>(C)</b>	TYPE OF BIDDING SYSTEM	SINGLE BID SYSTEM									
<b>(D)</b>	TYPE OF TENDER	MANUAL									
<b>(E)</b>	COMPLETION/CONTRACT PERIOD	The Contract period of Agent shall be for a period of 1(one) year and it will be renewed on yearly basis subject to satisfactory performance									
<b>(F)</b>	BID SECURITY / EARNEST MONEY DEPOSIT (EMD)	<p><b>EMD should be valid for at least ‘two [02] months’ beyond the validity of the Bid i.e. at least till 26.02.2025</b></p> <table border="1" data-bbox="804 1767 1497 2007"> <thead> <tr> <th>Country</th> <th>Indian Bidder</th> <th>Foreign Bidder</th> </tr> </thead> <tbody> <tr> <td>Nepal</td> <td>INR 2,53,440</td> <td>US \$ 3000 / INR 2,53,440</td> </tr> <tr> <td>Bangladesh</td> <td>INR 2,53,440</td> <td>US \$ 3000 / INR 2,53,440</td> </tr> </tbody> </table> <p><b>Note:</b> In case any foreign bidder is submitting EMD in INR, the formality required to be completed as per</p>	Country	Indian Bidder	Foreign Bidder	Nepal	INR 2,53,440	US \$ 3000 / INR 2,53,440	Bangladesh	INR 2,53,440	US \$ 3000 / INR 2,53,440
Country	Indian Bidder	Foreign Bidder									
Nepal	INR 2,53,440	US \$ 3000 / INR 2,53,440									
Bangladesh	INR 2,53,440	US \$ 3000 / INR 2,53,440									



		<p>law (if any) is to be fulfilled by the concerned foreign bidder.</p> <p>If a bidder applies for both locations, EMD amount is to be submitted for each location separately. In case EMD amount is found lesser than specified as stated above, their bid (s) shall not be considered for further evaluation. CPSE (Central Public Sector Enterprise) in India is exempted from submission of EMD, however they are required to submit Bid security declaration in prescribed format of tender document. Despite above requirement, if Bidder submits a single EMD amount for two locations, then the Bid shall be considered only for that location which is mentioned as first preference by the Bidder.</p> <p><b>(Refer clause no.16 of ITB for complete details)</b></p>
(G)	DECLARATION FOR BID SECURITY	Bidders who are allowed for exemption as per clause no.16.8 are required to submit Declaration for Bid Security in bid as per proforma at Form F-2A.
(H)	AVAILABILITY OF TENDER DOCUMENT ON WEBSITE(S)	<p><b>From 29.08.2024 to 27.09.2024</b> on following websites:</p> <p>(i) GAIL's Tender Website – <a href="http://www.gailtenders.in">www.gailtenders.in</a> (ii) Govt. CPP Portal - <a href="https://eprocure.gov.in">https://eprocure.gov.in</a></p>
(I)	DATE, TIME & VENUE OF PRE-BID MEETING	<p><b>Date : 06.09.2024 (FRIDAY)</b> <b>Time : 1100 HRS IST</b> <b>Venue : Virtual via MS Teams</b></p> <p><b>Microsoft Teams meeting</b> <b>Join on your computer, mobile app or room device</b> <b><a href="#">Join the meeting now</a></b></p> <p>Meeting ID: 463 221 805 176</p> <p>Passcode: wrN5us</p>
(J)	DUE DATE & TIME OF BID-SUBMISSION (ON OR BEFORE)	<p><b>Date : 27.09.2024 (FRIDAY)</b> <b>Time : 1500 HRS IST</b></p>
(K)	DATE AND TIME OF BID OPENING	<p><b>Date : 27.09.2024 (FRIDAY)</b> <b>Time : 1600 HRS IST</b></p>
(L)	CONTACT DETAILS OF TENDER DEALING OFFICER	<p>Name : Sh. Rakesh Kumar Yadav Designation: General Manager (Mktg-PC) Phone No. &amp; Extn : 0120-2446400 &amp; Extn 11007 Mobile No.: +91-8929447928 FAX No. : e-mail : itg@gail.co.in</p>
(M)	DEALING GAIL'S OFFICE ADDRESS	<p>GAIL (India) Limited B-35 &amp; 36, Jubilee Tower, Sector-1, Noida – 201301, Uttar Pradesh, India</p>



In case of the days specified above happens to be a holiday in GAIL, the next working day shall be implied.

- 3.0 Bids must be submitted strictly in accordance with Clause No. 11.2 of ITB (Section-III) depending upon Type of Tender [refer Clause no. 2.0 (D) above]. The IFB is an integral and inseparable part of the bidding document.
- 4.0 The bidder must submit following documents along with the bid in a sealed envelope, super scribing details of Tender Document (Tender Number and Tender for) on/before the bid due date and time to the address mentioned hereunder:
  - i) EMD/Bid Security /Declaration for Bid Security (as applicable)
  - ii) Power of Attorney
  - iii) Integrity Pact (if applicable)
  - iv) Line of Credit (if applicable)

**Kind Attention: Mr. Rakesh Kumar Yadav**  
**General Manager (Mktg-PC)**  
**10<sup>th</sup> Floor, GAIL (India) Limited**  
**B-35 & 36, Jubilee Tower, Sector-1, Noida – 201301, Uttar Pradesh, India**

- 5.0 In case of Manual Tenders, bids complete in all respect should reach at the address specified in Bidding Data Sheet on or before the due date & time. Bids received after the due date and time is liable to be rejected.
- 6.0 Bidder(s) are advised to quote strictly as per terms and conditions of the tender documents and not to stipulate any deviations/exceptions.
- 7.0 Any bidder, who meets the Bid Evaluation Criteria (BEC) and wishes to quote against this Tender Document, may download the complete Tender Document alongwith its amendment(s) if any from websites as mentioned at 2.0 (H) of IFB and submit their Bid complete in all respect as per terms & conditions of Tender Document on or before the Bid Due Date.
- 8.0 Bid(s) received from bidders to whom tender/information regarding this Tender Document has been issued as well as offers received from the bidder(s) by downloading Tender Document from above mentioned website(s) shall be taken into consideration for evaluation & award provided that the Bidder is found responsive subject to provisions contained in Clause No. 2 of ITB (Section-III).

The Tender Document calls for offers on single point “Sole Bidder” responsibility basis (except where Consortium bid is allowed pursuant to clause no. 3.0 of ITB) and in total compliance of Scope of Works as specified in Tender Document.

- 9.0 Any revision, clarification, addendum, corrigendum, time extension, etc. to the this Tender Document will be hosted on the above mentioned website(s) only. Bidders are requested to visit the website regularly to keep themselves updated.  
In case of manual tendering, Clarification(s)/Corrigendum(s) if any shall be sent to the prospective bidder(s) by email/post.
- 10.0 All bidders including those who are not willing to submit their bid are required to submit F-6 (Acknowledgement cum Consent letter) duly filled within 7 days from the date of receipt of tender information.
- 11.0 SAP generated ~~Request for Quotation (RFQ)~~ Invitation for Bid (IFB), if any shall also form an integral part of the Tender Document.

Appointment of Agents at Nepal and Bangladesh for Export of Polymers Produced/  
Marketed by GAIL (India) Limited



This is not an Order.

For & on behalf of  
GAIL (India) Limited

(Authorized Signatory)

Name : Sh. Rakesh Kumar Yadav  
Designation : General Manager (Mktg-PC)  
E-mail ID : itg@gail.co.in  
Contact No. : +91-8929447928



**DO NOT OPEN - THIS IS A QUOTATION**

***Bid Document No.*** : GAIL/NOIDA/PMG/2024-25

***Description*** : *Appointment of Agents in Nepal and Bangladesh for Polymer export.*

***Due Date & Time*** : 27.09.2024 (FRIDAY)/ By 15:00 HRS IST

***From:*** : ***To:***

..... .....	..... .....
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***[To be pasted on the envelope containing Bid (in case of Manual Tendering)/ Physical documents (in case of e-Tendering)]***

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## **SECTION-II**

# **BID EVALUATION** **CRITERIA & EVALUATION** **METHODOLOGY**





**SECTION-II**  
**BID EVALUATION CRITERIA & EVALUATION METHODOLOGY**

**A. The bidder must have an office (owned / leased) in the applied location as on final bid due date.**

**B. Technical Criteria:**

Bidder should be an agent of an organization and should have experience in selling of their product(s), namely, Polyethylene (PE) / Polypropylene (PP) / Poly Ethylene Terephthalate (PET) / Polyvinyl Chloride (PVC) Granules / Masterbatch / Filler / EVA resin or in combination thereof (selling in the country for which bidder is applying as an agent of GAIL), cumulatively in preceding Seven Years (07) reckoned from final bid submission due date. The quantity of the aforementioned products shall be clubbed for the purpose of evaluation and the relevant country specific experience shall only be considered.

The minimum executed/completed quantity required for bidders to qualify the technical BEC shall be as per below table:

<b>Country</b>	<b>Single Agreement/ Contract/Letter of Acceptance (LOA) (Minimum Selling Quantity) in MT</b>	<b>Two Agreements/ Contracts/ Letter of Acceptance (LOAs) (Each having Minimum Selling Quantity) in MT</b>	<b>Three Agreements/ Contracts/ Letter of Acceptance (LOAs) (Each having Minimum Selling Quantity) in MT</b>
Nepal	12000	7500	6000
Bangladesh	12000	7500	6000

**Note:**

- i) In case the Bidder has an agreement/contract/LOA with an organization which is being renewed periodically, then such agreement/contract/LOA shall be considered as one agreement/contract/LOA and cumulative quantity shall be considered for Technical BEC. However, if there is a break in the agreement/contract/LOA, then it shall be considered as a separate agreement/contract/LOA.
- ii) Where the bidder is executing a rate contract which is running/ running contract and the actual executed Quantity till one day prior to final bid submission due date is equal to or more than the minimum executed/completed Quantity as indicated above, such experience shall also be taken into consideration provided that the bidder has submitted satisfactory execution certificate issued by their client. The bidder shall submit satisfactory execution certificate from the client showing executed value one day prior to the bid due date along with copy of Contract/agreement.
- iii) A Job executed by a Bidder for its own plant/ project cannot be considered as experience for the purpose of meeting BEC of this Tender Document. However, jobs executed for Subsidiary/ Fellow subsidiary / Holding company will be considered as experience for the purpose of meeting BEC subject to submission of tax paid invoice (s) duly certified by Statutory Auditor of the Bidder towards payments of statutory tax in support of the



job executed for Subsidiary/ Fellow subsidiary/ Holding company. Such Bidders to submit these documents in addition to the documents specified to meet BEC.

iv) Example: If a bidder X is an agent for an organisation Y and has executed following year-wise quantities against Agreement/ Contract/ LOA ref. no. ABC:

Period of sale	Agreement/ Contract/ LOA ref. no.	Qty sold for PE / PP / PET / PVC Granules / Masterbatch / Filler / EVA resin (in MT)
Year 1	ABC	2000
Year 2	ABC	1000
Year 3	ABC	200
Year 4	ABC	4000
Year 5	ABC	1800
Year 6	ABC	2000
Year 7	ABC	2000

From the above table, the cumulative quantity sold by the bidder in 7 years is 13,000 MT against a single Agreement/ Contract/Letter of Acceptance (LOA) with ref. no. ABC.

### C. **Financial Criteria**

#### 1. **Average Annual Turnover:**

The minimum average annual turnover of the Bidder as per the audited annual financial statements of preceding three audited financial years shall be as under:

Country	Minimum Average Annual Turnover	
	Indian Bidder	Foreign Bidder
Nepal	INR 63,36,000	US \$ 75,000 or its equivalent
Bangladesh	INR 63,36,000	US \$ 75,000 or its equivalent

#### 2. **Net Worth:**

Net worth of the bidder should be POSITIVE as per the audited annual financial statement of last financial year.

#### 3. **Working Capital:**

The minimum working capital of the bidder as per the audited annual financial statement of last financial year shall be as under:

Country	Minimum Working Capital	
	Indian Bidder	Foreign Bidder



Nepal	INR 12,67,200	US \$ 15,000 or its equivalent
Bangladesh	INR 12,67,200	US \$ 15,000 or its equivalent

**Note:**

- (i) In case the bidder intends to qualify in both countries, bidder shall cumulatively meet the minimum values mentioned in the Annual Turnover & Working Capital table given above.
- (ii) If the bidder's working capital is negative or inadequate, the bidder shall submit a letter from their bank having net worth not less than Rs.100 crores (or equivalent in USD), confirming the availability of line of credit for working capital amount mentioned above. The line of credit letter from bank to be submitted strictly as per the prescribed format in tender document.
- (iii) Declaration Letter/Certificate for line of credit due to short fall of working capital shall be from single bank only. Letters from multiple banks shall not be applicable. However, banking syndicate will also be acceptable wherein a group of banks can jointly provide line of credit to the bidder.

The bank shall be required to issue the letter for declaration/ certificate of line of credit on their letter head along with the contact details of the issuing authority like email id, contact number etc.

The original document for 'Line of Credit' issued by the Bank should be submitted along with other physical documents required as per tender conditions, or in response to commercial query subject to tender provisions failing which bid shall be rejected.

- (iv) **Annual Turnover:** In case the tenders having the bid closing date up to 30th September of the relevant financial year, and audited financial results of the immediate 3 preceding financial years are not available, the bidder has an option to submit the audited financial results of the 3 years immediately prior to that. Wherever the closing date of the bid is after 30th Sept. of the relevant financial year, bidder has to compulsorily submit the audited financial results for the immediate 3 preceding financial years.

Bidder needs to meet the minimum average annual turnover criteria of BEC based on Audited Financial Statement of the preceding 3 financial years (as mentioned above) and has to submit format F-10 accordingly defined in tender document.

- (v) **Net Worth:** In case the tenders having the bid closing date up to 30<sup>th</sup> September of the relevant financial year, and audited financial results of the immediate preceding financial year is not available, in such case the audited financial results of the year immediately prior to that year will be considered as last financial year for Net worth calculation. Wherever the closing date of the bid is after 30th Sept. of the relevant financial year, bidder has to compulsorily submit the audited financial results for the immediate preceding financial year.



- (vi) **Working Capital:** In case the tenders having the bid closing date up to 30<sup>th</sup> September of the relevant financial year, and audited financial results of the immediate preceding financial year is not available, in such case the audited financial results of the year immediately prior to that year will be considered as last financial year for Working Capital calculation.

Wherever the closing date of the bid is after 30<sup>th</sup> Sept. of the relevant financial year, bidder has to compulsorily submit the audited financial results for the immediate preceding financial year.

Bidder is to submit Audited Financial Statement of immediate preceding financial year (as mentioned above) along with format F-10 accordingly for Net worth / Working Capital.

- (vii) Any shortfall information/documents on the Audited Annual report/ Financial statement of the bidder and/or line of credit for working capital issued on or before the final Bid due date can only be sought against Commercial queries (CQs). Any information / documents issued post final bid due date shall not be considered for evaluation.
- (viii) The financial year mentioned under Financial Criteria refers to the financial year of the bidder's country and the date of 30<sup>th</sup> September is applicable when FY is April to March. In case, the FY of the Bidder's country is different, the said date will reckon six months from the end of financial year beyond which the bidder needs to submit the audited financial reports of immediately preceding financial year. For e.g., if financial year of a country ends in the month of June 2024, and the bid submission date is before December 2024, then the bidder needs to submit the financial reports of previous financial year (i.e. July 2022 – June 2023). However, if the bid submission date is after December 2024, then the bidder needs to submit the financial reports of immediate previous financial year (i.e. July 2023 – June 2024).
- (ix) Exchange rate for Conversion of Currency for evaluation of documents submitted by bidders for BEC which are in other currency than specified in BEC shall be as follows:

**BEC (Financial Criteria):**

**(1) For Annual Turnover:**

The average of SBI Bill Selling Rate as prevailing on the First date and Last date of the respective Financial Year.

**(2) For Net-Worth & Working Capital:**

The SBI Bill Selling Rate as prevailing on the Last date of the respective Financial Year

**(3) In case, the SBI Selling rate is not available as on the date of conversion as specified above for respective cases, the exchange rate for conversion of currency shall be taken from the internet, such as:**

<https://www.xe.com/currencyconverter>



<https://economictimes.indiatimes.com/markets/forex/currency-converter>  
<https://www.oanda.com/currency/converter>

**Note:**

- Experience, Turnover, Net worth & Working Capital shall be considered of the bidder only. The Experience, Turnover, Net worth & working capital of sister concern / subsidiary shall not be considered.
- In addition to values in their local currency, the Bidders are also required to submit equivalent values in USD along with proof of exchange rate taken in order of preference given above w.r.t. Financial Criteria of Average Annual Turnover, Net Worth and Working Capital, duly certified/ attested as per the provisions herein below under E (ii) - Financial Criteria of BEC for Indian and Foreign Bidder

Only documents (Contract/LOA/Agreement, Completion/Execution Certificate etc.) which have been referred/ specified in the bid shall be considered in reply to queries, if any, during evaluation of Bids.

After submission of bid, only related shortfall documents will be asked for in TQ/CQ and considered for evaluation. For example, if the bidder has submitted a contract without its completion/ performance certificate, the certificate will be asked for and considered. However, no new Contract/LOA/ Agreement etc. is to be submitted by bidder in response to TQ/CQ so as to qualify and such documents will not be considered by GAIL for evaluation of Bid.

Any shortfall information / documents on the Audited Annual Report / Financial Statement of the Bidder and/or line of credit for working capital issued on or before the final bid due date can only be sought against Commercial queries (CQs). Any information/ documents issued post final bid due date shall not be considered for evaluation

~~Experience of bidder acquired as a subcontractor can be accepted against submission of certificate from end user by such bidder along with other specified documents.~~

**D. RELAXATION OF PRIOR TURNOVER AND PRIOR EXPERIENCE FOR STARTUPS (AS DEFINED IN GAZETTE NOTIFICATION NO. D.L-33004/99 DATED 18.02.2016 AND 23.05.2017 OF MINISTRY OF COMMERCE AND INDUSTRY AND ITS AMENDMENTS) [APPLICABLE FOR INDIAN BIDDERS ONLY] - NOT APPLICABLE**

~~Prior turnover and prior experience as mentioned above in financial and technical criteria of BEC shall not be required for all Startups [whether Micro & Small Enterprises (MSEs) or otherwise] subject to their meeting the quality and technical specifications specified in tender document.~~

~~For availing the relaxation, bidder is required to submit requisite certificate towards Startup enterprise registration issued by Department for Promotion of Industry and Internal Trade (DPIIT), Ministry of Commerce & Industry and relaxation is to be given to the specific goods /jobs domain wherein they are registered for.~~

~~Wherever the “Certificate of Recognition” is stipulating the domain of startup, the domain of startup is be considered based “Certificate of Recognition” issued by Department of Promotion~~



~~of Industry and Internal Trade (DPIIT). Startups having the “Certificate of Recognition” which do not mention Domain, in such case startups are also required to submit the documents for the same including the application submitted to DPIIT.~~

~~New startup “Certificate of Recognition” is stipulating “Industry” and “Sector” as domain of startup. Accordingly, “Industry” and “Sector” as domain of startups mentioned in certificate/ application (in case of old certificate which do not indicate domain) will be considered.~~

~~The above documents should be certified by the Chartered Accountant (not being an employee or a Director or not having any interest in the bidder’s company/firm) and notary public with legible stamp.~~

## **E. DOCUMENTS TO BE SUBMITTED FOR COMPLIANCE TO BEC**

### **(i) Technical Criteria of BEC**

Bidder shall submit Contract / agreement / LOA (Letter of Acceptance) for appointment of agent along with completion/execution certificate issued by an Organization showing reference no. of Contract / agreement / LOA, quantity sold, period of sale, product sold, etc towards meeting Technical Criteria of BEC. In case the bidder has worked with GAIL, in lieu of completion certificate, the sales data from SAP system may be utilised by GAIL for experience evaluation.

#### **For Indian Bidder**

All documents in support of Technical Criteria of BEC to be furnished by the Bidder shall necessarily be duly certified/ attested by Chartered Engineer and Notary Public with legible stamp.

#### **For Foreign Bidder:**

All documents in support of Technical Criteria of BEC to be furnished by the Bidder shall necessarily be duly certified/ attested by Chartered Engineer/ Licensed Professional Engineer/Registered Engineer / EurEta Registered Engineer/ Eur Ing or Equivalent Registered Engineer / Chartered Accountant of bidder’s country with legible stamp.

Further, supporting documents pertaining to technical BEC should also be certified true copies, duly signed, dated and stamped by an official, authorized for this purpose in Indian Embassy/ High Commission in bidder’s country. However, member countries of Hague Convention 1961, supporting documents, pertaining to technical BEC, Apostille affixed by Competent Authorities designated by the government of bidder’s country shall also be acceptable.

### **(ii) Financial Criteria of BEC:**

#### **For Indian Bidder:**

Bidder shall submit “Details of financial capability of Bidder” in prescribed format (F-10) duly signed and stamped by a Chartered Accountant / Certified Public Accountant (CPA).

Further, copy of audited annual financial statements of last previous three financial years submitted in bid shall be duly certified/attested by Notary Public with legible stamp.





**For Foreign Bidder:**

Bidder shall submit “Details of financial capability of Bidder” in prescribed format (F-10) duly signed and stamped by a Chartered Accountant/ Certified Public Accountant (CPA).

Further, copy of audited annual financial statements submitted in the bid for preceding three financial years shall be certified true copies, duly signed, dated and stamped by an official, authorized for this purpose in Indian Embassy/ High Commission in bidder’s country. However, member countries of Hague Convention 1961, supporting documents, pertaining to financial BEC, Apostille affixed by Competent Authorities designated by the government of bidder’s country shall also be acceptable.

In case of Foreign bidder, if the required documents for establishing the Bid Evaluation Criteria, such as duly audited Balance Sheet, Annual Reports, LOA/Contract/Agreement etc., are not in English language, then the English translation copy of the same shall be furnished duly certified, stamped and signed by Local Chamber of Commerce or Indian Embassy in their Country or their Embassy in India or any translator in India recognised /authorised by their Embassy along with the original Balance Sheet, Annual report, LOA/Contract/Agreement etc.

For the purpose of interpretation of the Bid, the English translation shall govern. This requirement of certification of English translation by Local Chamber of Commerce is additional to the requirement of authentication stipulated above as applicable.

**(iii) Documents for Office at the appointed location**

Following documents (whichever is applicable) is required to be enclosed.:

- 1) Copy of Registered Title Deed, or Registered Lease Deed for rented property, or Agreement to Lease / Sale deed duly certified by authorities mentioned above in E (i);
- 2) Copy of Drawing of the office with carpet area (in Sq. Feet) duly certified by a registered Architect.

The lease/ sale deed should be preferably in English language only. In case of other Regional language, the same should be accompanied by an English translation duly certified, stamped and signed by Local Chamber of Commerce or Indian Embassy in their Country or their Embassy in India or any translator in India recognised /authorised by their Embassy. For the purpose of interpretation of the Bid, the English translation shall govern.

The office, if in the name of any director / partner, shall not be considered as owned and the bidder has to enter into an agreement of Lease with the Director / partner concerned. However, in case of Proprietorship firm, office in name of Proprietor shall be considered as owned.



**F. Eligibility criteria in case bid is submitted on the basis of technical experience of FOREIGN BASED ANOTHER COMPANY (SUPPORTING COMPANY) which holds more than fifty percent of the paid up share capital of the bidder company or vice versa: NOT APPLICABLE**

~~Offers of those bidders (not under consortium arrangement) who themselves do not meet the technical experience criteria as stipulated in the BEC and are quoting based on the experience of Foreign based another company (Supporting Company) can also be considered. In such case the supporting company should hold more than fifty percent of the paid up share capital of the bidding company or vice versa.~~

~~However, the supporting company should on its own meet the technical experience as stipulated in the BEC and should not rely on any other company or through any other arrangement like Technical collaboration agreement.~~

~~In that case as the bidding company is dependent upon the technical experience of another company with a view to ensure commitment and involvement of the companies involved for successful execution of the contract, the participating bidder should enclose the following Agreements/ Guarantees/ Undertakings along with the techno-commercial bid:~~

- ~~(i) An Agreement (as per format enclosed at Appendix A1 to Section II) between the bidder and the supporting company.~~
- ~~(ii) Guarantee (as per format enclosed at Appendix A2 to Section II) by the supporting company to GAIL for fulfilling the obligation under the Agreement, along with certificate issued by Company Secretary as per Appendix A2A to Section II.~~
- ~~(iii) Undertaking by Supporting Company to provide a Performance Bank Guarantee (as per format and instructions enclosed at Appendix A3 to Section II), equivalent to 50% of the value of the PBG which is to be submitted by the bidding company, in case of being the successful bidder.~~

~~In cases where foreign based supporting company does not have Permanent Establishment in India as per Indian Income Tax Act, the bidding company can furnish Performance Bank Guarantee for an amount which is sum of PBG amount to be submitted by the bidder and additional PBG amount required to be submitted by the supporting company subject to the condition that supporting company have 100% paid up equity share capital of the bidder either directly or through intermediate subsidiaries or vice versa.~~

~~In such case bidding company shall furnish an undertaking that their foreign based supporting company is not having any Permanent Establishment in India in terms of Income Tax Act of India.~~

- ~~(iv) Undertaking from the supporting company to the effect that in addition to invoking the PBG submitted by the bidding company, the PBG provided by supporting company shall be invoked by GAIL due to non-performance of the bidding company.~~

Note:

- ~~1.0 In case Supporting Company fails to submit Bank Guarantee as per (iii) above, EMD/SD submitted by the bidder shall be forfeited.~~
- ~~2.0 The Financial BEC of tender is to be met by bidder on their own.~~





~~3.0 The Supporting Company shall meet conditions of 'Eligible Bidder', as per clause no.2.0 of Section III (ITB).~~

~~4.0 The clause J as below shall be applicable to above supporting company also.~~

**G. Apart from above, Bidder must submit all other relevant documents/ information as specified in the Scope of Work/SCC for Technical Evaluation of bid or specified elsewhere in the Tender Document, towards proof of its responsiveness.**

**H. PROCUREMENT FROM A BIDDER WHICH SHARES A LAND BORDER WITH INDIA – NOT APPLICABLE**

~~1. Order (Public Procurement No. 1) dated 23.07.2020, Order (Public Procurement No. 2) dated 23.07.2020 and Order (Public Procurement No. 3) dated 24.07.2020, Department of Expenditure, Ministry of Finance, Govt. of India refers. The same are available at website <https://doe.gov.in/procurement-policy-divisions>.~~

~~2. Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority. For details of competent authority refer to Annexure I of Order (Public Procurement No. 1) dated 23.07.2020.~~

~~Further the above will not apply to bidders from those countries (even if sharing a land border with India) to which the Government of India has extended lines of credit or in which the Government of India is engaged in development projects. Updated lists of countries to which lines of credit have been extended or in which development projects are undertaken are given in the website of the Ministry of External Affairs, Govt. of India~~

~~3. "Bidder" (including the term 'tenderer', 'consultant' 'vendor' or 'service provider' in certain contexts) **for purpose of this provision** means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency, branch or office controlled by such person, participating in a procurement process.~~

~~4. "Bidder from a country which shares a land border with India" for the purpose of this:~~

- ~~a. An entity incorporated, established or registered in such a country; or~~
- ~~b. A subsidiary of an entity incorporated, established or registered in such a country; or~~
- ~~c. An entity substantially controlled through entities incorporated, established or registered in such a country; or~~
- ~~d. An entity whose beneficial owner is situated in such a country; or~~
- ~~e. An Indian (or other) agent of such an entity; or~~
- ~~f. A natural person who is a citizen of such a country; or~~
- ~~g. A consortium or joint venture where any member of the consortium or joint venture falls under any of the above~~

~~5. "Beneficial owner" for the purpose of above (4) will be as under:~~

~~i. In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person(s), has a controlling ownership interest or who exercises control through other means.~~

~~Explanation~~



- a) ~~"Controlling ownership interest" means ownership of, or entitlement to, more than twenty five per cent of shares or capital or profits of the company;~~
- b) ~~"Control" shall include the right to appoint the majority of the directors or to control the management or policy decisions, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;~~
- ii) ~~In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;~~
- iii) ~~In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;~~
- iv) ~~Where no natural person is identified under (i) or (ii) or (iii) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;~~
- v) ~~In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.~~
6. ~~"Agent" for the purpose of this Order is a person employed to do any act for another, or to represent another in dealings with third persons~~

7. ~~**SUBMISSION OF CERTIFICATE IN BIDS:**~~

~~Bidder shall submit a certificate in this regard as Form-I to Section-II.~~

~~If such certificate given by a bidder whose bid is accepted is found to be false, this would be a ground for immediate rejection of the bid/termination and further action as per "Procedure for Action in case of Corrupt/Fraudulent/ Collusive / Coercive Practices" of tender document.~~

8. ~~The registration, wherever applicable, should be valid at the time of submission of bids and at the time of acceptance of bids. In respect of supply otherwise than by tender, registration should be valid at the time of placement of order. If the bidder was validly registered at the time of acceptance / placement of order, registration shall not be a relevant consideration during contract execution.~~

**I. EVALUATION METHODOLOGY:**

Evaluation of bidder shall consist the following:

- (a) Shortlisting of bidder(s) based on the Bid Evaluation criteria mentioned in the tender document.
- (b) Those bidders who are techno commercial acceptable, thereafter their bid shall be evaluated based on documents submitted against various parameters prescribed in tender document.



- (c) In the event of tie of marks between the bidders, the bidder having highest turnover in last audited financial statement will be assigned higher rank. If the situation arises thereafter, GAIL's decision shall be final to abide. Bidder must score marks  $\geq$  minimum marks specified in each category for eligibility – otherwise they will be disqualified (even if the total score is  $\geq$  minimum marks).
- (d) The bidder securing the maximum marks (or ranked higher in case of a tie) shall be awarded as an Agent for the relevant location through a Fax of Acceptance (FOA)/Letter of Acceptance (LOA).
- (e) In case of non-acceptance of FOA/LOA by selected agent or in case the selected agent fails to enter into agreement after acceptance of FOA/LOA (within the stipulated period as specified in the tender document), GAIL shall forfeit the EMD / Security Deposit amount submitted by the bidder and such bidder shall be debarred from participation in retendering of the same location. Further, such bidder will be put on watch list as per C&P procedure of GAIL/Tender Conditions and thereafter invite fresh tender.
- (f) In case of non-submission of CPS within the stipulated period as specified in the tender document, GAIL shall forfeit their EMD amount submitted by the bidder and such bidder shall be debarred from participation in retendering of the same location. Further, such bidder will be put on watch list as per C&P procedure of GAIL/Tender Conditions and thereafter invite fresh tender.
- (g) In case of withdrawal of the bid by the first selected bidder prior to award and within the validity of their bid, GAIL shall offer to second rank holder. This process shall continue till all the techno-commercially qualified bidders are offered and action against such bidders will be taken as mentioned in point (e) above. However, in case where only one bidder qualifies the technical and commercial criteria, and the bidder chooses not to accept the LOA offered by GAIL, then retendering shall be done and the defaulted bidder shall not be allowed to participate in retendering and shall be put on watch list as per C&P procedure of GAIL/ Tender Conditions. If all the techno-commercially qualified bidders withdraw their bid prior to award and within their validity of bid, fresh tender will be invited



**Evaluation Parameter & its weightage**

The detailed evaluation criteria with score break up details is given below:

Parameters	Evaluation Criteria for Nepal							Max	Min			
<b>Financial Strength</b>												
Average Turn Over in last three audited financial years	>= 125,000 USD	>= 115,000 USD	>= 105,000 USD	>= 95,000 USD	>= 85,000 USD	>= 75,000 USD			10	5		
	10	9	8	7	6	5						
Net Worth in last audited financial year	>= 15,000 USD	>= 13,000 USD	>= 11,000 USD	>= 9,000 USD	>= 7,000 USD	>= 5,000 USD	> 0 USD			10	4	
	10	9	8	7	6	5	4					
<b>Experience Details</b>												
Experience of the Firm in PE / PP / PET / PVC Granules / Masterbatch / Filler / EVA resin (Minimum volume handled in a year is 1800 MT, else year will not be counted for experience)	>= 7 years		>= 5 years & < 7 years		>= 3 years & < 5 years		>= 2 years & < 3 years		< 2 years		15	7
	15		13		11		9		7			
Volume handled cumulatively in preceding seven years as Agent (MT)	Volume		PE / PP / PET / PVC Granules / Masterbatch / Filler / EVA resin								25	13
	≥ 84000		25									
	≥ 72000		23									
	≥ 60000		21									
	≥ 48000		19									
	≥ 36000		17									
	≥ 24000		15									
≥ 12000		13										
Number of organization handled as agent in past 7 years as on final due date of bid submission.	>= 03		= 02		= 01					14	12	
	14		13		12							
<b>Infrastructure Facility</b>												
Office in the country for which bid is submitted	Carpet Area in Sq. Ft.		Owned		Leased						11	3
	≥ 1500		11		6							
	≥ 1000		10		5							
	≥ 500		9		4							
< 500 and > 0		8		3								
Office establishment in the country, for which bid is submitted, is 1 year or older as on final due date of bid submission.	>= 1 year			< 1 year							5	1
	5			1								
<b>TOTAL</b>										90	45	



**Note: Exchange rate for Conversion of Currency which are in other currency than specified above shall be as per Note (ix) to clause C of Section –II of the tender document.**

**Documents required for evaluation parameter & its weightage**

- The marks for Annual Turnover shall be assigned based on average of last three audited Financial Statements. Net worth shall be assigned based on last audited Financial Statement. Accordingly, bidder has to submit last three Annual audited financial statement duly certified as defined in Financial criteria of Bid evaluation Criteria.
- The marks for experience of the Firm in selling of PE / PP / PET / PVC Granules / Masterbatch / Filler / EVA resin or in combination will be assigned based on document submitted along with bid. A minimum volume handled in a year required is 1800 MT else the year will not be counted for experience. Bidder shall submit Contract / agreement/ LOA for appointment of agent and completion certificate issued by an Organization showing reference no. of work order / agreement/ LOA, quantity sold, date of sale, etc. duly certified by the agency as defined in Technical criteria of Bid Evaluation Criteria. In case the bidder has worked with GAIL, in lieu of completion certificate, the sales data from SAP system may be utilised by GAIL for experience evaluation.
- The marks for volume handled will be assigned based on cumulative volume handled (in MT) in preceding 7 years reckoned from the final due date of bid submission. Bidder shall submit Contract / agreement / LOA for appointment of agent and completion certificate issued by an Organization showing reference no. of work order / agreement / LOA, quantity sold, period of sale, product sold, etc. duly certified by the agency as defined in Technical criteria of Bid Evaluation Criteria. In case the bidder has worked with GAIL, in lieu of completion certificate, the sales data from SAP system may be utilised by GAIL for experience evaluation.
- For number of organizations handled as an agent in past 7 years, Bidder shall submit Contract / agreement / LOA for appointment of agent and completion certificate issued by an Organization showing reference no. of work order / agreement / LOA, quantity sold, period of sale, product sold, etc. duly certified by the agency as defined in Technical criteria of Bid Evaluation Criteria. In case the bidder has worked with GAIL, in lieu of completion certificate, the sales data from SAP system may be utilised by GAIL for experience evaluation.
- The marks for office in a country for which bid is submitted, following documents (whichever is applicable) is required to be enclosed. (i) Copy of Registered Title Deed, or Registered Lease Deed for rented property, or Agreement to Lease / Sale deed duly certified by authorities mentioned above in E.(i); (ii) Copy of Drawing of the office with carpet area (in Sq. Feet) duly certified by a registered Architect.

The lease/ sale deed should be preferably in English language only. In case of other Regional language, the same should be accompanied by an English translation duly certified, stamped and signed by Local Chamber of Commerce or Indian Embassy in



their Country or their Embassy in India or any translator in India recognised /authorised by their Embassy. For the purpose of interpretation of the Bid, the English translation shall govern.

The office, if in the name of any director / partner, shall not be considered as owned and the bidder has to enter into an agreement of Lease with the Director / partner concerned. However, in case of Proprietorship firm, office in name of Proprietor shall be considered as owned. Once the relevant document is submitted along with bid, no change of office is permissible till finalization of tender.

#### **J. Other Terms and Conditions**

- a) Proprietor/ all the Partners/ Directors in Bidder's firm should not be less than 21 years of age as on bid due date
- b) Bidder should be a Proprietorship Firm / Registered Partnership Firm / Public Ltd. Co. / Limited Liability Partnership (LLP) /Pvt. Ltd. Co.
- c) Bidder's Director/s or Partner/s or Proprietor should have never been convicted, nor should have charges ever been framed against them by any Court of law for any criminal or economic offences.
- d) Bidder can apply for more than one location. If the bid has been submitted for more than one location then, bidder has to give their order of preference of locations, as per their priority, in a separate format which will form a part of the tender document to be submitted along with the bid. If in case, Bidder submits a single EMD amount for two locations, then the Bid shall be considered only for that location which is mentioned as first preference.
- e) Preference of location (if any) to be mentioned in agreed terms & conditions (Form F-5).



# **SECTION-III**

# **INSTRUCTION TO** **BIDDERS**

**(TO BE READ IN CONJUNCTION WITH**  
**BIDDING DATA SHEET (BDS)**



### **SECTION-III**

#### **INSTRUCTION TO BIDDERS**

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**INSTRUCTIONS TO BIDDERS [ITB]**  
**(TO BE READ IN CONJUNCTION WITH BIDDING DATA SHEET (BDS))**

**[A] – GENERAL**

**1 SCOPE OF BID**

- 1.1 The Employer as ~~defined in the "General Conditions of Contract [GCC]"~~, wishes to receive Bids as described in the Invitation For Bid (the "**Tender Document /Bid Document**") issued by Employer. Employer/Owner/GAIL occurring herein under shall be considered synonymous.
- 1.2 SCOPE OF BID: The scope of work/ Services shall be as defined in the Tender documents.
- 1.3 The successful bidder will be expected to complete the scope of Bid within the period stated in Special Conditions of Contract.
- 1.4 Throughout the Tender Documents, the terms 'Bid', 'Tender' 'Offer' 'Proposal' and their derivatives [Bidder/Tenderer, Bid/Tender/Offer etc.] are synonymous. Further, 'Day' means 'Calendar Day' and 'Singular' also means 'Plural'. ~~The definitions of Capitalized word(s) used herein, shall be as per definitions provided in GCC.~~

**2 ELIGIBLE BIDDERS**

- 2.1 The Bidder shall not be under a declaration of ineligibility by Employer for Corrupt/ Fraudulent/ Collusive/ Coercive practices, as defined in "Instructions to Bidders [ITB], Clause No. 39" (Action in case Corrupt/ Fraudulent/ Collusive/ Coercive Practices).
- 2.2 The Bidder is not put on 'Holiday' by GAIL or Public Sector Project Management Consultant (like EIL, Mecon only due to "poor performance" or "corrupt and fraudulent practices") or banned/blacklisted by Government department/ Public Sector on due date of submission of bid. Further, neither bidder nor their allied agency/(ies) (as defined in the Procedure for Action in case of Corrupt/ Fraudulent/ Collusive/ Coercive Practices) are on banning list of GAIL or the Ministry of Petroleum and Natural Gas.
- If the bidding documents were issued inadvertently/ downloaded from website, offers submitted by such bidders shall not be considered for opening/ evaluation/Award and will be returned immediately to such bidders.
- In case there is any change in status of the declaration prior to award of contract, the same has to be promptly informed to GAIL by the bidder.
- It shall be the sole responsibility of the bidder to inform GAIL in case the bidder is put on 'Holiday' by GAIL or Public Sector Project Management Consultant (like EIL, Mecon. only due to "poor performance" or "corrupt and fraudulent practices") or banned/blacklisted by Government department/ Public Sector on Bid due date and during the course of finalization of the tender. Concealment of the facts shall tantamount to misrepresentation of facts and shall lead to action against such Bidders as per clause 39 of ITB.
- 2.3 The Bidder should not be under any liquidation court receivership or similar proceedings on Bid due date.
- In case there is any change in status of the declaration prior to award of contract, the same has to be promptly informed to GAIL by the bidder.
- It shall be the sole responsibility of the bidder to inform GAIL in case the bidder is under any liquidation court receivership or similar proceedings on due date of submission of bid and during the course of finalization of the tender. Concealment of the facts shall tantamount to misrepresentation of facts and shall lead to action against such Bidders as per clause no.39 of ITB.
- 2.4 Bidder shall not be affiliated with a firm or entity:



- (i) that has provided consulting services related to the work to the Employer during the preparatory stages of the work or of the project of which the works/services forms a part of or
  - (ii) that has been hired (proposed to be hired) by the Employer as an Engineer/ Consultant for the contract.
- 2.5 Neither the firm/entity appointed as the Project Management Consultant (PMC) for a contract nor its affiliates/ JV'S/ Subsidiaries shall be allowed to participate in the tendering process unless it is the sole Licensor/Licensor nominated agent/ vendor.
- 2.6 Pursuant to qualification criteria set forth in the bidding document, the Bidder shall furnish all necessary supporting documentary evidence to establish Bidder's claim of meeting qualification criteria.
- 2.7 Power of Attorney:

Power of Attorney (POA) to be issued by the bidder in favour of the authorised employee(s), in respect of the particular tender, for purpose of signing the documents including bid, all subsequent communications, agreements, documents etc. pertaining to the tender and act and take any and all decision on behalf of the bidder. Any consequence resulting due to such signing shall be binding on the Bidder.

The Power of Attorney shall be issued as per the constitution of the bidder as below:

- a) **In case of Proprietorship:** by Proprietor
- b) **In case of Partnership:** by all Partners or Managing Partner
- c) **In case of Limited Liability Partnership:** by any bidder's employee authorized in terms of Deed of LLP
- d) **In case of Public / Limited Company:** PoA in favour of authorized employee(s) by Board of Directors through Board Resolution or by the designated officer authorized by Board to do so. Such Board Resolution should be duly countersigned by Company Secretary / MD / CMD / CEO.

The Power of Attorney should be valid till award of contract to successful bidder.

- 2.8 In case of change of constitution of bidder after submission of bid, the same shall be informed by the bidder to GAIL promptly. Failure to same shall be considered as misrepresentation by the bidder.

### **3 BIDS FROM CONSORTIUM – NOT APPLICABLE**

### **4 ONE BID PER BIDDER**

- 4.1 A Firm/Bidder shall submit only 'one [01] Bid' in the same Bidding Process. A Bidder who submits or participates in more than 'one [01] Bid' will cause all the proposals in which the Bidder has participated to be disqualified.
- 4.2 A bidder shall not have conflict of interest with other bidders. Such conflict of interest can lead to anti-competitive practices. The bidder found to have a conflict of interest shall be disqualified. A bidder shall be considered to have a conflict of interest with one or more bidders in this bidding process, if:
- a) they have controlling partner (s) in common; or
  - b) they receive or have received any direct or indirect subsidy/ financial stake from any of them; or
  - c) they have the same legal representative/authorized signatory/agent for purposes of this bid; or
  - d) they have relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the bid of another Bidder; or
  - e) Bidder participates in more than one bid in bidding process. Participation by a Bidder in more than one Bid will result in the disqualification of all bids in which the parties



are involved. However, this does not limit the inclusion of the components/ sub-assembly/ Assemblies from one bidding manufacturer in more than one bid.

- f) a Bidder or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the contract that is the subject of the Bid;
- g) In case of a holding company having more than one independently manufacturing units, or more than one unit having common business ownership/management, only one unit should quote. Similar restrictions would apply to closely related sister companies. Bidders must proactively declare such sister/ common business/ management units in same/ similar line of business.

Bidders are required to submit a confirmation for no conflict of interest with other bidders in Form F-5.

Failure to comply this clause during tendering process will disqualify all such bidders from process of evaluation of bids.

4.3 Alternative Bids shall not be considered.

4.4 The provisions mentioned at sl. no. 4.1 and 4.2 shall not be applicable wherein bidders are quoting for different Items / Sections / Parts / Groups/ SOR items of the same tender which specifies evaluation on Items / Sections / Parts / Groups/ SOR items basis.

4.5 Bidders are required to provide complete details of all Directors/Partners/Proprietors etc. including Father's name, Residential address, AADHAR, PAN Card details & DIN Nos. in Form F-1 of ITB and corresponding documents duly notarized by Notary Public.

It is the responsibility of the participating Bidder(s) to assess the relationship as mentioned above.

In case any undertaking/declaration given by a Bidder(s) in this regard is found to be false, this would be a sufficient ground for rejection of Bid(s) /termination of contract and also initiation of further action as per "Procedure for Action in case of Corrupt/Fraudulent/ Collusive / Coercive Practices" of tender document.

## **5 COST OF BIDDING**

5.1 The Bidder shall bear all costs associated with the preparation and submission of the Bid including but not limited to Documentation Charges, Bank charges, all courier charges, translation charges, authentication charges and any associated charges including taxes & duties thereon. Further, GAIL will in no case, be responsible or liable for these costs, regardless of the outcome of the bidding process.

## **6 SITE VISIT – (NOTAPPLICABLE)**

~~6.1 The Bidder is advised to visit and examine the site of works and its surroundings and obtain for itself on its own responsibility all information that may be necessary for preparing the Bid and entering into a Contract for the required job. The costs of visiting the site shall be borne by the Bidder.~~

~~6.2 The Bidder or any of its personnel or agents shall be granted permission by the Employer to enter upon its premises and land for the purpose of such visits, but only upon the express conditions that the Bidder, its personnel and agents will release and indemnify the Employer and its personnel, agents from and against all liabilities in respect thereof, and will be responsible for death or injury, loss or damage to property, and any other loss, damage, costs, and expenses incurred as a result of inspection.~~

~~6.3 The Bidder shall not be entitled to hold any claim against GAIL for non compliance due to lack of any kind of pre requisite information as it is the sole responsibility of the Bidder to obtain all the necessary information with regard to site, surrounding, working conditions, weather etc. on its own before submission of the bid.~~



## **[B] – BIDDING DOCUMENTS**

### **7 CONTENTS OF BIDDING DOCUMENTS**

7.1 The contents of Bidding Documents / Tender Documents are those stated below, and should be read in conjunction with any 'Addendum / Corrigendum and Clarification(s)' issued in accordance with "ITB: Clause-8&9":

- Section-I : Invitation for Bid\* [IFB] & Cut-out slip
- Section-II : Bid Evaluation Criteria [BEC] & Evaluation methodology
- Section-III : Instructions to Bidders [ITB], Annexure and Forms & Format \*\*
- Section-IV : General Conditions of Contract [GCC]\*\*\* - **Not Applicable**
- Section-V : Special Conditions of Contract [SCC]
- Section-VI : Scope of Work, Specifications (wherever applicable) and Drawing (wherever applicable)

\*~~Request for Quotation~~ ' Invitation for Bid, wherever applicable, shall also form part of the Bidding Document.

\*\* The subject tender is based on standard formats and applicability of some specific clauses may be seen in Annexure-II to Section-III i.e. BDS (Bidding Data Sheet).

\*\*\* ~~General Conditions of Contract Services is available on GAIL's Tender website (<http://gailtenders.in/Gailtenders/gccs.asp>). Further, Hindi version of GCC is available on GAIL's tender website ([www.gailtenders.in](http://www.gailtenders.in)) for reference. However, in case of any discrepancy in English & its Hindi translation, for interpretation and legal aspects, the English version shall prevail.~~

~~For participation in e-tender, instructions are mentioned at Annexure I to Section III.~~

7.2 The Bidder is expected to examine all instructions, forms, terms & conditions in the Bidding Documents. The "~~Request for Quotation [RFQ]~~ & Invitation for Bid (IFB)" together with all its attachments thereto, shall be considered to be read, understood and accepted by the Bidders. Failure to furnish all information required by the Bidding Documents or submission of a Bid not substantially responsive to the Bidding Documents in every respect will be at Bidder's risk and may result in the rejection of his Bid.

### **8 CLARIFICATION OF TENDER DOCUMENT**

8.1 A prospective Bidder requiring any clarification(s) of the Bidding Documents may notify GAIL in writing or by email in the format "F-11" at GAIL's mailing address indicated in the BDS no later than 02 (two) days prior to pre-bid meeting (in cases where pre-bid meeting is scheduled) or 05 (five) days prior to the due date of submission of bid in cases where pre-bid meeting is not scheduled. GAIL reserves the right to ignore the bidders request for clarification if received after the aforesaid period. GAIL may respond in writing to the request for clarification. GAIL's response including an explanation of the query, but without identifying the source of the query will be uploaded on e-tender portal / communicated to prospective bidders by e-mail.

8.2 Any clarification or information required by the Bidder but same not received by the Employer at clause 8.1 (refer BDS for address) above is liable to be considered as "no clarification / information required".

### **9 AMENDMENT OF BIDDING DOCUMENTS**





- 9.1 At any time prior to the 'Bid Due Date', Employer may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder, modify the Bidding Documents by addenda/ corrigendum.
  - 9.2 Any addendum/ corrigendum thus issued shall be integral part of the Tender Document and shall be hosted on the websites as ~~provided at clause no. 2.0 (G) of IFB~~ /communicated to prospective bidders by e-mail/ fax. Bidders have to take into account all such addendum/ corrigendum before submitting their Bid.
  - 9.3 The Employer, if consider necessary, may extend the Bid due date in order to allow the Bidders a reasonable time to furnish their most competitive bid taking into account the addenda/ corrigendum issued thereof.
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## **[C] – PREPARATION OF BIDS**

### **10 LANGUAGE OF BID:**

- 10.1 The bid prepared by the Bidder and all correspondence, drawing(s), document(s), certificate(s) etc. relating to the Bid exchanged by Bidder and GAIL shall be written in English language only. In case a document, certificate, printed literature etc. furnished by the Bidder in a language other than English, the same should be accompanied by an English translation duly authenticated by the Chamber of Commerce of Bidders Country, in which case, for the purpose of interpretation of the Bid, the English translation shall govern.
- 10.2 In the event of submission of any document/certificate by the Bidder in a language other than English, the English translation of the same duly authenticated by Chamber of Commerce of Bidder's country shall be submitted by the Bidder.

### **11. DOCUMENTS COMPRISING THE BID**

#### **11.1 IN CASE OF E-TENDERING:**

~~Bidders are requested to refer instructions for participating in e-Tendering (Annexure I to Section III), Bidders manual kit and FAQs available in e-tender portal and bids submitted manually shall be rejected. All pages of the Bid must be digitally signed by the "authorized signatory" of the Bidder holding Power of Attorney. The Bid must be submitted on e-tender portal (<https://etenders.gov.in/eprocure/app>) as follows:~~

##### **11.1.1 PART-I: "TECHNO-COMMERCIAL/UN-PRICED-BID"**

Comprising all the below mentioned documents should be ~~uploaded in the technical bid in the e-tender portal~~ provided along with bid:

- (a) 'Covering Letter' on Bidder's 'Letterhead' clearly specifying the enclosed contents with index.
- (b) 'Bidder's General Information', as per 'Form F-1'.
- (c) Copies of documents, as specified in tender document
- (d) ~~Copy of Schedule of Rate (SOR) with prices blanked out mentioning quoted / not quoted (as applicable) written against each item as a confirmation that the prices are quoted in requisite format.~~
- (e) 'Letter of Authority' on the Letter Head, as per 'Form F-3'
- (f) 'Agreed Terms and Conditions', as per 'Form F-5A or 'Form-5B (as the case may be)'
- (g) Duly certified / attested documents in accordance with the "Bid Evaluation Criteria [BEC]", Section II of Tender Document



- (h) Copy of Power of Attorney /copy of Board Resolution, in favour of the authorized signatory of the Bid, as per clause no.2.7 of ITB
- (i) Declaration for Bid Security as per provision of ITB, EMD in original (in case of manual tendering) / copy of EMD (in case of e-Tender), as per Clause 16 of ITB / Bid Security declaration.
- (j) 'Integrity Pact' as per 'Form F-13' ANNEXURE-VII of ITB (if applicable)
- (k) ~~Proforma for details of Indian Agents as per Format F-16 if Agent/Consultant/Retainer/ Associate is involved~~
- (l) All forms and Formats including Annexures.
- (m) ~~Undertaking as per Form 1 to Annexure III to Section III by MSE bidders and Class I/Class II Bidders seeking preference under policy to provide purchase preference as per public procurement (preference to make in India), Order 2017 (PP-MII), if applicable.~~
- (n) ~~Undertaking as per Form 2 to Annexure III to Section III and Certification from the statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of other than companies) as per Form 3 to Annexure III to Section III (Applicable for all bidders including MSEs bidder irrespective of seeking purchase preference or not).~~
- (o) ~~Undertaking as per Form 1 to Section II regarding Provisions for Procurement from a Bidder which shares a land border with India~~
- (p) Bidder needs to submit a declaration on their letterhead confirming the following –  
“We hereby confirm that we have read the entire tender document along with corrigendum issued (if any) and are in full agreement without any exception / deviation to any point mentioned in the tender document.”
- (q) Tender Document, its Corrigendum/Amendment/Clarification(s) duly signed on each page (in case of manual tendering)/ digitally signed (in case of e-Tender) by the Authorized Signatory holding POA.
- (r) Additional document specified in BDS, SCC, Scope of Supply or mentioned elsewhere in the Tender Document, its Corrigendum/Amendment/Clarification(s).
- (s) Any other information/details required as per Bidding Document

As specified at Clause no. 4.0 of Section I, Bidders must submit the original "Bid Security / EMD \*\*", Power of Attorney, Integrity Pact and any other documents specified in the Tender Document to the address mentioned in IFB, in a sealed envelope, superscribing the details of Tender Document (i.e. tender number & tender for) along with the bid.

### 11.1.2 PART-II: Price Bid

~~Part II of the Bid shall contain Price Bid only. The Prices are to be submitted strictly in the Price Schedule/ Schedule of Rate (SOR) format of the Tender Document as per instructions mentioned hereunder and to be digitally signed and uploaded in Financial bid in the e-tender portal. GAIL shall not be responsible for any failure on the part of the bidder to follow the instructions given in the Note below.~~

Note:

- ~~i) Bidders are advised NOT to mention Rebate/Discount separately, either in the SOR format or anywhere else in the offer. In case Bidder(s) intend to offer any Rebate/Discount, they should include the same in the item rate(s) itself under the "Schedule of Rates (SOR)" and indicate the discounted unit rate(s) only.~~
- ~~ii) If any unconditional rebate has been offered in the quoted rate the same shall be considered in arriving at evaluated price. However no cognizance shall be taken for any conditional discount for the purpose of evaluation of the bids.~~
- ~~iv) In case, it is observed that any of the bidder(s) has/have offered suo moto Discount/Rebate after opening of unpriced bid but before opening of price bids such~~



~~discount/rebate(s) shall not be considered for evaluation. However, in the event of the bidder emerging as the lowest evaluated bidder without considering the discount/rebate(s), then such discount/rebate(s) offered by the bidder shall be considered for Award of Work and the same will be conclusive and binding on the bidder.~~

- v) ~~In the event as a result of techno-commercial discussions or pursuant to seeking clarifications / confirmations from bidders, while evaluating the un-priced part of the bid, any of the bidders submits a sealed envelope stating that it contains revised prices; such bidder(s) will be requested to withdraw the revised prices failing which the bid will not be considered for further evaluation.~~

## 11.2 IN CASE OF MANUAL TENDER:

Bids are invited under Manual tendering system, the Bidder shall submit bid sealed in 2 different envelopes, in following manner:

- (i) Sealed Envelopes consisting of all the above documents mentioned at 11.1.1 herein above.  
(ii) ~~Sealed Envelope-II consisting of the Prices to be filled strictly in the Price Schedule/Schedule of Rate (SOR) format of the Tender Document as per provisions mentioned at para 11.1.2 hereinabove.~~

~~Both the envelopes and shall be put on outer envelope with proper address & details (refer cut-out slip)~~

- 11.3 In case of bids invited under Single Bid System (clause no. 2.0(C) of IFB refers), all the documents as specified at Clause 11.1.1 & 11.1.2-of ITB can be submitted in single envelope /folder, as per instructions of Tender Document.

## 12 BID PRICES

~~12.1 Unless stated otherwise in the Bidding Documents, the Contract shall be for the whole works as described in Bidding Documents, based on the rates and prices submitted by the Bidder and accepted by the Employer. The prices quoted by the Bidders will be inclusive of all taxes & duties except Indian GST (CGST & SGST/UTGST or IGST).~~

~~12.2 Prices must be filled in format for "Schedule of Rates [SOR]" enclosed as part of Tender document. If quoted in separate typed sheets and any variation in item description, unit or quantity is noticed; the Bid is liable to be rejected.~~

~~12.3 Bidder shall quote for all the items of "SOR" after careful analysis of cost involved for the performance of the completed item considering all parts of the Bidding Document. In case any activity though specifically not covered in description of item under "SOR" but is required to complete the works as per Specifications, Scope of Work / Service, Standards, General Conditions of Contract ("GCC"), Special Conditions of Contract ("SCC") or any other part of Bidding Document, the prices quoted shall deemed to be inclusive of cost incurred for such activity.~~

~~12.4 All duties, taxes and other levies [if any] payable by the Service Provider under the Contract, or for any other cause except final Indian GST (CGST & SGST/ UTGST or IGST) shall be included in the rates / prices and the total bid price submitted by the Bidder. Bidder shall indicate applicable rate of GST (CGST & SGST/ UTGST or IGST) in SOR.~~

~~12.5 The Bidder shall quote the prices in 'figures' & words. There should not be any discrepancy between the prices indicated in figures and the price indicated in words. In case of any discrepancy, the same shall be dealt as per clause no. 30 of ITB.~~





- ~~12.6 Prices quoted by the Bidder, shall remain firm and fixed and valid until completion of the Contract and will not be subject to variation on any account until any price escalation/variation is allowed elsewhere in the Tender Document.~~
- ~~12.7 Bidder shall also mention the **Service Accounting Codes (SAC) / Harmonized System of Nomenclature (HSN)** at the designated place in SOR.~~

### **13.0 TAXES & DUTIES**

#### **13.1 IN CASE OF INDIAN BIDDER**

- 13.1.1 Bidders are required to mention the GST Registration No. in Bids. ~~while submitting the bids wherever GST (CGST & SGST/UTGST or IGST) is applicable.~~
- 13.1.2 ~~Quoted prices should be inclusive of all taxes and duties, except GST (CGST & SGST or IGST or UTGST). Please note that~~ The responsibility of payment of GST (CGST & SGST or IGST or UTGST) lies with the Supplier of Goods / Services only. Supplier of Goods / Services (Service Provider) providing taxable service shall issue an e-Invoice/Invoice, as the case may be as per rules/ regulation of GST. Further, returns and details required to be filled under GST laws & rules should be timely filed by Supplier of Goods / Services (Service Provider) with requisite details.
- Payments to Service Provider for claiming GST (CGST & SGST/UTGST or IGST) amount will be made provided the above formalities are fulfilled. Further, GAIL may seek copies of challan and certificate from Chartered Accountant for deposit of GST (CGST & SGST/UTGST or IGST) collected from Owner.
- 13.1.3 In case of statutory variation in GST (CGST & SGST/UTGST or IGST), other than due to change in turnover, payable on the contract value during contract period, the Supplier of Goods / Services (Service Provider) shall submit a copy of the 'Government Notification' to evidence the rate as applicable on the Bid due date and on the date of revision.
- Beyond the contract period, in case GAIL is not entitled for input tax credit of GST (CGST & SGST/UTGST or IGST), then any increase in the rate of GST (CGST & SGST/UTGST or IGST) beyond the contractual delivery period shall be to Service Provider's account whereas any decrease in the rate GST (CGST & SGST/UTGST or IGST) shall be passed on to the Owner.
- Beyond the contract period, in case GAIL is entitled for input tax credit of GST (CGST & SGST/UTGST or IGST), then statutory variation in applicable GST (CGST & SGST/UTGST or IGST) on supply and on incidental services, shall be to GAIL's account.
- Claim for payment of GST (CGST & SGST/UTGST or IGST)/ Statutory variation, should be raised within two [02] months from the date of issue of 'Government Notification' for payment of differential (in %) GST (CGST & SGST/UTGST or IGST), otherwise claim in respect of above shall not be entertained for payment of arrears.
- The base date for the purpose of applying statutory variation shall be the Bid Due Date.
- 13.1.4 Where GAIL is entitled to avail the input tax credit of GST (CGST & SGST/UTGST or IGST):-
- Owner/GAIL will reimburse the GST (CGST & SGST/UTGST or IGST) to the Supplier of Goods / Services (Service Provider) at actuals against submission of e-Invoices/Invoices as per format specified in rules/ regulation of GST to enable Owner/GAIL to claim input tax credit of GST (CGST & SGST/UTGST or IGST) paid. In case of any variation in the executed quantities, the amount on which the GST (CGST & SGST/UTGST or IGST) is applicable shall be modified in same proportion. Returns and details required to be filled under GST laws & rules should be timely filed by supplier with requisite details.
- ~~The input tax credit of quoted GST (CGST & SGST/UTGST or IGST) shall be considered for evaluation of bids, as per evaluation criteria of tender document.~~



13.1.5 Where GAIL is not entitled to avail/take the full input tax credit of GST (CGST & SGST/UTGST or IGST):-

Owner/GAIL will reimburse GST (CGST & SGST/UTGST or IGST) to the Supplier of Goods / Services (Service Provider) at actuals against submission of e-Invoices/Invoices as per format specified in rules/ regulation of GST subject to the ceiling amount percentage of GST (CGST & SGST/UTGST or IGST) as ~~quoted~~ shown in agreed terms & conditions in Form F-5 by the bidder, subject to any statutory variations, except variations arising due to change in turnover. In case of any variation in the executed quantities (If directed and/or certified by the Engineer-In-Charge) the ceiling amount on which GST (CGST & SGST/UTGST or IGST) is applicable will be modified on pro-rata basis.

~~The bids will be evaluated based on total price including applicable GST (CGST & SGST/UTGST or IGST).~~

~~13.1.6 GAIL will prefer to deal with registered supplier of goods/ services under GST. Therefore, bidders are requested to get themselves registered under GST, if not registered yet.~~

~~However, in case any unregistered bidder is submitting their bid, Bids will be evaluated as per quoted prices without loading of GST (CGST & SGST/UTGST or IGST), if not quoted. Further, an Any unregistered bidder is required to mention its Income Tax PAN in bid document.~~

13.1.7 In case GAIL is required to pay entire/certain portion of applicable GST (CGST & SGST/UTGST or IGST) and remaining portion, if any, is to be deposited by Bidder directly as per GST (CGST & SGST/UTGST or IGST) laws, entire applicable rate/amount of GST (CGST & SGST/UTGST or IGST) to be indicated by bidder in the ~~SOR~~ agreed terms & conditions form F-5.

Where GAIL has the obligation to discharge GST (CGST & SGST/UTGST or IGST) liability under reverse charge mechanism and GAIL has paid or is /liable to pay GST (CGST & SGST/UTGST or IGST) to the Government on which interest or penalties becomes payable as per GST laws for any reason which is not attributable to GAIL or ITC with respect to such payments is not available to GAIL for any reason which is not attributable to GAIL, then GAIL shall be entitled to deduct/ setoff / recover such amounts against any amounts paid or payable by GAIL to Service Provider / Supplier.

~~13.1.8 **Anti-profiteering clause**~~

~~As per Clause 171 of GST Act it is mandatory to pass on the benefit due to reduction in rate of tax or from input tax credit to the consumer by way of commensurate reduction in prices. The Service Provider / supplier may note the above and quote their prices accordingly.~~

~~13.1.9 In case the GST rating of Service Provider on the GST portal / Govt. official website is negative / black listed, then the bids may be rejected by GAIL. Further, in case rating of bidder is negative / black listed after award of work for supply of goods / services, then GAIL shall not be obligated or liable to pay or reimburse GST to such Service Provider and shall also be entitled to deduct / recover such GST along with all penalties / interest, if any, incurred by GAIL.~~

13.1.10 The Service Provider shall mention the particulars of GAIL (India) Limited (specified in BDS) on the Invoice. Besides, if any other particulars of GAIL are required to be mentioned, under GST rules/ regulations, the same shall also be mentioned on the Invoice.

**13.1.11 Regarding Reconciliation between GSTR 2A and Input Tax Credit**

Service Provider shall ensure timely submission of correct e-invoice(s)/invoice(s), as per GST rules/ regulation, with all required supporting document(s) within a period specified in Contract to enable GAIL to avail input credit of GST (CGST & SGST/UTGST or IGST). Further, returns and details required to be filled under GST laws & rules should be timely filed by Service Provider with requisite details.

If input tax credit is not available to GAIL for any reason not attributable to GAIL, then GAIL shall not be obligated or liable to pay or reimburse GST (CGST & SGST/UTGST or IGST) claimed in the e-invoice(s)/invoice(s) and shall be entitled to deduct / setoff / recover such



GST amount (CGST & SGST/UTGST or IGST) or Input Tax Credit amount together with penalties and interest, if any, against any amounts paid or becomes payable by GAIL in future to the Service Provider under this contract or under any other contract.

In case CBIC (Central Board of Indirect Taxes and Customs)/ any tax authority / any equivalent government agency brings to the notice of GAIL that the Service Provider has not remitted the amount towards GST (CGST & SGST/UTGST or IGST) collected from GAIL to the government exchequer, then, that Service Provider shall be put under Holiday list of GAIL for period of six months after following the due procedure. This action will be in addition to the right of recovery of financial implication arising on GAIL.

~~13.1.12 GST, as mentioned by the bidder, shall be deemed as final and binding for the purpose of bid evaluation (applicable for tenders where bidder quotes the GST rates). In case a bidder enters “zero/blank” GST or an erroneous GST, the bid evaluation for finalizing the L1 bidder will be done considering the “Zero” or quoted GST rate, as the case may be. No request for change in GST will be entertained after submission of bids.~~

~~In cases where the successful bidder quotes a wrong GST rate, for releasing the order, the following methodology will be followed:~~

- ~~➤ In case the actual GST rate applicable is lower than the quoted GST rate, the actual GST rate will be added to the quoted basic prices. The final cash outflow will be based on actual GST rate.~~
- ~~➤ In case the actual GST rate applicable is more than the quoted GST rate, the basic prices quoted will be reduced proportionately, keeping the final cash outflow the same as the overall quoted amount.~~

~~Based on the Total Cash Outflow calculated as above, GAIL shall place orders~~

13.1.13 Wherever TDS under GST Laws has been deducted from the e-invoices/invoices raised / payments made to the Service Providers, as per the provisions of the GST law / Rules, Service Providers should accept the corresponding GST-TDS amount populated in the relevant screen on GST common portal ([www.gst.gov.in](http://www.gst.gov.in)). Further, Service Providers should also download the GST TDS certificate from GST common portal (reference path: Services > User Services > View/Download Certificates option).

**13.1.14 Provision w.r.t. E- Invoicing requirement as per GST laws:**

Service Provider who is required to comply with the requirements of E-invoice for B2B transactions as per the requirement of GST Law will ensure the compliance of requirement of E Invoicing under GST law. If the invoice issued without following this process, such invoice can-not be processed for payment by GAIL as no ITC is allowed on such invoices.

Therefore, all the payments to such service provider who is liable to comply with e-invoice as per GST Laws shall be made against the proper e-invoice(s) only. Further, returns and details required to be filled under GST laws & rules against such e-invoices should be timely filed by Supplier of Services with requisite details.

If input tax credit is not available to GAIL for any reason attributable to service provider (both for E-invoicing cases and non-E-invoicing cases), then GAIL shall not be obligated or liable to pay or reimburse GST (CGST & SGST/UTGST or IGST) claimed in the invoice(s) and shall be entitled to deduct / setoff / recover such GST amount (CGST & SGST/UTGST or IGST) or Input Tax Credit amount together with penalties and interest, if any, by adjusting against any amounts paid or becomes payable in future to the service provider under this contract or under any other contract.

To ensure compliance, undertaking in requisite format is to be submitted by Service Provider as per format F-15 along with documents for release of payment.

13.1.15 **New Taxes & duties:** Any new taxes & duties, if imposed by the State/ Central Govt. of India after the due date of bid submission but before the Contractual Completion Date, shall



be reimbursed to the Service Provider on submission of copy of notification(s) issued from State/ Central Govt. Authorities along with documentary evidence for proof of payment of such taxes & duties, but only after ascertaining it's applicability with respect to the Contract.

13.1.16 Full payment including GST will be released at the time of processing of invoice for payment, where the GST amount reflects in Form GSTR-2A of GAIL. However, in case where the GST amount doesn't reflect in Form GSTR-2A of GAIL, the amount of GST will be released after reflection of GST amount of corresponding invoice in Form GSTR-2A of GAIL.

### ~~13.2 IN CASE OF FOREIGN BIDDER:~~

~~A foreign Service Provider shall be entirely responsible for all taxes, stamp duties, licence fees and other such levies imposed outside the Employer's country.~~

~~For Foreign bidders who is not having the Permanent Establishment / Tax Residency (refer clause no.52 of this Section) in India/ GST Registration, IGST (Intergraded Goods and Services Tax) in respect of Services/ Works shall be payable by GAIL wherever applicable to statutory authorities in India under reverse charge mechanism. Further, in cases where GST is not charged by foreign bidders in the invoices and GAIL makes payment of IGST under Reverse Charge to Exchequer, if the foreign bidder is later on required to discharge tax liability as service provider, then GAIL will not reimburse tax, interest and penalty amount to such foreign Service Provider on this account.~~

~~In case Foreign bidders who is having the permanent establishment/ tax residency in India/ GST Registration, GST (CGST & SGST/UTGST or IGST) shall be quoted and paid by the bidder. In such cases, all other provision w.r.t. to GST (CGST & SGST/UTGST or IGST) shall be as per provision applicable to Indian bidder mentioned herein above.~~

### ~~14 BID CURRENCIES:~~

~~14.1 Indian Bidders may submit bid in Indian Rupees or in any foreign currency and receive payment in such currency.~~

~~14.2 Foreign Bidders may submit bid in RBI's notified basket of foreign currencies—US Dollar or Euro or Pound Sterling or Yen etc., in addition to the Indian Rupees—except for expenditure incurred in India which should be stated in Indian Rupees~~

~~14.3 A Bidder expecting to incur a portion of his expenditure in the performance of Contract in more than one currency (limited to maximum two currencies) (without prejudice to the provisions of Clause 14.2) and wishing to be paid accordingly shall indicate the same in the bid. In such a case, the bid shall be expressed in different currencies with the respective amounts in each currency together making up the total price.~~

~~14.4 Currency once quoted will not be allowed to be changed. Purchaser shall not be compensating for any exchange rate fluctuation.~~

### ~~15 BID VALIDITY~~

~~15.1 Bids shall be kept valid for period specified in BDS from the final Due date of submission of bid'. A Bid valid for a shorter period may be rejected by GAIL as 'non-responsive'.~~

~~15.2 In exceptional circumstances, prior to expiry of the original 'Bid Validity Period', the Employer may request the Bidders to extend the 'Period of Bid Validity' for a specified additional period. The request and the responses thereto shall be made in writing or by fax/email. A Bidder agreeing to the request will not be required or permitted to modify his Bid, but will be required to extend the validity of its EMD for the period of the extension and in accordance with "ITB: Clause-16" in all respects.~~





## 16 EARNEST MONEY DEPOSIT / BID SECURITY

16.1 Bid must be accompanied with earnest money deposit (i.e Earnest Money Deposit (EMD) also known as Bid Security) in the form of ‘Demand Draft’ / ‘Banker’s Cheque’ / ‘online banking transaction’ / ‘Insurance Security Bond’\* / ‘Fixed Deposit Receipt’ [in favour of GAIL (India) Limited payable at place mentioned in BDS], ‘letter of credit’ or ‘Bank Guarantee (including e-Bank Guarantee)’ as per the format given in form F-2 of the Tender Document (preferably) or format available in GeM portal. **Bidder shall ensure that EMD submitted in the form of ‘Bank Guarantee’ should have a validity of at least ‘two [02] months’ beyond the validity of the Bid.** EMD submitted in the form of ‘Demand Draft’ or ‘Banker’s Cheque’ should be valid for three months.

\* Proforma of Insurance Surety Bond is yet to be finalized. If finalized, the same shall be shared with the bidder thereafter they may be able to submit EMD in the form of Insurance Surety Bond.

Bid not accompanied with EMD, or EMD not in requisite format shall be liable for rejection. The EMD shall be submitted in Indian Rupees for Indian bidders and US Dollars/Indian Rupees for foreign bidders.

- 16.2 GAIL shall not be liable to pay any documentation charges, Bank charges, commission, interest etc. on the amount of EMD. In case EMD is in the form of a ‘Bank Guarantee’, the same shall be from any Indian scheduled Bank (excluding Co-operative banks and Regional Rural bank) or a branch of an International Bank situated in India and registered with ‘Reserve Bank of India’ as Scheduled Foreign Bank. However, in case of ‘Bank Guarantee’ from Banks other than the Nationalized Indian Banks, the Bank must be commercial Bank having net worth in excess of Rs. 100 Crores [Rupees One Hundred Crores] or equivalent in US Dollars and a declaration to this effect should be made by such commercial Bank either in the ‘Bank Guarantee’ itself or separately on its letterhead. Purchaser will verify the BG from issuing bank.
- 16.3 Any Bid not secured in accordance with “ITB: Clause-16.1 & Clause-16.2” may be rejected by GAIL as non-responsive.
- 16.4 Unsuccessful Bidder’s EMD will be discharged/ returned as promptly as possible, but not later than ‘thirty [30] days’ after finalization of tendering process.
- 16.5 The successful Bidder’s EMD will be discharged upon the Bidder’s acknowledging the ‘Award’ and signing the ‘Agreement’ and furnishing the ‘Contract Performance Security (CPS)/ Security Deposit’ pursuant to clause no. 38 of ITB.
- 16.6 Notwithstanding anything contained herein, the EMD may also be forfeited in any of the following cases:
- (a) If a Bidder withdraws his Bid during the ‘Bid Validity Period’
  - (b) If a Bidder has indulged in corrupt/fraudulent /collusive/coercive practice
  - (c) If the Bidder modifies Bid during the period of bid validity (after Due Date and Time for Bid Submission).
  - (d) Violates any other condition, mentioned elsewhere in the Tender Document, which may lead to forfeiture of EMD.
  - (e) In the case of a successful Bidder, if the Bidder fails to:
    - (i) acknowledge receipt of the “Notification of Award” / Fax of Acceptance [FOA]”,
    - (ii) furnish “Contract Performance Security / Security Deposit”, in accordance with “ITB: Clause-38”
    - ~~(iii) accept ‘arithmetical corrections’ as per provision of the clause 30 of ITB.~~
- 16.7 In case EMD is in the form of ‘Bank Guarantee’, the same must indicate the Tender Document No. and the name of Tender Document for which the Bidder is quoting. This is essential to have proper correlation at a later date.



- 16.8 ~~MSEs (Micro & Small Enterprises) are exempted from submission of EMD in accordance with the provisions of PPP 2012 and Clause 40 of ITB. However, Traders/Dealers/Distributors/Stockiest/Wholesaler are not entitled for exemption of EMD. The Government Departments/PSUs are also exempted from the payment of EMD. Further, Startups are also exempted from the payment of EMD.~~
- 16.9 The bidder can also submit the EMD through online banking transaction i.e. IMPS/NEFT/RTGS etc. For this purpose, the details of GAIL's Bank Account are mentioned under BDS. While remitting, the bidder must indicate EMD and tender/E-tender no. under remarks. Bidders shall be required to submit/ upload the successful transaction details along-with their bid/e-bid in addition to forwarding the details to dealing officer through email/letter with tender reference number immediately after remittance of EMD. In absence of submitting/ uploading the remittance details, the bid is likely to be considered as bid not accompanied with EMD. Further, in case of the online transaction, submission of EMD in original is not applicable.
- 16.10 In case of forfeiture of EMD/ Bid Security, the forfeited amount will be considered inclusive of tax and tax invoice will be issued by GAIL. The forfeiture amount will be subject to final decision of GAIL based on other terms and conditions of order/ contract.
- 16.11 EMD/Bid Security will not be accepted in case the same has reference of 'remitter'/'financer' other than bidder on the aforementioned financial instrument of EMD/ Bid Security submitted by the bidder and bid of such bidder will be summarily rejected.
- 16.12 **Fixed Deposit Receipt as EMD:**
- (i) The Fixed Deposit Receipt (FDR) submitted by Bidder from a Bank based in India shall be duly pledged / lien in favour of "GAIL (India) Limited"(GAIL).  
The FDR shall be in the name of the GAIL (India) Limited A/c.....(Name of Bidder)and the Bidder cannot encash / pre-mature this FDR without the discharge letter / NOC/approval of GAIL. However, GAIL can encash this FDR without the approval of the Bidder in case of non-compliance of the terms of the tender.  
The original FDR shall be accompanied by a confirmation letter in original on letter head from the issuing bank to GAIL as per the format of "Third Party Deposit Confirmation Letter" placed as F-18.  
Note: FDR (free from any encumbrance payable at place mentioned in BDS) along with original confirmation letter in the manner mentioned above shall be uploaded/submitted as per tender conditions.  
Bank means - Any Indian scheduled Bank (excluding Co-operative banks and Regional Rural bank) or a branch of an International Bank situated in India and registered with 'Reserve Bank of India' as Scheduled Foreign Bank. However, in case of "Fixed Deposit" from Banks other than the Nationalized Indian Banks, the Bank must be commercial Bank having net worth in excess of Rs. 100 Crores [Rupees One Hundred Crores] and a declaration to this effect should be made by such commercial Bank either in the "Fixed Deposit" itself or separately on its letterhead. GAIL will verify the Fixed Deposit Receipt from issuing bank.
- (ii) The FDR should have a validity of at least 'two [02] months' beyond the date on which the bid expires.
- (iii) Any dispute arising out of or in relation to the said FDR shall be subject to the exclusive jurisdiction of courts at New Delhi.
- (iv) FDR in Original and Third Party Deposit Confirmation Letter in Original has to be kept in Custody of GAIL.

#### 16A **DECLARATION FOR BID SECURITY**

CPSEs (to whom exemption is allowed as per extant guidelines in vogue) are required to submit Declaration for Bid Security as per proforma at Form F-2A.



## **17 PRE-BID MEETING (IF APPLICABLE)**

- 17.1 The Bidder(s) or his designated representative are invited to attend a "Pre-Bid Meeting" which will be held at address specified in IFB. It is expected that a bidder shall not depute more than 02 representatives for the meeting.
- 17.2 Purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage ~~and give hands-on demonstration of e-tendering process~~. The Bidder must submit their queries / clarifications to GAIL in the format "F-11", as mentioned at clause no. 8.0 of ITB.
- 17.3 Text of the questions raised and the responses given, together with any responses prepared after the meeting, will be uploaded on GAIL e-tendering website against the Tender as specified in "ITB: Clause-8. Any modification of the Contents of Bidding Documents listed in "ITB: Clause-7.1", that may become necessary as a result of the Pre-Bid Meeting shall be made by the Employer exclusively through the issue of an Addendum / Corrigendum pursuant to "ITB: Clause-9", and not through the minutes of the Pre-Bid Meeting.
- 17.4 Non-attendance of the Pre-Bid Meeting will not be a cause for disqualification of Bidder.

## **18 FORMAT AND SIGNING OF BID**

- 18.1 The original and all copies of the Bid shall be typed or written in indelible ink [in the case of copies, photocopies are also acceptable] and shall be signed by a person or persons duly authorized to sign on behalf of the Bidder (as per POA). The name and position held by person signing, must be typed or printed below the signature. All pages of the Bid except for unamendable printed literature where entry(s) or amendment(s) have been made shall be initialed by the person or persons signing the Bid.
- 18.2 The Bid shall contain no alterations, omissions, or additions, unless such corrections are initialed by the person or persons signing the Bid.
- 18.3 In case of e-tendering, digitally signed documents to be uploaded as detailed in addendum to ITB (Annexure-I to Section III).

## **19 ZERO DEVIATION AND REJECTION CRITERIA**

- 19.1 ZERO DEVIATION: Deviation to terms and conditions of Tender Document may lead to rejection of Bid. GAIL will accept Bid based on terms & conditions of Tender Document only. Bidder may note, GAIL will determine the substantial responsiveness of each bid to the Tender Document pursuant to provision contained in clause 29 of ITB. For purpose of this, a substantially responsive bid is one which conforms to all terms and conditions of the Tender Document without deviation(s) or exception n(s). GAIL's determination of a Bid's responsiveness is based on the content of the Bid itself without recourse to extrinsic evidence.

Bidder is requested not to take any deviation(s)/exception(s) to the terms & conditions of Tender Document, and submit all requisite documents as mentioned in this Tender Document, failing which their Bid will be liable for rejection. If a Bidder does not reply to the queries in the permitted time frame then its Bid shall be evaluated based on the documents available in the Bid.

As a principle, clarifications from bidders after opening of tenders will not be sought. However, where clarifications / documents from the bidders on important aspects are absolutely necessary for finalization of tender, clarifications from bidder can be asked. The request for clarification shall be given in email/portal, asking the bidder to respond by a specified date, and also mentioning therein that, if the bidder does not comply or respond by the date, his tender will be liable to be rejected. Depending on the outcome, such tenders are to be ignored or considered further. No change in prices or substance of the bid including



specifications, shall be offered or permitted. No post-bid clarification at the initiative of the bidder shall be entertained. The shortfall information/ documents should be sought only in case of historical documents which pre-existed bids and which have not undergone change since then.

**19.2 REJECTION CRITERIA:** Notwithstanding the above, deviation to the following clauses of Tender document shall lead to summarily rejection of Bid:

- i. In absence of EMD or EMD of lesser amount than specified for any location, bid shall not be considered for evaluation for that location.
- ii. Any bids received after the notified due date of bid submission will be treated as late bids and shall not be considered
- iii. Unsolicited Bids or Bids received to address other than one specifically stipulated in the tender document will not be considered for evaluation / opening / award if not received to the specified destination within stipulated date & time.
- iv. Any deviation to Specifications & Scope of Work
- v. Any deviation to Contract Period
- vi. Any deviation to Period of Validity of Bid
- vii. Non-submission of Contract Performance Security (CPS)
- viii. Any deviation to Arbitration / Resolution of Dispute/Jurisdiction of Court
- ix. Any deviation to Force Majeure & Applicable Laws
- x. Any deviation to Integrity Pact, if Applicable
- xi. Any other condition specifically mentioned in the tender document elsewhere that non-compliance of the clause lead to rejection of bid

Note: Further, it is once again reminded not to mention any condition in the Bid which is contradictory to the terms and conditions of Tender document.

**20 E-PAYMENT**

GAIL (India) Limited has initiated payments to Service Providers electronically, and to facilitate the payments electronically through '**e-banking**'.

**[D] – SUBMISSION OF BIDS**

**21 SUBMISSION, SEALING AND MARKING OF BIDS**

- 21.1 ~~In case of e-tendering, bids shall be submitted through e-tender mode in the manner specified elsewhere in tender document. No Manual/ Hard Copy (Original) offer shall be acceptable. Physical documents shall be addressed to the owner at address specified in IFB.~~
- 21.2 In case of manual tendering bid must be submitted in sealed envelope. If the envelope is not sealed & marked as per Clause No. 11 of ITB, the employer will assume no responsibility for misplacement or pre-mature opening of the bid.
- 21.3 All the bids shall be addressed to the owner at address specified in IFB.
- 21.4 Bids submitted under the name of AGENT/ REPRESENTATIVE /RETAINER/ ASSOCIATE etc. on behalf of a bidder/affiliate shall not be accepted.
- 21.5 **AGENTS/PRESENTATIVES/RETAINERS/ASSOCIATES: NOT APPLICABLE.**





## **22 DEADLINE FOR SUBMISSION OF BIDS**

- 22.1 ~~In case of e bidding, the bids must be submitted through e tender mode not later than the date and time specified in the tender documents/BDS.~~
- 22.2 In case of manual tendering EMD along with bid must be submitted within the due date & time as specified in Clause no. 2.0 (I) of IFB and place mentioned in BDS.
- 22.3 GAIL may, in exceptional circumstances and at its discretion, extend the deadline for submission of Bids (clause 8.0 and/or 9 of ITB refers). In that case all rights and obligations of GAIL and the Bidders, previously subject to the original deadline will thereafter be subject to the deadline as extended. Notice for extension of due date of submission of bid will be ~~uploaded on e tender portal/~~ communicated to the bidders.

## **23 LATE BIDS**

- 23.1 Any bids received after the notified date and time of closing of tenders will be treated as late bids.
- 23.2 ~~In case of e tendering, e tendering system of GePNIC shall close immediately after the due date for submission of bid and no bids can be submitted thereafter.~~  
In case of manual tendering, bids received by GAIL after the due date for submission of bids shall not be considered. Such late bids shall be returned to the bidder within “10 days” in ‘unopened conditions’. ~~In case of e tendering, where the EMD/physical documents has been received but the bid is not submitted by the bidder in the e tendering portal, such EMD/physical documents shall be returned immediately.~~
- 23.3 EMD /physical documents received to address other than one specifically stipulated in the Tender Document will not be considered for evaluation/opening/award if not received to the specified destination within stipulated date & time.
- 23.4 Unsolicited Bids or Bids received to address other than one specifically stipulated in the tender document will not be considered for evaluation/opening/award if not received to the specified destination within stipulated date & time.

## **24 MODIFICATION AND WITHDRAWAL OF BIDS**

- 24.1 Modification and withdrawal of bids shall be as follows:-
- 24.1.1 ~~**IN CASE OF E TENDERING**~~  
~~The bidder may withdraw or modify its bid after bid submission but before the due date and time for submission as per tender document.~~
- 24.1.2 **IN CASE OF MANUAL BIDDING**  
The Bidder may withdraw or modify its Bid after bid submission but before the Due Date & Time for Bid submission provided that the written modification/ substitution/ notice of the withdrawal is received by GAIL prior to the Due Date & Time for Bid submission.
- 24.2 The modification shall also be prepared, sealed, marked and dispatched in accordance with the provisions of the clause 11, 21 & 22 of ITB with relevant ‘Cut-Out Slip’ duly pasted and mentioning on top of the envelope as “MODIFICATION”. In case of withdrawal of bid, the Envelope containing withdrawal letter duly superscribing the envelope as “WITHDRAWAL” and “Tender Document number :...”/ communication regarding withdrawal of bid with “Tender Document number :...”/ must reach concerned dealing official of GAIL within Due date & Time of submission of Bid. No bid shall be modified/ withdrawn after the Due Date & Time for Bid submission.
- 24.3 Any withdrawal/ modification/substitution of Bid in the interval between the Due Date & Time for Bid submission and the expiration of the period of bid validity specified by the



Bidder in their Bid shall result in the Bidder's forfeiture of EMD pursuant to clause 16 of ITB / invocation of action as per Bid Security declaration and rejection of Bid.

- 24.4 The latest Bid submitted by the Bidder before Bid Due Date & Time shall be considered for evaluation and all other Bid(s) shall be considered to be unconditionally withdrawn.

## **[E] – BID OPENING AND EVALUATION**

### **25 EMPLOYER'S RIGHT TO ACCEPT ANY BID AND TO REJECT ANY OR ALL BIDS**

25.1 GAIL reserves the right to accept or reject any Bid, and to annul the Bidding process and reject all Bids, at any time prior to award of Contract, without thereby incurring any liability to the affected Bidder(s) or any obligations to inform the affected Bidder(s) of the ground for GAIL's action. However, Bidder if so desire may seek the reason (in writing) for rejection of their Bid to which GAIL shall respond quickly.

~~25.2 A bidder is to be permitted to send his representation in writing to dealing officer specified in tender for rejection of bid. But, such representation has to be sent till 10 (ten) days from the date of Notification of Award/FOA. A decision on representation will be taken by GAIL within 15 (fifteen) days of the receipt of the representation. Only a directly affected bidder can represent in this regard:~~

- ~~i) Only a bidder who has participated in tender can make such representation~~
- ~~ii) In case technical bid has been evaluated before the opening of the financial bid, an application for review in relation to the financial bid may be filed only by a bidder whose technical bid is found to be acceptable~~

~~25.3 However, following decisions of GAIL shall not be subject to review:~~

- ~~a) Determination of the need for procurement;~~
- ~~b) Selection of the mode of procurement or bidding system;~~
- ~~c) Choice of selection procedure;~~
- ~~d) Provisions limiting participation of bidders in the procurement process;~~
- ~~e) The decision to enter into negotiations with the L1 bidder;~~
- ~~f) Cancellation of the procurement process except where it is intended to subsequently re-tender the same requirements;~~
- ~~g) Issues related to ambiguity in contract terms may not be taken up after a contract has been signed, all such issues should be highlighted before consummation of the contract by the vendor/ contractor; and~~
- ~~h) Complaints against specifications except under the premise that they are either vague or too specific so as to limit competition may be permissible.~~

### **26 BID OPENING**

#### ***26.1 Bid Opening:***

GAIL will open bids, in the presence of bidders' designated representatives who choose to attend, at date, time and location stipulated in the BDS. The bidders' representatives, who are present shall sign a bid opening register evidencing their attendance.

#### ***26.2 Priced Bid Opening:***

~~26.2.1 GAIL will open the price bids of those Bidders who meet the qualification requirement and whose bid is determined to be technically and commercially responsive. Techno-commercial bid evaluation status will be informed to all bidders (including techno-commercially not qualified Bidders). Price bids are to be opened in the presence of only techno-commercially acceptable bidders, who are willing to attend the bid opening, at a pre-publicised date, time and place or on the portal in case of e-procurement. The bidder's name, bid price, discount (if any) and any such details considered appropriate shall be read out during the price bid opening. The Bidders' representatives, who are present shall sign a Price Bid Opening~~



~~Register evidencing their attendance and may be required to be present even on a short notice.~~

~~26.2.2 The price bids of those Bidders who were not found to be techno-commercially responsive shall not be opened in both manual tendering and e-tendering.~~

~~26.3 In case of bids invited under the single bid system, bid shall be opened on the specified due date & time.~~

## **27 CONFIDENTIALITY**

Information relating to the examination, clarification, evaluation and comparison of bids, and recommendations for the award of a contract, shall not be disclosed to bidders or any other person not officially concerned with such a process until the award to the successful bidder.

## **28 CONTACTING THE EMPLOYER**

28.1 From the time of bid opening to the time of contract award, no bidder shall contact GAIL on any matter related to the bid, except on request and prior written permission.

28.2 Any effort by the bidder to influence GAIL in bid evaluation, bid comparison or contract award decisions will vitiate the process and will result in the rejection of the bidder's bid and action shall be initiated as per the GAIL's procedure for action in case Corrupt / Fraudulent / Collusive / Coercive practices in this regard apart from forfeiture of EMD/ Bid Security, if any.

## **29 EXAMINATION OF BIDS AND DETERMINATION OF RESPONSIVENESS**

29.1 The Employer's determination of a bid's responsiveness is based on the content of the bid only. Prior to the detailed evaluation of Bids, the Employer will determine whether each Bid:-

- (a) Meets the "Bid Evaluation Criteria" of the Bidding Documents;
- (b) Has been properly signed;
- (c) Is accompanied by the required 'Earnest Money / Bid Security'; / Bid Security Declaration.
- (d) Is substantially responsive to the requirements of the Bidding Documents; and
- (e) Provides any clarification and/or substantiation that the Employer may require to determine responsiveness pursuant to "ITB: Clause-29.2"

29.2 A substantially responsive Bid is one which conforms to all the terms, conditions and specifications of the Bidding Documents without material deviations or reservations or omissions for this purpose employer defines the foregoing terms below:-

- a) "Deviation" is departure from the requirement specified in the tender documents.
- b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirement in the tender documents.
- c) "Omission" is the failure to submit part or all of the information or documentation required in the tender document for evaluation of bid.

29.3 A material deviation, reservation or omission is one that,

- a) If accepted would,
  - i) Affect in any substantial way the scope, quality, or performance of the job as specified in tender documents.
  - ii) Limit, in any substantial way, inconsistent with the Tender Document, the Employer's rights or the tenderer's obligations under the proposed Contract.
- b) If rectified, would unfairly affect the competitive position of other bidders presenting substantially responsive bids.

29.4 The employer shall examine all aspects of the bid to confirm that all requirements have been met without any material deviation, reservation or omission.



29.5 Tenders that do not meet the basic requirements specified in the bid documents are to be treated as unresponsive {both during Techno-commercial evaluation and Financial Evaluation in case of Two Bid System ) and will be ignored. All tenders received will first be scrutinized to see whether the tenders meet the basic requirements as incorporated in the Bid document and to identify unresponsive tenders, if any. Unresponsive offers may not subsequently be made responsive by correction or withdrawal of the non- conforming stipulation. Some important points on the basis of which a tender may be declared as unresponsive and be ignored during the initial scrutiny are :

- i) The tender is not in the prescribed format or is unsigned or not signed as per the stipulations in the bid document;
- ii) The required EMD has not been provided or exemption from EMD is claimed without acceptable proof of exemption;
- iii) The bidder is not eligible to participate in the bid as per laid down eligibility criteria
- iv) The bid departs from the essential requirements specified in the bidding document (for example, the tenderer has not agreed to give the required contract performance security); or
- v) Against a schedule in the list of requirements in the tender enquiry, the tenderer has not quoted for the entire requirement as specified in that schedule (example: in a schedule, it has been stipulated that the tenderer will supply the equipment, install and commission it and also train the GAIL's personnel for operating the equipment. The tenderer has, however, quoted only for supply of the equipment).

### **30 CORRECTION OF ERRORS**

~~30.1 Bids determined to be substantially responsive will be checked by the Employer for any arithmetic errors. Errors in Price Schedule/Schedule of Rates (SOR) will be corrected by the Employer as follows:~~

- ~~(i) When there is a difference between the rates in figures and words, the rate which corresponds to the amount worked out by the Bidder (i.e. by multiplying the quantity and rate) shall be taken as correct.~~
- ~~(ii) When the rate quoted by the Bidder in figures and words tallies but the amount is incorrect, the rate quoted by the bidder shall be taken as correct and not the amount. The amount shall be re-calculated/ corrected accordingly.~~
- ~~(iii) In case a Price Schedule/ Schedule of Rate is having provisions of sub-total and grand total and there is a difference between "sum of sub totals" and "grand total", "sum of sub totals" shall be taken as correct.~~
- ~~(iv) When it is not possible to ascertain the correct rate, in the manner prescribed above, the rate as quoted in words shall be adopted and the amount worked out, for comparison purposes.~~
- ~~(v) In case any bidder does not quote for any item(s) of "Schedule of Rates" and the estimated price impact is more than 10% of the quoted price, then the bid will be rejected. If such price impact of unquoted items is 10% or less of his quoted price, then the unquoted item(s) shall be loaded highest of the price quoted by the other bidders. If such bidder happens to be lowest evaluated bidder, price of unquoted items shall be considered as included in the quoted bid price.~~

~~30.2 The discrepancy in bid shall be conveyed to the bidder asking to respond by a target date and if the bidder does not agree with observation, its Bid is liable to be rejected, and the EMD shall be forfeited / actions shall be invoked as per Declaration for Bid Security.~~

~~30.3 The above provision of Correction of Error shall not be applicable for E-tendering.~~



### 31 CONVERSION TO SINGLE CURRENCY FOR COMPARISON OF BIDS

To facilitate evaluation and comparison, the Employer / Consultant will convert all bid prices expressed in the amounts in various currencies in which the bid price is payable to single currency and that will be Indian Rupees only, as per following methodology. The following methodology shall be adopted for evaluation of bids in foreign currencies considering the forward rate:

- (i) — The forward rates applicable as on the expected date of delivery/ Completion shall be considered. To arrive at the forward exchange rate applicable on reference date, the following method shall be applied:
  - (a) — Wherever only one time delivery is to be made against order or one time payment is to be made after completion period of contract:  
The reference date shall be the date of price bid opening plus delivery/ completion period specified in tender
  - (b) — Wherever staggered delivery is to be made against order or multiple/Running Account (RA) bill payment is to be made during completion period of contract:  
The reference date shall be the date of price bid opening plus arithmetic mean of staggered delivery/completion period specified in tender.
- (ii) — The applicable closing forward rates of M/s Bloomberg (or other software as decided by company from time to time) for different currencies for the above reference date obtained one day prior to price bid opening shall be considered for evaluation of bids.
- (iii) — Where the time lag between the opening of the price bids and conducting Reverse Auction (if there is provision in Tender Document) exceeds three months, the applicable closing forward rates for different currencies for the above reference date obtained two days prior to the date of first Reverse Auction of that tender shall be considered for evaluation of bids.

### 32 EVALUATION AND COMPARISON OF BIDS

Bid shall be evaluated as per Evaluation Methodology mentioned in Section-II of Tender Document

Refer BDS for tie breaker criteria.

### 33 COMPENSATION FOR EXTENDED STAY - NOT APPLICABLE

### 34 PURCHASE PREFERENCE

~~Purchase preference to Micro & Small Enterprises (MSEs), Domestically Manufactured Electronic Products / Telecom Products or Policy to Provide Purchase Preference as per Public Procurement (Preference to Make in India), Order 2017 etc. shall be allowed as per Government instructions in vogue, as applicable from time to time.~~

*Bidders are required to select the applicable purchase preference (i.e. preference category) option while submitting the bid on GePNIC portal. However, evaluation and applicability of purchase preference policy will be based on the confirmations & documents submitted by the bidder in their bid irrespective of selection made on GePNIC portal.*





## **[F] – AWARD OF CONTRACT**

### **35 AWARD**

Subject to "ITB: Clause-29", GAIL will award the Contract to the successful Bidder whose Bid has been determined to be substantially responsive and has been determined as the lowest as per the evaluation methodology mentioned in Section-II, provided that bidder, is determined to be qualified to satisfactorily perform the Contract.

In case Indian bidder emerged as successful bidder, GAIL intent to place the contract directly on the address from where Services are to be rendered. In case, bidder wants contract at some other address or Services are to be rendered from multiple locations, bidder is required to provide in their bid, the address on which contract is to be placed.

GAIL will place the Contract directly on the successful bidder from whom the bid has been received & evaluated and will not place order on other entities such as subsidiary, business associate or partner, dealer/distributor etc. of the Bidder.

### **36 NOTIFICATION OF AWARD / FAX OF ACCEPTANCE**

36.1 Prior to the expiry of 'Period of Bid Validity', Notification of Award for acceptance of the Bid will be intimated to the successful Bidder by GAIL either by Fax / E - mail /Letter or like means defined as the "Fax of Acceptance (FOA)". The Contract shall enter into force on the date of FOA and the same shall be binding on GAIL and successful Bidder (i.e. Service Provider). The Notification of Award/FOA will constitute the formation of a Contract. The detailed Letter of Acceptance shall be issued thereafter incorporating terms & conditions of Tender Document, Corrigendum, Clarification(s), Bid and agreed variation(s)/acceptable deviation(s), if any. GAIL may choose to issue Notification of Award in form of detailed Letter of Acceptance without issuing FOA and in such case the Contract shall enter into force on the date of detailed Letter of Acceptance only.

36.2 Contract period shall commence from the date of "Notification of Award" or as mentioned in the Notification of Award. The "Notification of Award" will constitute the formation of a Contract, until the Contract has been effected pursuant to signing of Contract Agreement as per "ITB: Clause-37".

36.3 Upon the successful Bidder's / Service Provider's furnishing of 'Contract Performance Security / Security Deposit', pursuant to "ITB: Clause-38", GAIL will promptly discharge his 'Earnest Money Deposit / Bid Security', pursuant to "ITB: Clause-16"

36.4 ~~Contract value mentioned in the FOA/LOA is subject to Price Reduction Schedule clause.~~

36.5 GAIL will award the Contract to the successful Bidder, who, within 'fifteen [15] days' of receipt of the same, shall sign and return the acknowledged copy to GAIL.

### **37 SIGNING OF AGREEMENT**

37.1 The successful Bidder/Service Provider shall be required to execute an 'Agreement' in the proforma given in this Bidding Document on a 'non-judicial stamp paper' of appropriate value [cost of the 'stamp-paper' shall be borne by the successful Bidder/Service Provider] and of 'State of India' specified in Bidding Data Sheet (BDS) only, within 'fifteen [15] days' of receipt of the "Fax of Acceptance [FOA]" of the Tender by the successful Bidder/Service Provider failure on the part of the successful Bidder/Service Provider to sign the 'Agreement' within the above stipulated period, shall constitute sufficient grounds for forfeiture of EMD/Action as per Bid Security declaration. However, signing of Agreement shall not be applicable in cases wherein the individual contract value as specified in Notification of Award is less than INR 10 Lakh (exclusive of GST).



37.3 Domestic bidders can request Bilingual (Hindi & English) Contract Agreement. The format at Annexure VI to Section-III for signing Contract Agreement in English is attached with this Bidding Document.

### **38 CONTRACT PERFORMANCE SECURITY / SECURITY DEPOSIT [CPS/SD]**

38.1 Within 30 days of the receipt of the notification of award/ Fax of Acceptance from GAIL, the successful bidder shall furnish the Contract Performance Security (CPS) ~~in accordance with of General Conditions of the Contract.~~ The CPS shall be in the form of either Banker's Cheque or Demand Draft or Insurance Surety Bond\* or Fixed Deposit Receipt or Bank Guarantee or Letter of Credit and shall be in the currency of the Contract. However, CPS shall not be applicable in cases wherein the individual contract value as specified in Notification of Award is less than INR 5 Lakh (exclusive of GST) or equivalent US\$.

In case, GAIL allows additional time for submission of CPBG/SD beyond 30 days, a penal interest of Marginal Cost of Fund based Lending Rate (MCLR) for one year charged by SBI (applicable on due date of submission of CPBG/SD i.e. 30th day after issuance of FOA/Notification of award) plus 4.0% p.a (on CPBG/SD amount) shall be charged for delay beyond 30 days i.e. from 31st days after issuance of FOA.

\* Proforma of Insurance Surety Bond is yet to be finalized. If finalized, the same shall be shared with the bidder thereafter they may able to submit EMD in the form of Insurance Surety Bond.

38.2 The contract performance security shall be for an amount equal to specified in Bidding Data Sheet (BDS) towards faithful performance of the contractual obligations and performance of equipment. For the purpose of CPS, Contract/order value shall be exclusive of GST (CGST & SGST/UTGST or IGST).

38.3 Bank Guarantee towards CPS shall be from any Indian scheduled bank (excluding Co-operative banks and Regional Rural bank) or a branch of an International bank situated in India and registered with Reserve bank of India as scheduled foreign bank. However, in case of bank guarantees from banks other than the Nationalized Indian banks, the bank must be a commercial bank having net worth in excess of Rs 100 crores or equivalent in US dollars and a declaration to this effect should be made by such commercial bank either in the Bank Guarantee itself or separately on its letterhead.

38.4 Failure of the successful bidder to comply with the requirements of this article shall constitute sufficient grounds for consideration of the annulment of the award and forfeiture of the EMD / action as per declaration for Bid Security.

38.5 The CPS has to cover the entire contract value including extra works/services also. As long as the CPS submitted at the time of award take cares the extra works/ services executed and total executed value are within the awarded contract price, there is no need for additional CPS. As soon as the total executed value is likely to burst the ceiling of awarded contract price, the Service Provider should furnish additional CPS.

38.6 Further, Ministry of Finance (MOF) Department of financial service has issued direction for submission of Bank Guarantee through online vide letter ref number F.No.7/112/2011-BOA dated 17<sup>th</sup> July 2012. The successful bidder can submit CPS online through issuing bank to GAIL directly as per the above direction including its revisions, if any. In such cases confirmation will not be sought from issuing banker by GAIL.

38.7 The successful bidder can also submit the Security Deposit/CPS through online banking transaction i.e. IMPS/NEFT/RTGS/SWIFT etc. For this purpose, the details of GAIL's Bank Account is mentioned in BDS. ~~Further, in case a successful Bidder is willing to furnish CPS through SWIFT, the details may be obtained from Purchase Officer immediately after receipt of FOA.~~ e-Bank Guarantee may be submitted through NESL portal.



While remitting such online transaction, the bidder must indicate “Security Deposit/ Contract Performance Security against FOA/DLOA no. \_\_\_\_\_ (service provider to specify the FOA/DLOA No.)” under remarks column of such transaction of respective bank portal. The service provider shall be required to submit the successful transaction details to the dealing officer immediately through email/letter and necessarily within 30 days from the date of Fax of Acceptance.

- 38.8 In case of forfeiture of Contract Performance Security/ Security Deposit ~~in terms of GCC~~, the forfeited amount will be considered inclusive of tax and tax invoice will be issued by GAIL. The forfeiture amount will be subject to final decision of GAIL based on other terms and conditions of order/ contract.
- 38.8 The Service Provider will also submit covering letter along with CPS as per format at F-4.
- 38.9 The first payment to vendor is to be released only after submission of CPS / Security Deposit (SD).
- 38.10 CPS will not be accepted in case the same has reference of ‘remitter’/‘financer’ other than bidder on the aforementioned financial instrument of CPS submitted by the Service Provider.
- 38.11 Before the CPS / Security Deposit (SD) is released a "No Claim Certificate" is to be submitted by the supplier/vendor.

38.12 **Fixed Deposit Receipt as CPS:**

- (i) The Fixed Deposit Receipt (FDR) submitted by Vendor/Contractor from a Bank based in India shall be duly pledged / lien in favour of “GAIL (India) Limited”(GAIL).

The FDR shall be in the name of the GAIL (India) Limited A/c .....(Name of Vendor/Contractor) and the Vendor/Contractor cannot encash / pre-mature this FDR without the discharge letter / NOC/approval of GAIL. However, GAIL can encash this FDR without the approval of the Vendor/Contractor in case of non-compliance of the terms of the order/contract.

The original FDR shall be accompanied by a confirmation letter in original on letter head from the issuing bank to GAIL as per the format of “Third Party Deposit Confirmation Letter” placed as F-18.

Note : FDR (free from any encumbrance payable at place mentioned in BDS) along with original confirmation letter in the manner mentioned above shall be submitted by the Vendor/Contractor within 30 days of the receipt of the notification of award/ FOA from GAIL.

Here Bank means - Any Indian scheduled Bank (excluding Co-operative banks and Regional Rural bank) or a branch of an International Bank situated in India and registered with ‘Reserve Bank of India’ as Scheduled Foreign Bank. However, in case of “Fixed Deposit” from Banks other than the Nationalized Indian Banks, the Bank must be commercial Bank having net worth in excess of Rs. 100 Crores [Rupees One Hundred Crores] and a declaration to this effect should be made by such commercial Bank either in the “Fixed Deposit” itself or separately on its letterhead. GAIL will verify the Fixed Deposit Receipt from issuing bank.

- (ii) The FDR submitted should have a validity of at least ‘three [03] months’ beyond the Warranty Period/Defect Liability Period.
- (iii) Any dispute arising out of or in relation to the said FDR shall be subject to the exclusive jurisdiction of courts at New Delhi.
- (iv) FDR in Original and Third Party Deposit Confirmation Letter in Original has to be kept in Custody of GAIL.

39 **PROCEDURE FOR ACTION IN CASE CORRUPT/ FRAUDULENT/COLLUSIVE/ COERCIVE PRACTICES**

- 39.1 Procedure for action in case Corrupt/ Fraudulent/Collusive/Coercive Practices is enclosed at Annexure-IV ~~which shall supersede the Annexure attached with the GCC.~~





39.2 The Fraud Prevention Policy document is available on GAIL's website ([www.gailonline.com](http://www.gailonline.com))

39.3 Name and contact details of nodal officer [Refer BDS]:

**39.4 NON-APPLICABILITY OF ARBITRATION CLAUSE IN CASE OF BANNING OF VENDORS/ SUPPLIERS / CONTRACTORS/BIDDERS/ CONSULTANTS INDULGED IN FRAUDULENT/ COERCIVE PRACTICES**

Notwithstanding anything contained contrary in SCC and other "CONTRACT DOCUMENTS", in case it is found that the Service Providers s/Bidders indulged in fraudulent/ coercive practices at the time of bidding, during execution of the contract etc., and/or on other grounds as mentioned in GAIL's "Procedure for action in case Corrupt/Fraudulent/Collusive/Coercive Practices" , the Service Provider/bidder shall be banned (in terms of aforesaid procedure) from the date of issuance of such order by GAIL (India) Ltd., to such Service Providers/Bidders.

The Service Provider/ Bidder understands and agrees that in such cases where Service Provider/ Bidder has been banned (in terms of aforesaid procedure) from the date of issuance of such order by GAIL (India) Limited, such decision of GAIL (India) Limited shall be final and binding on such Service Provider/ Bidder and the 'Arbitration clause' in the GCC and other "CONTRACT DOCUMENTS" shall not be applicable for any consequential issue /dispute arising in the matter.

**40 ~~PUBLIC PROCUREMENT POLICY FOR MICRO AND SMALL ENTERPRISES (MSEs) (applicable for Indian bidder)~~**

~~40.1 Following provision has been incorporated in tender for MSEs, in line with notification of Government of India, vide Gazette of India No. 503 dated 26.03.2012 proclaiming the Public Procurement Policy on procurement of goods and services from Micro and Small Enterprises (MSEs)~~

- ~~i) Issue of tender document to MSEs free of cost.~~
- ~~ii) Exemption to MSEs from payment of EMD/Bid Security.~~
- ~~iii) In Tender, participating Micro and Small Enterprises quoting price within price band of L1 + 15% shall also be allowed to supply a portion of requirement by bringing down their prices to L1 price in a situation where L1 price is from someone other than a micro and small enterprises and such micro and small enterprises shall be allowed to supply upto 25% of the total tendered value. In case of more than one such Micro and Small Enterprises, the supply shall be shared proportionately (to tendered quantity). Further, out of above 25%, 4% shall be reserved for MSEs owned by SC/ST entrepreneurs. Further, 3% shall be reserved for MSEs owned by women within above 25% reservation. The respective quota(s) shall be transferred to other MSEs in case of non-availability of MSEs owned by SC/ST entrepreneurs / MSEs owned by Women.~~

~~The quoted prices against various items shall remain valid in case of splitting of quantities of the items above.~~

~~In case tendered item is non-splitable or non-dividable (specified in Bid Data Sheet) , MSE quoting lowest price within price band L1 (other than MSE) + 15% , may be awarded for full/ complete supply of total tendered value subject to matching of L1 price.~~

~~40.2 The MSEs owned by SC/ST entrepreneurs shall mean:-~~

- ~~a) In case of proprietary MSE, Proprietor(s) shall be SC/ST.~~
- ~~b) In case of partnership MSE, the SC/ST partners shall be holding atleast 51% share in the unit~~



~~e) In case of private Limited Companies, at least 51% share is held by SC/ST. If the MSE is owned by SC/ST entrepreneurs, the bidder shall furnish appropriate documentary evidence in this regard.~~

~~The MSE(s) owned by Women shall mean:-~~

~~a) In case of proprietary MSE, Proprietor(s) shall be Women.~~

~~b) In case of partnership MSE, the Women partners shall be holding atleast 51% share in the unit~~

~~e) In case of private Limited Companies, at least 51% share is held by Women. If the MSE is owned by Women Entrepreneurs, the bidder shall furnish appropriate documentary evidence in this regard.~~

~~40.3 In case Bidder is a Micro or Small Enterprise, the Bidder shall submit Udyam Registration Certificate for availing benefit under Public Procurement Policy for MSEs 2012.~~

~~Vide Gazette notification dated 18.10.2022 of Ministry of MSME, the following is notified:~~

~~*“In case of an upward change in terms of investment in plant and machinery or equipment or turnover or both, and consequent re-classification, an enterprise shall continue to avail of all nontax benefits of the category (micro or small or medium) it was in before the re-classification, for a period of three years from the date of such upward change”*~~

**~~Accordingly, in case of upward change in status, MSE bidder is required to submit the previous certificate also to get the MSE benefits.~~**

~~The above documents submitted by the bidder shall be duly certified by the Chartered Accountant (not being an employee or a Director or not having any interest in the bidder's company/firm) and notary public with legible stamp.~~

~~If the bidder does not provide the above confirmation or appropriate document or any evidence, then it will be presumed that they do not qualify for any preference admissible in the Public Procurement Policy (PPP) 2012.~~

~~Further, MSEs who are availing the benefits of the Public Procurement Policy (PPP) 2012 get themselves registered with MSME Data Bank being operated by NSIC, under SME Division, M/o MSME, in order to create proper data base of MSEs which are making supplies to CPSUs.~~

~~40.4 If against an order placed by GAIL, successful bidder(s) (other than Micro/Small Enterprise) is procuring material/services from their sub vendor who is a Micro or Small Enterprise as per provision mentioned at clause no.40.3 above with prior consent in writing of the purchasing authority/Engineer in charge, the details like Name, Registration No., Address, Contact No. details of material & value of procurement made, etc. of such Enterprises shall be furnished by the successful bidder at the time of submission of invoice/Bill. —~~

~~40.5 The benefits of policy are not extended to the traders/dealers/ Distributors/Stockiest/Wholesalers.~~

~~40.6 NSIC has initiated a scheme of “Consortia and Tender Marketing Scheme” under which they are assisting the Micro & Small enterprises to market their products and services through tender participation on behalf of the individual unit or through consortia.~~

~~Accordingly, if the MSEs or the consortia, on whose behalf the bid is submitted by NSIC, is meeting the BEC and other terms and conditions of tender their bid will be considered for further evaluation.~~

~~Further, in such cases a declaration is to be submitted by MSE/ consortia on their letter head (s) that all the terms and conditions of tender document shall be acceptable to them.~~

~~40.7 It may be noted that Government of India has implemented Trade Receivable Discounting System (TReDS) to address challenges faced by MSMEs in delayed payments (after~~



~~receipt/acceptance of Material/Services) from Government buyers leading to shortfall of Working Capital. TReDS is an online electronic institutional mechanism for facilitating the financing of trade receivables of MSMEs through multiple financiers. GAIL is already registered on the following TReDS platform:~~

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

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

~~40.8 Interest payment on delayed payments to MSME is payable in line with Micro, Small and Medium Enterprises Development Act, 2006~~

#### ~~41 **AHR ITEMS [REFER BDS FOR APPLICABILITY]**~~

~~In item rate contract where the quoted rates for the items exceed 50% of the estimate rates, such items will be considered as Abnormally High Rates (AHR) items and payment of AHR items beyond the SOR stipulated quantities shall be made at the lowest amongst the following rates:~~

- ~~I) Rates as per SOR, quoted by the Service Provider/Bidder.~~
- ~~II) Rate of the item, which shall be derived as follows:
  - ~~a. Based on rates of Machine and labour as available from the contract (which includes Service Provider's supervision, profit, overheads and other expenses).~~
  - ~~b. In case rates are not available in the contract, rates will be calculated based on prevailing market rates of machine, material and labour plus 15% to cover Service Provider's supervision profit, overhead & other expenses.~~~~

#### ~~42 **VENDOR PERFORMANCE EVALUATION**~~

~~The procedure for evaluation of performance of Supplier containing provisions for putting a Bidder / Supplier on suspension and/or holiday list (as the case may be) is enclosed as Annexure-V to ITB herewith which shall supersede the Annexure attached with the SCC.~~

#### ~~43 **INCOME TAX & CORPORATE TAX**~~

~~43.1 Income tax deduction shall be made from all payments made to the Service Provider as per the rules and regulations in force and in accordance with the Income Tax Act prevailing from time to time.~~

~~43.2 Corporate Tax liability, if any, shall be to the Service Provider's account.~~

#### ~~43.3 **TDS**~~

~~(i) TDS, wherever applicable, shall be deducted as per applicable act/law/rule.~~

#### ~~(ii) **Higher rate of TDS for non-filers of ITR**~~

~~As per Section 206AB of Income Tax Act, 1961, in case of any vendor/customer who does not file their Income Tax Return for both of the two previous years preceding to current year and aggregate amount of TDS is more than or equal to 50,000/- in each of those previous two years (or limit defined by Govt. from time to time), then TDS will be deducted at the higher of following rates:~~

- ~~(I) Twice the rate mentioned in relevant TDS section.~~
- ~~(II) Twice the rate or rates in force~~
- ~~(III) 5%~~

~~43.4 Withholding Tax (WHT) for foreign bidders shall be as per clause no.52 of ITB~~

~~43.4 **MENTIONING OF PAN NO. IN INVOICE/BILL**~~



As per CBDT Notification No. 95/2015 dated 30.12.2015, mentioning of PAN no. is mandatory for procurement of goods / services/works/consultancy services exceeding Rs. 2 Lacs per transaction or as amended from time to time.

Accordingly, service provider should mention their PAN no. in their invoice/ bill for any transaction exceeding Rs. 2 lakhs or as amended from time to time. As provided in the notification, in case service provider do not have PAN no., they have to submit declaration in Form 60 along with invoice/ bill for each transaction.

Payment of service provider shall be processed only after fulfilment of above requirement

#### **44. DISPUTE RESOLUTION MECHANISM**

##### **44.1 QUARTERLY CLOSURE OF THE CONTRACT AND SAMADHAN MECHANISM**

~~During execution of orders, various issues may arise. In order to timely detect and to address the contractual issue(s) during the execution of contracts, GAIL has introduced a mechanism of Quarterly Closure of the contract, under which all the related issues /disputes will be monitored and addressed on quarterly basis for resolution. Vendor (hereinafter referred 'Vendor') should first refer any issues/disputes to Engineer in Charge (EIC) for LOA/contracts/ Dealing C&P Executive for Purchase Orders and co-operate them for smooth execution of the contract and to timely address the issues, if any. For applicability of 'Quarterly Closure', please refer BDS.~~

~~In case issue is not resolved by above, Service Provider may submit their issue(s) to Vendor Grievance Portal "Samadhan", which will be addressed by GAIL within 15 days. The Samadhan Portal is available at <https://gailebank.gail.co.in/grievance/welcome.aspx>.~~

~~Accordingly, the methodology for resolution of issue(s)/ grievance (s) of Vendor/Service Provider shall be as under:~~

- ~~(i) Any issue should be first referred to EIC.~~
- ~~(ii) In case issue is not resolved, Vendor may submit their issue/ grievance through online Vendor Grievance Portal "Samadhan".~~
- ~~(iii) In case, Vendor is not satisfied, there is a provision of escalation of issue to higher authority in GAIL. This option is available two times to vendor.~~
- ~~(iv) Further, issue(s) can only be submitted upto 1 month after closure of respective Contract.~~
- ~~(v) Vendor should refer their issue/ grievance through above mode only. Issue/ grievance received through any other mode shall not be entertained.~~

##### **44.2 CONCILIATION AND ARBITRATION**

###### **1.0 CONCILIATION**

GAIL (India) Limited has framed the Conciliation Rules 2010 in conformity with Part – III of the Arbitration and Conciliation Act 1996 as amended from time to time for speedier, cost effective and amicable settlement of disputes through conciliation. All issue(s)/dispute(s) arising under the Contract, which cannot be mutually resolved within a reasonable time, time as per clause no. 44.1, may be referred for conciliation in accordance with GAIL Conciliation Rules 2010 as amended from time to time A copy of the said rules have been made available on GAIL's web site i.e www.gailonline.com.

Where invitation for Conciliation has been accepted by the other party, the Parties shall attempt to settle such dispute(s) amicably under Part-III of the Arbitration and Conciliation Act, 1996 and GAIL (India) Limited Conciliation Rules, 2010. It would be only after exhausting the option of Conciliation as an Alternate Dispute Resolution Mechanism that the



Parties hereto shall invoke Arbitration Clause. For the purpose of this clause, the option of 'Conciliation' shall be deemed to have been exhausted, even in case of rejection of 'Conciliation' by any of the Parties.

## **2.0 ARBITRATION**

All issue(s)/dispute(s) excluding the matters that have been specified as excepted matters and listed at clause no. 2.6 and which cannot be resolved through Conciliation, such issue(s)/dispute(s) shall be referred to arbitration for adjudication by Sole Arbitrator.

The party invoking the Arbitration shall have the option to either opt for Ad-hoc Arbitration as provided at Clause 2.1 below or Institutionalized Arbitration as provided at Clause 2.2 below, the remaining clauses from 2.3 to 2.7 shall apply to both Ad-hoc and Institutional Arbitration:-

2.1 On invocation of the Arbitration clause by either party, GAIL shall suggest a panel of three independent and distinguished persons (Retd Supreme Court & High Court Judges only) to the other party from the Panel of Arbitrators maintained by 'Delhi International Arbitration Centre (DIAC) to select any one among them to act as the Sole Arbitrator. In the event of failure of the other party to select the Sole Arbitrator within 30 days from the receipt of the communication from GAIL suggesting the panel of arbitrators, the right of selection of the sole arbitrator by the other party shall stand forfeited and GAIL shall appoint the Sole Arbitrator from the suggested panel of three Arbitrators for adjudication of dispute(s). The decision of GAIL on the appointment of the sole arbitrator shall be final and binding on the other party. The fees payable to Sole Arbitrator shall be governed by the fee Schedule of "Delhi International Arbitration Centre".

OR

2.2 If a dispute arises out of or in connection with this contract, the party invoking the Arbitration shall submit that dispute to any one of the Arbitral Institutions i.e ICADR/ICA/DIAC/SFCA and that dispute shall be adjudicated in accordance with their respective Arbitration Rules. The matter shall be adjudicated by a Sole Arbitrator who shall necessarily be a Retd Supreme Court/High Court Judge to be appointed/nominated by the respective institution. The cost/expenses pertaining to the said Arbitration shall also be governed in accordance with the Rules of the respective Arbitral Institution. The decision of the party invoking the Arbitration for reference of dispute to a specific Arbitral institution for adjudication of that dispute shall be final and binding on both the parties and shall not be subject to any change thereafter. The institution once selected at the time of invocation of dispute shall remain unchanged.

2.3 The cost of arbitration proceedings shall be shared equally by the parties.

2.4 The Arbitration proceedings shall be in English language and the seat, venue and place of Arbitration shall be New Delhi, India only.

2.5 Subject to the above, the provisions of Arbitration & Conciliation Act 1996 and any amendment thereof shall be applicable. All matter relating to this Contract and arising out of invocation of Arbitration clause are subject to the exclusive jurisdiction of the Court(s) situated at New Delhi.

2.6 List of Excepted matters:

- a) Dispute(s)/issue(s) involving claims below Rs 25 lakhs and above Rs 25 crores.
- b) Dispute(s)/issue(s) relating to indulgence of Service Provider/Vendor/Bidder in corrupt/fraudulent/collusive/coercive practices and/or the same is under investigation by CBI or Vigilance or any other investigating agency or Government.





c) Dispute(s)/issue(s) wherein the decision of Engineer-In-Charge/owner/GAIL has been made final and binding in terms of the Contract.

2.7. Disputes involving claims below Rs 25 Lakhs and above Rs. 25 crores:- Parties mutually agree that dispute(s)/issue(s) involving claims below Rs 25 Lakhs and above Rs 25 crores shall not be subject matter of Arbitration and are subject to the exclusive jurisdiction of the Court(s) situated at New Delhi.

3. **GOVERNING LAW AND JURISDICTION:**

The Contract shall be governed by and construed in accordance with the laws in force in India. The Parties hereby submit to the exclusive jurisdiction of the Courts situated at New Delhi for adjudication of disputes, injunctive reliefs, actions and proceedings, if any, arising out of this Contract.

45. **DISPUTES BETWEEN CPSE'S/GOVERNMENT DEPARTMENT'S/ ORGANIZATIONS**

Subject to conciliation as provided above, in the event of any dispute (other than those related to taxation matters) or difference relating to the interpretation and application of the provisions of commercial contract(s) between Central Public Sector Enterprises (CPSEs/ Port Trusts) inter se and also between CPSEs and Government Departments /Organizations), such dispute or difference shall be taken up by either party for resolution only through AMRCD as mentioned in OPE OM No. 4(1)/2013-DPE(GM)/FTS-1835 dated 22-05-2018.

Any party aggrieved with the decision of the Committee at the First level (tier) may prefer an appeal before the Cabinet Secretary at the Second level (tier) within 15 days from the date of receipt of decision of the Committee at First level, through it's administrative Ministry/Department, whose decision will be final and binding on all concerned.

The above provisions mentioned at clause no.44 & 45 shall supersede provisions relating to Conciliation, Arbitration, Governing Law & Jurisdiction and Disputes between CPSE's/ Government Department's/ Organizations mentioned in ~~General Conditions of Contract (GCC)~~ and elsewhere in tender document.

46. **INAM-PRO (PLATFORM FOR INFRASTRUCTURE AND MATERIALS PROVIDERS)**

NOT APPLICABLE

47. **PROMOTION OF PAYMENT THROUGH CARDS AND DIGITAL MEANS (APPLICABLE FOR INDIAN BIDDERS)**

To promote cashless transactions, the onward payments by Service Providers to their employees, service providers, sub-contractors and suppliers may be made through Cards and Digital means to the extent possible.

48. **PROVISIONS FOR STARTUP (AS DEFINED IN GAZETTE NOTIFICATION NO. D.L-33004/99 DATED 18.02.2016 AND 23.05.2017 OF MINISTRY OF COMMERCE & INDUSTRY AND AS AMENDED FROM TIME TO TIME) [APPLICABLE FOR INDIAN BIDDERS ONLY]**

~~As mentioned in Section-II, Prior turnover and prior experience shall not be required for all Startups [whether Micro & Small Enterprises (MSEs) or otherwise] subject to their meeting the quality and technical specifications specified in tender document and submission of document specified in Section-II.~~



Further, the Startups are also exempted from submission of EMDs (if applicable).

If a Startup emerge lowest bidder, the LOA on such Startup shall be placed for entire tendered quantity/group/item/part (as the case may be). However, during the Kick of Meeting monthly milestones/ check points would be drawn. Further, the performance of such service provider will be reviewed more carefully and action to be taken as per provision of contract in case of failure/ poor performance.

**49. PROVISION REGARDING INVOICE FOR REDUCED VALUE OR CREDIT NOTE TOWARDS PRS**

PRS is the reduction in the consideration / contract value for the services covered under this contract. In case of delay in execution of contract, service provider should raise invoice for reduced value as per Price Reduction Schedule Clause (PRS clause). If service provider has raised the invoice for full value, then service provider should issue Credit Note towards the applicable PRS amount with applicable taxes.

In such cases if service provider fails to submit the invoice with reduced value or does not issue credit note as mentioned above, GAIL will release the payment to service provider after giving effect of the PRS clause with corresponding reduction of taxes charged on service provider's invoice, to avoid delay in payment.

In case any financial implication arises on GAIL due to issuance of invoice without reduction in price or non-issuance of Credit Note, the same shall be to the account of service provider. GAIL shall be entitled to deduct / setoff / recover such GST amount (CGST & SGST/UTGST or IGST) together with penalties and interest, if any, against any amounts paid or becomes payable by GAIL in future to the service provider under this contract or under any other contract.

**50. UNIQUE DOCUMENT IDENTIFICATION NUMBER BY PRACTICING CHARTERED ACCOUNTANTS**

Practicing Chartered Accountants shall generate Unique Document Identification Number (UDIN) for all certificates issued by them as per provisions of Tender Document.

However, UDIN may not be required for documents being attested by Chartered Accountants in terms of provisions of Tender Document.

**51. SERVICE PROVIDER TO ENGAGE CONTRACT MANPOWER BELONGING TO SCHEDULED CASTES AND WEAKER SECTIONS OF THE SOCIETY (APPLICABLE FOR INDIAN BIDDERS)**

While engaging the contractual manpower, Service Providers are required to make efforts to provide opportunity of employment to the people belonging to Scheduled Castes and weaker sections of the society also in order to have a fair representation of these sections.

**52. PROVISION IN TENDER REGARDING PERMANENT ESTABLISHMENT (PE) W.R.T. FOREIGN BIDDERS**

Foreign bidders must submit (along with their bid) the following particulars which are required to be furnished by GAIL to Income Tax Department for complying with the requirements for making remittances to non-residents as per Income Tax Act, 1961 (as amended from time to time):

- (i) **In case of procurement of goods / spares / services/works (other than technical services and Royalty) etc.**

➤ A certificate of having no business connection in India as given in Format F-16A, or





- In case the non-resident bidder has a business connection in India, but the bidder does not have a permanent establishment in India, in terms of Double Taxation Avoidance Agreement (DTAA) between India and his country of tax residency through which the non-resident carries on business activities (if such DTAA is in force), then the bidder is required to furnish (i) a certificate of no permanent establishment (as given in Format F-16B) along with (ii) declaration in form 10-F (as given in Format F-16C) and (iii) tax residency certificate.

**(ii) In case of services in nature of Fees for Technical Services & Royalty for use of equipment or instrument etc.**

If the bidder does not have a permanent establishment in India, in terms of Double Taxation Avoidance Agreement (DTAA) between India and his country of tax residency through which the non-resident carries on business activities (if such DTAA is in force), then the bidder is required to furnish (i) a certificate of no permanent establishment (as given in Format F-16B) along with (ii) declaration in form 10-F (as given in Format F-16C) and (iii) tax residency certificate.

**(iii) The foreign bidder is required to additionally comply with the following conditions:-**

- a) If the non-resident is unable to obtain & submit tax residency certificate to GAIL within a reasonable time, the bidder should furnish Form 10F along with an undertaking to the effect that the bidder is a tax resident of (the specified country) and that they shall obtain and provide the tax residency certificate (TRC) to GAIL before 30 days of submission of first Invoice by them or within 3 months from the date of entering into contract whichever is earlier.
- b) Where a non-resident has a PE in India then tax will be deducted at applicable rates and no cognizance will be given to the statement/declaration of bidder that no income derived from transaction is attributable to PE in India.

Note 1:- The word permanent establishment shall include a fixed place PE or service PE or installation PE or dependent agent PE or any other PE by whatever name called.

Note 2:- In absence of above mentioned documents for respective category, tax will be withheld at rates applicable as per the provisions of Income Tax Act, 1961 and the benefit of reduced rate will not be given.

Note 3:- In cases where the foreign bidder is not availing the benefits of DTAA and does not furnish the PAN No., TDS will be deducted at applicable rate or @ 20% (in accordance with section 206AA) whichever is higher under Income Tax Act, 1961.

Note 4:- In case of contracts with term exceeding one financial year, the relevant documents like TRC, Form 10 F, No PE / Business Connection Certificate etc. as applicable, as per Income Tax Act, 1961 must be submitted at the beginning of each financial year and GAIL will not bear additional tax liability (if any) arising from non-submission of documents.

Note 5- The bidder shall be liable to intimate the subsequent changes (if any) to the information submitted against any of the above particulars, along with full details.

Note 6:- Additionally, the foreign bidder shall be required to furnish following documents -

- In case the non-resident has a Permanent Establishment in India, in terms of DTAA between India and his country of tax residence through which the non-resident carries on business activities in relation to its engagement by GAIL, the address of Permanent Establishment or Dependent Agent is to be provided.



- In addition to the above particulars, the bidder should also provide any other information as may be required at a later stage for determining the taxability of the amount to be remitted to the non-residents.
- (iv) **Tax Incidence – NOT APPLICABLE AS PRICE BID IS NOT SOUGHT**
- If bidder insists at the time of bidding that withholding tax/TDS liability is to be borne by GAIL, then the bidder's total quoted prices shall be suitably loaded by equivalent amount for evaluation purpose (depending upon the status of Foreign Service Provider based on the documents submitted by them at the time of bidding) and Withholding Tax/TDS certificate will be issued. Provided that in case, any additional tax liability arises on GAIL due to any action of bidders like delay in submission / non-submission of information / documents required as above or change in residential status post submission of documents or change in any document (like TRC, Form 10F etc.) after its submission shall be recovered from Service Provider. Provided further where any Service Provider avails tax credit on the basis of WHT certificate issued by GAIL then he shall be obligated to refund the amount of which credit has been availed by the Service Provider.
  - In case bidder agrees to bear the WHT as per provisions of Income Tax Act, 1961 no loading on quoted prices towards WHT will be done. The Withholding tax (WHT)/TDS will be deducted from their payments due to them and WHT/TDS certificate will be issued as per Income Tax Act 1961.”

### 53. **EMPLOYMENT VISA FOR FOREIGN NATIONALS**

All foreign nationals coming to India for execution of Projects/Contracts will have to apply for Employment Visa only and that grant of Employment Visa would be subject to strict adherence of following norms:

- (i) Employment Visa is granted only for the skilled and qualified professionals or to a person who is being engaged or appointed by a Company, Organization, Industry or Undertaking etc., in India or contract or employment basis at a senior level, skilled position such as technical expert, senior executive or in managerial position etc.,
- (ii) Request for Employment Visa for jobs for which large number of qualified Indians are available, is not considered.
- (iii) Under no circumstances an Employment Visa is granted for routine, ordinary secretarial/clerical jobs.

Bidders are advised in their own interest to check latest Visa rules from Indian Embassy / High Commission in their country in case foreign nationals are required to be deputed to India during execution of the Contract.

### 54. **ANJANI PORTAL – NOT MANDATORY**

GAIL has implemented “Anjani” e-Measurement Book & e-Billing Portal for ease in submission of measurement book/bill and reduction in paper transaction.

Accordingly, GAIL will process the Bill with Measurement Book through "Anjani" e-Measurement Book & e-Billing Portal (link: <https://gailebank.gail.co.in/MBAutomation/frmlogin.aspx>). Accordingly, Contractor/ Service Provider/ Consultant is requested to forward the RA Bill on "Anjani" e-Measurement Book & e-Billing Portal through concerned EIC/CIC/SIC, whichever is applicable.

Further, User Manual is also available on aforesaid portal.



**55. DOCUMENTS FOR PAYMENT - NOT MANDATORY**

Payment terms shall be as mentioned in ~~GCC-Services/SCC~~.

However, for release of payment, Service Provider is required to submit invoice along with other documents as mentioned in SCC. The final bill is to be submitted within one month after completion.

Further, GAIL is in process of implementing Vendor Invoice Management (VIM). After implementation of same (to be communicated separately), Service Provider / Vendor to forward the invoice on VIM Collection Center or upload digital invoice on Portal (details of same will be provided separately). The copy of invoice and all other document mentioned above or in order/ contract is to be forwarded to address provided in order/contract.

**56. ORDER TRANSMITTAL SYSTEM: - NOT APPLICABLE**

~~The complete PO/LOA along with all annexures including tender document shall be shared through order/contract transmittal system after intimation through email.~~

~~Supplier/Contractor is requested to visit <https://gailonline.com/home.html> and click on link order/contract transmittal system (It can be found under Vendor Zone (Portal For Suppliers)) or [https://gailebank.gail.co.in/GOGA\\_AUDIT/frmUserLogin.aspx](https://gailebank.gail.co.in/GOGA_AUDIT/frmUserLogin.aspx).~~

~~Therein, in order to access the detailed order/contract, supplier/contractor shall be prompted to enter your email id. Further an OTP shall be sent on your registered mobile number. After entering OTP, supplier/contractor shall be allowed to download complete PO/LOA along with all annexures including tender document. After downloading the documents, the supplier/contractor shall be required to digitally sign the document (by authorized signatory) for uploading the documents on order/contract transmittal system towards acknowledgement of the same.~~

**57. ASSIGNMENT/SUBLET – NOT PERMISSIBLE**

~~The following is added to the Clause no. 2.23 of General Conditions of Contract (GCC)-Services:~~

- ~~(i) — Procurement of material, hire of equipment or engagement of labour will not mean sub-contracting.~~
- ~~(ii) — Sub-contracting by the contractor without the approval of GAIL shall be a breach of contract, unless explicitly permitted in the contract.~~



**ANNEXURE-I TO SECTION-III**

**ADDENDUM TO INSTRUCTIONS TO BIDDERS  
(INSTRUCTIONS FOR PARTICIPATION IN E-TENDER)**

1. Detailed instructions regarding bid submission procedure under e-tendering system (e-tender portal) i.e., [ADDENDUM TO INSTRUCTIONS TO BIDDERS \(INSTRUCTIONS FOR PARTICIPATION IN E-TENDER\)](#) is available on <https://gailtenders.in/Gailtenders/Home.asp> as detailed below

The screenshot displays the GAIL Tenders website interface. At the top, there is a navigation bar with links for 'ACTIVE TENDERS', 'TENDERS SEARCH', 'CORRIGENDUM', and 'TENDER AWARDED'. Below this is a green banner with the GAIL logo and the slogan "Think Digital, Be Digital". The main heading reads "GAIL Tenders - The GAIL Tenders Information System". A date and time indicator shows "Friday, November 11, 2022" and a search bar is present. The page is divided into several sections: "WELCOME ! TO GAIL TENDER WEBSITE", "Tender Statistics" (83 tenders, 28 corrigendum(s)), "Todays Statistics" (0 tenders, 1 corrigendum(s)), "DETAILS OF PRE-TENDER CONFERENCE", "Authentication of BEC Documents", and "ADDENDUM TO INSTRUCTIONS TO BIDDERS (INSTRUCTIONS FOR PARTICIPATION IN E-TENDER)". There are also sections for "ACTIVE TENDERS", "TENDERS BY CLASSIFICATIONS", and "TENDER SEARCH". The footer contains links for "General Conditions of Contracts (GCCs)", "Corporate Website", "Corporate Intranet", "Corporate Email", "Reverse Auction Training Videos", and "GAIL (India) Limited".



**ANNEXURE-II TO SECTION-III**

**BIDDING DATA SHEET (BDS)**

**(TO BE FILLED BY THE CONCERNED DEALING OFFICER BEFORE ISSUANCE OF TENDER)**

**ITB TO BE READ IN CONJUNCTION WITH THE FOLLOWING:**

<b>A. GENERAL</b>											
<b>ITB clause</b>	<b>Description</b>										
<b>1.1</b>	The Employer/Owner is: GAIL (India) Limited										
<b>1.2</b>	The name of the Works/Services to be performed is: Agents at Nepal and Bangladesh for Export of Polymers produced / marketed by GAIL										
<b>B. BIDDING DOCUMENT</b>											
<b>ITB clause</b>	<b>Description</b>										
<b>8.1</b>	For <b><u>clarification purposes</u></b> only, the communication address is: Attention: Sh. Rakesh Kumar Yadav , General Manager (Mktg-PC) Street Address: <u>GAIL (India) Limited</u> Floor/Room number: <u>10<sup>th</sup> Floor, Jubilee Tower, Sector-1,</u> City: <u>Noida</u> ZIP Code: <u>201301</u> Country: <u>India</u> Email: <a href="mailto:itg@gail.co.in">itg@gail.co.in</a> Fax No										
<b>C. PREPARATION OF BIDS</b>											
<b>ITB clause</b>	<b>Description</b>										
<b>11.1.1</b>	Additional documents to be submitted by the Bidder with its Part-I (Techno-commercial/ Unpriced bid) : SCC/Scope of Work <del>refers</del>  _____ _____										
<b>12 &amp; 13</b>	Whether GAIL will be able to avail input tax credit in the instant tender (APPLICABLE FOR INDIAN BIDDER ONLY) Details of Buyer: <table border="1" style="margin-left: 20px;"> <tr> <td>Services to be rendered at</td> <td>GAIL (India) Limited</td> </tr> <tr> <td>PAN No.</td> <td>AAACG1209J</td> </tr> <tr> <td>GST no.</td> <td></td> </tr> <tr> <td>GAIL Bank details</td> <td></td> </tr> <tr> <td></td> <td></td> </tr> </table>	Services to be rendered at	GAIL (India) Limited	PAN No.	AAACG1209J	GST no.		GAIL Bank details			
Services to be rendered at	GAIL (India) Limited										
PAN No.	AAACG1209J										
GST no.											
GAIL Bank details											





13.1.15	<p>Details of Employer:</p> <table border="1" data-bbox="464 271 1331 488"> <tr> <td data-bbox="464 271 826 376">Employer</td> <td data-bbox="826 271 1331 376">GAIL (India) Limited <i>Administrative Block, Pata, District: Auraiya – 206241, U.P., India</i></td> </tr> <tr> <td data-bbox="464 376 826 450">GST No.</td> <td data-bbox="826 376 1331 450">09AAACG1209J3ZS</td> </tr> <tr> <td data-bbox="464 450 826 488">PAN No.</td> <td data-bbox="826 450 1331 488">AAACG1209J</td> </tr> </table>	Employer	GAIL (India) Limited <i>Administrative Block, Pata, District: Auraiya – 206241, U.P., India</i>	GST No.	09AAACG1209J3ZS	PAN No.	AAACG1209J
Employer	GAIL (India) Limited <i>Administrative Block, Pata, District: Auraiya – 206241, U.P., India</i>						
GST No.	09AAACG1209J3ZS						
PAN No.	AAACG1209J						
15	The bid validity period shall be 90 days from final 'Bid Due Date' i.e. till <b>26.12.2024 (THURSDAY)</b>						
16.1, 16.9 & 38.7	<p>In case '<b>Earnest Money / Bid Security</b>' or "<b>Contract Performance Security</b>" is in the form of '<b>Demand Draft</b>' or '<b>Banker's Cheque</b>', the same should be favor of <b>GAIL (India) Limited</b>, payable at New Delhi</p> <p>In case of submission through online banking transaction i.e. IMPS / NEFT / RTGS / SWIFT, etc, the details of GAIL's Bank account are as under: Account Holder's Name: GAIL (India) Limited Account Number: 10813604063 IFSC Code: SBIN0017313 SWIFT Code: SBININBB824 Bidder to mention reference no. "EMD/GAIL/NOIDA/PMG/2023-24/(Name of Bidder)" in narration while remitting the EMD / Bid Security amount and to mention reference no. "CPS/GAIL/NOIDA/PMG/2024-25/(Name of Successful Bidder)" in narration while remitting the CPS amount in GAIL's Bank Account. Bidder needs to send the EMD/CPS transmission details to GAIL on email (itg@gail.co.in)</p>						
<b>D. SUBMISSION AND OPENING OF BIDS</b>							
<b>ITB clause</b>	<b>Description</b>						
18	Bidder needs to submit a declaration on their letterhead confirming the following – "We hereby confirm that we have read the entire tender document along with corrigendum issued (if any) and are in full agreement without any exception / deviation to any point mentioned in the tender document."						
22.2 and 26 of ITB and 4.0 of IFB	For <b>bid submission purposes</b> only (Manual) or the submission of physical document as per clause no. 4.0 of IFB and 22.2 of Section-III and <b>Bid Opening Purpose</b> , the Owner's address is : Attention: <u>Sh. Rakesh Kumar Yadav, General Manager (Mktg-PC)</u> Street Address: <u>GAIL (India) Limited, Jubilee Tower, Sector-1</u> Floor/Room number: <u>10<sup>th</sup> Floor</u> City: <u>Noida</u> ZIP Code: <u>201301</u> Country: <u>India</u>						
<b>F. AWARD OF CONTRACT</b>							
<b>ITB clause</b>	<b>Description</b>						



37	State of India which stamp paper is required for Contract Agreement: New Delhi / Uttar Pradesh									
38	<p>Contract Performance Security/ Security Deposit : Applicable Contract Performance Security shall be applicable as under:</p> <table border="1" data-bbox="443 409 1449 618"> <thead> <tr> <th>Country</th> <th>Indian Bidder</th> <th>Foreign Bidder</th> </tr> </thead> <tbody> <tr> <td>Nepal</td> <td>INR 6,33,600</td> <td>US \$ 7,500 or equivalent</td> </tr> <tr> <td>Bangladesh</td> <td>INR 6,33,600</td> <td>US \$ 7,500 or equivalent</td> </tr> </tbody> </table> <p>In case, GAIL allows additional time for submission of CPBG/SD beyond 30 days, a penal interest of Marginal Cost of Fund based Lending Rate (MCLR) for one year charged by SBI (applicable on due date of submission of CPBG/SD i.e. 30th day after issuance of FOA/Notification of award) plus 4.0% p.a (on PBG/SD amount) shall be charged for delay beyond 30 days i.e. from 31st days after issuance of FOA.</p> <p><b>Exchange rate for Conversion of Currency which are in other currency than specified above shall be as follows:</b></p> <ul style="list-style-type: none"> <li>(a) The SBI Bill Selling Rate as prevailing on the date of award.</li> <li>(b) In case, the SBI Bill Selling Rate is not available as on the date of award as specified above, the exchange rate for conversion of currency shall be taken from the internet, such as:</li> </ul> <p><a href="https://www.xe.com/currencyconverter">https://www.xe.com/currencyconverter</a>  <a href="https://economictimes.indiatimes.com/markets/forex/currency-converter">https://economictimes.indiatimes.com/markets/forex/currency-converter</a>  <a href="https://www.oanda.com/currency/converter">https://www.oanda.com/currency/converter</a></p>	Country	Indian Bidder	Foreign Bidder	Nepal	INR 6,33,600	US \$ 7,500 or equivalent	Bangladesh	INR 6,33,600	US \$ 7,500 or equivalent
Country	Indian Bidder	Foreign Bidder								
Nepal	INR 6,33,600	US \$ 7,500 or equivalent								
Bangladesh	INR 6,33,600	US \$ 7,500 or equivalent								
39.3	<p>Name and contact details of nodal officer are as under: Name: Sh. S K Gupta Designation: CGM (Contracts and Procurements) Phone No. &amp; Extn : #91-11-26172580 Extn. 2253, e-mail : <a href="mailto:sk.gupta@gail.co.in">sk.gupta@gail.co.in</a></p>									
44	Quarterly Closure of Contract: Applicable									
48	Applicability of provisions relating to Startups: Not Applicable									
56	Applicability of provisions relating to Order Transmittal System:									
SCC	<p>Documents required for accepting the services: Refer SECTION-VI “SCOPE OF WORK/SCC” of the tender document</p>									



**PROCEDURE FOR ACTION IN CASE CORRUPT/FRAUDULENT/COLLUSIVE/COERCIVE PRACTICES**

**A Definitions:**

- A.1 “Corrupt Practice” means the offering, giving, receiving or soliciting, directly or indirectly, anything of value to improperly influence the actions in selection process or in contract execution.  
“Corrupt Practice” also includes any omission for misrepresentation that may mislead or attempt to mislead so that financial or other benefit may be obtained or an obligation avoided.
- A.2 “Fraudulent Practice” means and include any act or omission committed by a agency or with his connivance or by his agent by misrepresenting/ submitting false documents and/ or false information or concealment of facts or to deceive in order to influence a selection process or during execution of contract/ order.
- A.3 “Collusive Practice amongst bidders (prior to or after bid submission)” means a scheme or arrangement designed to establish bid prices at artificial non-competitive levels and to deprive the Employer of the benefits of free and open competition.
- A.4 “Coercive practice” means impairing or harming or threatening to impair or harm directly or indirectly, any agency or its property to influence the improperly actions of an agency, obstruction of any investigation or auditing of a procurement process.
- A.5 “Vendor/Supplier/Contractor/Consultant/Bidder” is herein after referred as “Agency”
- A.6 “Appellate Authority” shall mean Committee of Directors consisting of Director (Finance) and Director (BD) for works centers under Director (Projects). For all other cases committee of Directors shall consist of Director (Finance) & Director (Projects).
- A.7 “Competent Authority” shall mean the authority, who is competent to take final decision for Suspension of business dealing with an Agency/ (ies) and Banning of business dealings with Agency/ (ies) and shall be the “Director” concerned.
- A.8 “Allied Agency” shall mean all concerns which come within the sphere of effective influence of the banned/suspended agency shall be treated as allied agency. In determining this, the following factors may be taken into consideration:
- Whether the management is common;
  - Majority interest in the management is held by the partners or directors of banned/ suspended agency;
  - Substantial or majority shares are owned by the banned/ suspended agency and by virtue of this it has a controlling voice.
  - Directly or indirectly controls, or is controlled by or is under common control with another bidder.
  - All successor agency will also be considered as allied agency.
- A.9 “Investigating Agency” shall mean any department or unit of GAIL investigating into the conduct of Agency/ party and shall include the Vigilance Department of the GAIL, Central Bureau of Investigation, State Police or any other agency set up by the Central or state government having power to investigate.
- A.10 “Obstructive practice”: materially impede the procuring entity's investigation into allegations of one or more of the above mentioned practices either by deliberately destroying, falsifying, altering; or by concealing of evidence material to the investigation; or by making false statements to investigators and/ or by threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or by impeding GAIL's rights of audit or access to information.

**B Actions against bidder(s) indulging in corrupt /fraudulent/ collusive/ coercive practice**

**B.1 Irregularities noticed during the evaluation of the bids :**

If it is observed during bidding process/ bids evaluation stage that a bidder has indulged in corrupt/fraudulent /collusive/coercive practice, the bid of such Bidder (s) shall be rejected and its Earnest Money Deposit (EMD) shall be forfeited.

Further, such agency shall be banned for future business with GAIL for a period specified in para B 2.2 below from the date of issue of banning order.

**B.2 Irregularities noticed after award of contract**

**(i) During execution of contract:**

If an agency, is found to have indulged in corrupt/fraudulent/ collusive/coercive practices, action shall be initiated for putting the agency on banning list.



After conclusion of process and issuance of Speaking order for putting party on banning list, the order (s)/ contract (s) where it is concluded that such irregularities have been committed shall be terminated and Contract cum Performance Bank Guarantee (CPBG) submitted by agency against such order (s)/ contract (s) shall also be forfeited. Further such order/ contract will be closed following the due procedure in this regard.

The amount that may have become due to the contractor on account of work already executed by him shall be payable to the contractor and this amount shall be subject to adjustment against any amounts due from the contractor under the terms of the contract. No risk and cost provision will be enforced in such cases.

**Suspension of order/ contract:**

Further, only in the following situations, the concerned order (s)/ contract(s) (where Corrupt/Fraudulent/ Collusive/ Coercive Practices are observed) and payment shall be suspended after issuance of Suspension cum Show Cause Notice:

- (i) Head of Corporate Vigilance Department/CVO based on the investigation by them, recommend for specific immediate action against the agency.
- (ii) Head of Corporate Vigilance Department/CVO based on the input from investigating agency, forward for specific immediate action against the agency.

Suspension cum Show Cause Notice being issued in above cases after approval of the competent authority (as per provisions mentioned under Clause no. D) shall also include the provision for suspension of Order (s)/ Contract (s) and payment. Accordingly, after issuance of Suspension cum Show Cause Notice, the formal communication for suspension of Order (s)/ Contract (s) and payment with immediate effect will be issued by the concerned person of GAIL.

During suspension, Contractor/ Service Providers will be allowed to visit the plant/ site for upkeep of their items/ equipment, GAIL's issued materials (in case custody of same is not taken over), demobilizing the site on confirmation of EIC, etc.

In addition to above, Recovery of payments (other than due payments) including balance advance payments, if any, made by along with interest thereon at the prevailing rate shall be recovered.

**(ii) After execution of contract and during Defect liability period (DLP)/ Warranty/Guarantee Period:**

If an agency is found to have indulged in corrupt/fraudulent/ collusive/coercive practices, after execution of contract and during DLP/ Warranty/Guarantee Period, the agency shall be banned for future business with GAIL for a period specified in para B 2.2 below from the date of issue of banning order.

Further, the Contract cum Performance Bank Guarantee (CPBG)/Contract Performance Security (CPS) submitted by agency against such order (s)/ contract (s) shall be forfeited.

**(iii) After expiry of Defect liability period (DLP)/ Warranty/Guarantee Period**

If an agency is found to have indulged in corrupt/fraudulent/ collusive/coercive practices, after expiry of Defect liability period (DLP)/ Warranty/Guarantee Period, the agency shall be banned for future business with GAIL for a period specified in para B 2.2 below from the date of issue of banning order.

**B.2.2 Period of Banning**

The period of banning of agencies indulged in Corrupt/ Fraudulent/ Collusive/Coercive Practices shall be as under and to be reckoned from the date of banning order:

S. No.	Description	Period of banning from the date of issuance of Banning order
1	Misrepresentation/False information other than pertaining to BEC of tender but having impact on the selection process.	06 Months



	For example, if an agency confirms not being in holiday in GAIL/PSU's PMC or banned by PSUs/ Govt. Dept., liquidation, bankruptcy & etc. and subsequently it is found otherwise, such acts shall be considered in this category.	
2	Corrupt/Fraudulent (except mentioned at sl. no. 1 above) /Collusive/Coercive Practices	01 year
2.1	If an agency again commits Corrupt/Fraudulent (except mentioned at sl. no. 1 above) /Collusive/ Coercive Practices in subsequent cases after their banning, such situation of repeated offense to be dealt with more severity.	2 years (in addition to the period already served)
3	Indulged in unauthorized disposal of materials provided by GAIL	2 years
4	If act of vendor/ contractor is a threat to the National Security	2 years

### C Effect of banning on other ongoing contracts/ tenders

- C.1 If an agency is put on Banning, such agency should not be considered in ongoing tenders/future tenders.
- C.2 However, if such an agency is already executing other order (s)/ contract (s) where no corrupt/fraudulent/collusive/coercive practice is found, the agency should be allowed to continue till its completion without any further increase in scope except those incidental to original scope mentioned in the contract.
- C.3 If an agency is put on the Banning List during tendering and no irregularity is found in the case under process:
- C.3.1 after issue of the enquiry /bid/tender but before opening of Technical bid, the bid submitted by the agency shall be ignored.
- C.3.2 after opening Technical bid but before opening the Price bid, the Price bid of the agency shall not be opened and BG/EMD submitted by the agency shall be returned to the agency.
- C.3.3 After opening of price, BG/EMD made by the agency shall be returned; the offer of the agency shall be ignored & will not be further evaluated. In case such agency is lowest (L-1), next lowest bidder shall be considered as L-1.

### D. Procedure for Suspension of Bidder

#### D.1 Initiation of Suspension

Action for suspension business dealing with any agency/(ies) shall be initiated by Corporate C&P Department when

- (i) Corporate Vigilance Department based on the fact of the case gathered during investigation by them recommend for specific immediate action against the agency.
- (ii) Corporate Vigilance Department based on the input from Investigating agency, forward for specific immediate action against the agency.
- (iii) Non performance of Vendor/Supplier/Contractor/Consultant leading to termination of Contract/ Order.

#### D.2 Suspension Procedure:

- D.2.1 The order of suspension would operate initially for a period not more than six months and is to be communicated to the agency and also to Corporate Vigilance Department. Period of suspension can be extended with the approval of the Competent Authority by one month at a time with a ceiling of six months pending a conclusive decision to put the agency on banning list.
- D.2.2 During the period of suspension, no new business dealing may be held with the agency.
- D.2.3 Period of suspension shall be accounted for in the final order passed for banning of business with the agency.
- D.2.4 The decision regarding suspension of business dealings should also be communicated to the agency.
- D.2.5 If a prima-facie, case is made out that the agency is guilty on the grounds which can result in banning of business dealings, proposal for issuance of suspension order and show cause notice shall be put up to the Competent Authority. The suspension order and show cause notice must include that (i) the agency is put on suspension list and (ii) why action should not be taken for banning the agency for future business from GAIL.
- The competent authority to approve the suspension will be same as that for according approval for banning.

### D 3 Effect of Suspension of business:

Effect of suspension on other on-going/future tenders will be as under:



- D.3.1 No enquiry/bid/tender shall be entertained from an agency as long as the name of agency appears in the Suspension List.
- D.3.2 If an agency is put on the Suspension List during tendering:
  - D.3.2.1 after issue of the enquiry /bid/tender but before opening of Technical bid, the bid submitted by the agency shall be ignored.
  - D.3.2.2 after opening Technical bid but before opening the Price bid, the Price bid of the agency shall not be opened and BG/EMD submitted by the agency shall be returned to the agency.
  - D.3.2.3 After opening of price, BG/EMD made by the agency shall be returned; the offer of the agency shall be ignored & will not be further evaluated In case such agency is lowest (L-1), next lowest bidder shall be considered as L-1.
- D.3.3 The existing contract (s)/ order (s) under execution shall continue.
- D.3.4 Tenders invited for procurement of goods, works and services shall have provision that the bidder shall submit a undertaking to the effect that (i) neither the bidder themselves nor their allied agency/(ies) are on banning list of GAIL or the Ministry of Petroleum and Natural Gas and (ii) bidder is not banned by any Government department/ Public Sector.

**F. Appeal against the Decision of the Competent Authority:**

- F.1 The agency may file an appeal against the order of the Competent Authority for putting the agency on banning list. The appeal shall be filed to Appellate Authority. Such an appeal shall be preferred within one month from the of receipt of banning order.
- F.2 Appellate Authority would consider the appeal and pass appropriate order which shall be communicated to the party as well as the Competent Authority.
- F.3 Appeal process may be completed within 45 days of filing of appeal with the Appellate Authority.
- G. Wherever there is contradiction with respect to terms of 'Integrity pact' , GCC and 'Procedure for action in case of Corrupt/Fraudulent/ Collusive/Coercive Practice', the provisions of 'Procedure for action in case of Corrupt/Fraudulent/ Collusive/Coercive Practice' shall prevail.



**ANNEXURE-V**

**PROCEDURE FOR EVALUATION OF PERFORMANCE OF VENDORS/ SUPPLIERS/ CONTRACTORS/ CONSULTANTS**

**1.0 GENERAL**

A system for evaluation of Vendors/ Suppliers/Contractors/ Consultants and their performance is a key process and important to support an effective purchasing & contracting function of an organization. Performance of all participating Vendors/ Suppliers/Contractors/ Consultants need to be closely monitored to ensure timely receipt of supplies from a Vendor, completion of an assignment by a Consultant or complete execution of order by a contractor within scheduled completion period. For timely execution of projects and meeting the operation & maintenance requirement of operating plants, it is necessary to monitor the execution of order or contracts right from the award stage to completion stage and take corrective measures in time.

**2.0 OBJECTIVE**

The objective of Evaluation of Performance aims to recognize, and develop reliable Vendors/ Suppliers/Contractors/ Consultants so that they consistently meet or exceed expectations and requirements. The purpose of this procedure is to put in place a system to monitor performance of Vendors/ Suppliers/Contractors/ Consultants associated with GAIL so as to ensure timely completion of various projects, timely receipt of supplies including completion of works & services for operation and maintenance of operating plants and quality standards in all respects.

**3.0 METHODOLOGY**

- i) The appraisal of an existing export agent shall normally be carried out on calendar year basis before completion of the Financial Year (FY).
- ii) Normally the renewal of Agreement of Export Agent shall be for a Financial Year.
- iii) If Agent scores 50% marks or above, then GAIL shall renew the agreement with Agent for another one financial year.
- iv) If Agent scores less than 50% marks, then GAIL shall issue a letter to Agent to improve its performance. The agreement shall be renewed for one year subject to the condition that performance review shall be carried out after six months.
- v) If the performance of Agent improves in six months, then the agent services shall be continued.
- vi) If the Agent is still not able to perform in those six months, then the Agent is to be sent show cause notice following the principle of natural justice to explain the reason of its failure in improving the performance to desired level. A period of at least 15 days is to be given to the party to respond where after a view may be taken based on the reply received from the party. If the party fails to respond with in the stipulated time, GAIL shall be at liberty to precede ex-parte based on facts and figures available. In case, the decision for termination of agent is taken, GAIL reserves the right to encash the CPBG either partial or in full towards any financial implication to GAIL. Further, GAIL may also take action of putting the terminated agent on holiday/ watch list /yellow card as per procedure laid down in tender document below.
  - (a) First Such Instance: Advisory Notice (Yellow Card) shall be issued and Vendor/Supplier/Contractor/Consultant shall be put on watch list for a period of Two (2) Years.
  - (b) Second such instance in other ongoing order (s)/ contract (s) or new order (s)/ contract (s) on such Vendor/Supplier/Contractor/Consultant: Putting on Holiday (Red Card) for a period of One Year.
  - (c) Subsequent instances (more than two) in other ongoing order (s)/ contract (s) or new order (s)/ contract (s) on such Vendor/Supplier/Contractor/Consultant: Putting on Holiday (Red Card) for a period of Two Years.
- vii) In case the Agent is new and the available period of service from the date of agreement till December of that FY is less than 6 months, then the first renewal of agreement for the FY subsequent to the FY in which agent was appointed, shall be carried out without appraisal. Thereafter, renewal shall be carried out as per below example:

Date of Appointment	Period of service/ operation available in the first FY	1 <sup>st</sup> Appraisal Period	2 <sup>nd</sup> Appraisal Period	3 <sup>rd</sup> Appraisal Period
<b>CASE 1:</b>				
01.07.2024	≥ 6 months	01.07.2024 to 31.12.2024	01.01.2025 to 31.12.2025	01.01.2026 to 31.12.2026
1) For 1 <sup>st</sup> renewal (FY 2025-26) of Agreement, appraisal for the period 01.07.2024 to 31.12.2024 shall be used.				

2) For 2 <sup>nd</sup> renewal (FY 2026-27), appraisal for the period 01.01.2025 to 31.12.2025 shall be used.				
3) For 3 <sup>rd</sup> renewal (FY 2027-28), 4 <sup>th</sup> renewal (FY 2028-29) and so on, appraisals for the period 01.01.2026 to 31.12.2026, the period 01.01.2027 to 31.12.2027, and so on shall be used.				
<b>CASE 2:</b>				
01.11.2024	< 6 months	01.01.2025 31.12.2025	to	01.01.2026 31.12.2026
			to	01.01.2027 31.12.2027
1) 1 <sup>st</sup> renewal of Agreement for FY 2025-26 shall be done without appraisal.				
2) For 2 <sup>nd</sup> renewal (FY 2026-27), appraisal for the period 01.01.2025 to 31.12.2025 shall be used.				
3) For 3 <sup>rd</sup> renewal (FY 2027-28), appraisal for the period 01.01.2026 to 31.12.2026 shall be used.				
4) For 4 <sup>th</sup> renewal (FY 2028-29), 5 <sup>th</sup> renewal (FY 2029-30) and so on, appraisals for the period 01.01.2027 to 31.12.2027, the period 01.01.2028 to 31.12.2028, and so on shall be used.				

**5.0 PROCESS OF EVALUATION OF PERFORMANCE OF VENDORS/ SUPPLIERS/ CONTRACTORS/ CONSULTANTS**

S. No.	Parameters	UoM	Excellent (10 marks)	Good (8 marks)	Satisfactory (6 marks)	Unsatisfactory (3 marks)	Remarks	Marks Received
1.	Monthly Market MIS by 1 <sup>st</sup> week of every month	No. of instances of Delay	0 – 1	2 – 4	5 – 6	More than 6		
2.	Price Intimation to Customers – Within two working days from price declaration	No. of instances of Delay	0 – 1	2 – 4	5 – 6	More than 6		
3.	Order Booking – Within five working days from price declaration	No. of instances of Delay	0 – 1	2 – 4	5 – 6	More than 6		
4.	Getting the PI Signed from Customers – Within three working days from PI issue date	No. of instances of Delay	0 – 1	2 – 4	5 – 6	More than 6		
5.	Customers added during the year	No. of Customers	3 or more	2	1	0		
6.	Customers lost during the year	No. of Customers	0 – 3	4 – 6	7 – 10	More than 10		
7.	Ability to sell under adverse conditions	% Sales vis-à-vis Quantity made available for Sales	More than or equal to 90	More than or equal to 80	More than or equal to 70	Less than 70		
8.	Coordination with customer / transporter for timely placement / release of trucks	No. of instances of Delay	0 – 5	6 – 15	16 – 25	More than 25		





	(whichever is applicable)							
9.	Non-Coordination for Customer Complaint Handling	No. of Instances	0	1	2	More than 2		
10.	Coordination with customer / bank for timely payment / LC establishment	No. of instances of Delay	0 – 1	2 – 4	5 – 6	More than 6		
11.	Debtors outstanding if any	%age of assessment year sale due amount	0	Less than or equal to 0.5	Less than or equal to 1	More than 1		
<b>MARKS OBTAINED / MAXIMUM MARKS</b>								<b>/ 110</b>



# **FORMS & FORMAT**



## **LIST OF FORMS & FORMAT**

<b>Form No.</b>	<b>Description</b>
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**F-1**  
**BIDDER'S GENERAL INFORMATION**

To,  
M/s GAIL (INDIA) LIMITED

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TENDER NO:

1	Bidder's Name	M/s.....
2	Status of Firm	Proprietorship Firm/Partnership firm/ Limited Liability Partnership (LLP) firm/ Public Limited/ Pvt. Limited/ Govt. Dept. / PSU/ Others  If Others Specify: _____  [Enclose relevant certificates / partnership deed/certificate of Registration, as applicable]
3a	Name of Proprietor/ Partners/ Directors of the firm/company including their Father's Name and residential address, Aadhar No., Pan Card Details & DIN Nos.  [As per clause for 'One Bid Per Bidder' under Section-III of Tender Document]  If required, a separate sheet may be enclosed for providing the above details.	1. 2. 3.
3b	Name of Power of Attorney holders of Bidder	
4	Number of years in operation	
5	Address of Registered Office:	City: District: State: PIN/ZIP:
6	Bidder's address where order/contract is to be placed *	City: District: State: PIN/ZIP:



7	Address from where Goods/ Services are to be dispatched/ provided along with GST no.  (In case supply of Goods / Services are from multiple locations, addresses and GST no. of all such locations are to be provided).	City: District: State: PIN/ZIP: GST No.:
8	Telephone Number & Contact Information address where Order/Contract is to be placed	_____ (Country Code) (Area Code) (Telephone No.) Mobile No. : ..... e-mail ID: .....
9	Website details	
10	Mobile Number of concerned personnel/authorized signatory	_____
11	ISO Certification, if any	Yes / No  <i>[If yes, please furnish details]</i>
12	PAN No.	
13	GST No. (refer sl. no. 7 above)	
14a	Whether Micro or Small Enterprise	Yes / No <i>(If Yes, Bidder to submit requisite documents as specified in ITB: Clause No. 40)</i>
14b	Whether MSE is owned by SC/ST Entrepreneur(s)	Yes / No <i>(If Yes, Bidder to submit requisite documents as specified in ITB: Clause No. 40)</i>
14c	Whether MSE is owned by Women	Yes / No <i>(If Yes, Bidder to submit requisite documents as specified in ITB: Clause No. 40)</i>
14d	Details of registration in TReDS	.....  <i>( Bidder to provide name of the portal along with details)</i>
15a	Whether Bidder is a Startup or not	Yes / No <i>(, Bidder to submit requisite documents as specified in ITB: Clause No. 49)</i>
15b	In case Bidder is a Startup, confirm the following:  (i) Date of its incorporation/ registration [The certificate shall only be valid for the entity upto ten years from the date of its incorporation/ registration]	



	(ii) Whether turnover for any financial years since incorporation/ registration has exceeded Rs.100 Crores.	
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Note: \*GAIL intends to place the Order/Contract directly on the address from where Goods are produced/dispatched. In case, Bidder intends to have Order/ Contract with some other address and also for supply of Goods from multiple locations, Bidder is required to provide the address on which Order/ Contract is to be placed as mentioned at sl.no.6 above and details of locations as mentioned at sl. no. 7 above.

Place:

[Signature of Authorized Signatory of Bidder]

Date:

Name:

Designation:

Seal:





**F-2**  
**PROFORMA OF "BANK GUARANTEE" FOR "EARNEST MONEY / BID SECURITY"**

(To be stamped in accordance with the Stamp Act)

To, M/s GAIL (India) Limited _____   	<b>Bank Guarantee No.</b>	
	<b>Date of BG</b>	
	<b>BG Valid up to</b>	
	<b>Claim period up to (There should be three months gap between expiry date of BG &amp; Claim period)</b>	
	<b>Stamp Sl. No./e-Stamp Certificate No.</b>	

**Dear Sir(s),**

In accordance with Letter Inviting Tender under your reference No \_\_\_\_\_ M/s. \_\_\_\_\_ having their Registered / Head Office at \_\_\_\_\_ (hereinafter called the Tenderer), wish to participate in the said tender for

As an irrevocable Bank Guarantee against Earnest Money for the amount of \_\_\_\_\_ is required to be submitted by the Tenderer as a condition precedent for participation in the said tender which amount is liable to be forfeited on the happening of any contingencies mentioned in the Tender Document.

We, the \_\_\_\_\_ Bank at \_\_\_\_\_ having our Head Office \_\_\_\_\_ (Local Address) guarantee and undertake to pay immediately on demand without any recourse to the tenderers by GAIL (India) Ltd., the amount \_\_\_\_\_ without any reservation, protest, demur and recourse. Any such demand made by GAIL, shall be conclusive and binding on us irrespective of any dispute or difference raised by the Tenderer.

This guarantee shall be irrevocable and shall remain valid up to \_\_\_\_\_ [this date should be two (02) months beyond the validity of the bid]. If any further extension of this guarantee is required, the same shall be extended to such required period on receiving instructions from M/s. \_\_\_\_\_ whose behalf this guarantee is issued.

In witness whereof the Bank, through its authorized officer, has set its hand and stamp on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ at \_\_\_\_\_.

Notwithstanding anything contained herein:

- a) The Bank's liability under this Guarantee shall not exceed (currency in figures) . . . . . (currency in words only) . . . . .
- b) This Guarantee shall remain in force upto \_\_\_\_\_ (this expiry date of BG should be two months beyond the validity of bid) and any extension(s) thereof; and
- c) The Bank shall be released and discharged from all liability under this Guarantee unless a written claim or demand is issued to the Bank on or before the midnight of .....(indicate date of expiry of claim period which includes minimum three months from the expiry of this Bank Guarantee) and if extended, the date of expiry of the last extension of this Guarantee. If a claim has been received by us within the said date, all the rights of GAIL under this Guarantee shall be valid and shall not cease until we have satisfied that claim.

Details of next Higher Authority of the Officials who have issued the Bank Guarantee:

Name .....



Designation .....

WITNESS:

(SIGNATURE)  
(NAME)

(SIGNATURE)  
(NAME)

Designation with Bank Stamp

(OFFICIAL ADDRESS)

Attorney as per  
Power of Attorney No. \_\_\_\_\_  
Date: \_\_\_\_\_

-----

**INSTRUCTIONS FOR FURNISHING "BID SECURITY / EARNEST MONEY" BY "BANK GUARANTEE"**

1. The Bank Guarantee by Bidders will be given on non-judicial stamp paper as per "Stamp Duty" applicable. The non-judicial stamp paper should be in the name of the issuing Bank.
2. The expiry date should be arrived at in accordance with "ITB: Clause-16.1".
3. The Bank Guarantee by bidders will be given from Bank as specified in "ITB : Clause -16.2".
4. A letter from the issuing Bank of the requisite Bank Guarantee confirming that said Bank Guarantee / all future communication relating to the Bank Guarantee shall be forwarded to the Employer at its address as mentioned at "ITB".
5. Bidders must indicate the full postal address of the Bank along with the Bank's E-mail / Phone from where the Earnest Money Deposit has been issued as per proforma provided below..
6. If a Bank Guarantee is issued by a commercial Bank, then a letter to Employer confirming its net worth is more than Rs. 1,000,000,000.00 [Rupees One Hundred Crores] or equivalent along with documentary evidence in the Bank Guarantee itself.



**MATTER TO BE MENTIONED IN COVERING LETTER TO BE SUBMITTED BY VENDOR  
ALONG WITH BANK GUARANTEE**

1	<b>BANK GUARANTEE NO</b>	:				
2	<b>VENDOR NAME / VENDOR CODE</b>	:	<b>NAME</b>			
			<b>VENDOR CODE</b>			
3	<b>BANK GUARANTEE AMOUNT</b>	:				
4	<b>TENDER NO</b>	:				
5	<b>NATURE OF BANK GUARANTEE</b>	:				
	<b>(Please Tick (√) Whichever is Applicable</b>		<b>PERFORMANCE BANK GUARANTEE</b>	<b>SECURITY DEPOSIT</b>	<b>EMD</b>	<b>ADVANCE</b>
6	<b>BG ISSUED BANK DETAILS</b>	(A)	<b>EMAIL ID</b>	:		
(B)		<b>ADDRESS</b>	:			
(C)		<b>PHONE NO</b>	:			



**FORMAT F-2A**

**DECLARATION FOR BID SECURITY**

To,

M/s GAIL (INDIA) LIMITED

---

SUB:

TENDER NO:

Dear Sir

After examining / reviewing provisions of above referred tender documents (including all corrigendum/ Addenda), we M/s\_\_\_\_\_ (*Name of Bidder*) have submitted our offer/ bid no. ....

We, M/s\_\_\_\_\_ (*Name of Bidder*) hereby understand that, according to your conditions, we are submitting this Declaration for Bid Security.

We understand that we will be put on watch list/holiday/ banning list (as per policies of GAIL in this regard), if we are in breach of our obligation(s) as per following:

- (a) have withdrawn/modified/amended, impairs or derogates from the tender, my/our Bid during the period of bid validity specified in the form of Bid; or
- (b) having been notified of the acceptance of our Bid by the GAIL during the period of bid validity:
  - (i) fail or refuse to execute the Contract, if required, or
  - (ii) fail or refuse to furnish the Contract Performance Security, in accordance provisions of tender document.
  - (iii) ~~fail or refuse to accept 'arithmetical corrections' as per provision of tender document.~~
- (c) having indulged in corrupt/fraudulent /collusive/coercive practice as per procedure.

Place:

[Signature of Authorized Signatory of Bidder]

Date:

Name:

Designation:

Seal:



**F-3**

**LETTER OF AUTHORITY**

[Pro forma for Letter of Authority for Attending 'Pre-Bid Meetings' /'Un-priced Bid Opening' /  
'Price Bid Opening']

Ref:  
To,  
M/s GAIL (INDIA) LIMITED  
\_\_\_\_\_

Date:

SUB:  
TENDER NO:

**Dear Sir,**

I/We, \_\_\_\_\_ hereby authorize the following representative(s)  
for attending any 'Meetings [Pre-Bid Meeting]', 'Un-priced Bid Opening' and 'Price Bid Opening'  
against the above Tender Document:

[1] Name & Designation \_\_\_\_\_ Signature \_\_\_\_\_  
Phone/Cell:  
Fax:  
E-mail: ..... @ .....

[2] Name & Designation \_\_\_\_\_ Signature \_\_\_\_\_  
Phone/Cell:  
Fax:  
E-mail: ..... @ .....

We confirm that we shall be bound by all commitments made by aforementioned authorised  
representative(s).

Place: [Signature of Authorized Signatory of Bidder]  
Date: Name:  
Designation:  
Seal:

Note:

- (i) This "Letter of Authority" should be on the "**letterhead**" of the Bidder and should be signed by a person competent and having the 'Power of Attorney' to bind the Bidder. Not more than 'two [02] persons per Bidder' are permitted to attend 'Pre-Bid Meetings' /'Un-priced Bid Opening' / 'Price Bid Opening'.
- (ii) Bidder's authorized representative is required to carry a copy of this authority letter while attending the 'Pre-Bid Meetings' /'Un-priced Bid Opening'.



**F-4**

**PROFORMA OF "BANK GUARANTEE" FOR "CONTRACT PERFORMANCE SECURITY /  
SECURITY DEPOSIT"**  
**(ON NON-JUDICIAL STAMP PAPER OF APPROPRIATE VALUE)**

To, M/s GAIL (India) Limited  _____	<b>Bank Guarantee No.</b>	
	<b>Date of BG</b>	
	<b>BG Valid up to (Expiry date)</b>	
	<b>Claim period up to (indicate date of expiry of claim period which includes minimum three months from the expiry date)</b>	
	<b>Stamp Sl. No./e-Stamp Certificate No.</b>	

**Dear Sir(s),**

M/s. \_\_\_\_\_ having registered office at \_\_\_\_\_ (herein after called the "Service Provider" which expression shall wherever the context so require include its successors and assignees) have been placed/awarded the job/work of \_\_\_\_\_ vide PO/LOA /FOA No. \_\_\_\_\_ dated \_\_\_\_\_ for GAIL (India) Limited having registered office at 16, Bhikaiji Cama Place, R.K. Puram, New Delhi (herein after called the "GAIL" which expression shall wherever the context so require include its successors and assignees).

The Contract conditions provide that the SERVICE PROVIDER shall pay a sum of Rs. \_\_\_\_\_ (Rupees / Foreign currency as quoted \_\_\_\_\_) as full Contract Performance Guarantee in the form therein mentioned. The form of payment of Contract Performance Guarantee includes guarantee executed by Nationalized Bank/Scheduled Commercial Bank, undertaking full responsibility to indemnify GAIL (INDIA) LIMITED, in case of default.

The said M/s. \_\_\_\_\_ has 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 to give the irrevocable & unconditional guarantee to you that if default shall be made by M/s. \_\_\_\_\_ in performing any of the terms and conditions of the tender/order/contract or in payment of any money payable to GAIL (INDIA) LIMITED we shall on first demand pay without demur, contest, protest and/ or without any recourse to the Service Provider to GAIL in such manner as GAIL may direct the said amount of Rupees \_\_\_\_\_ only or such portion thereof not exceeding the said sum as you may require from time to time.
2. You will have the full liberty without reference to us and without affecting this guarantee, postpone for any time or from time to time the exercise of any of the powers and rights conferred on you under the order/contract with the said \_\_\_\_\_ M/s. \_\_\_\_\_ and to enforce or to forbear from endorsing any powers or rights or by reason of time being given to the said M/s. \_\_\_\_\_ and such postponement forbearance would not have the effect of releasing the bank from its obligation under this debt.





3. Your right to recover the said sum of Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_) from us in manner aforesaid is absolute & unequivocal and 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 or arbitrator or any other authority/forum and any demand made by you in the bank shall be conclusive and binding. The bank shall not be released of its obligations under these presents by any exercise by you of its liberty with reference to matter aforesaid or any of their or by reason or any other act of omission or commission on your part or any other indulgence shown by you or by any other matter or changed what so ever which under law would, but for this provision, have the effect of releasing the bank.
4. The guarantee herein contained shall not be determined or affected by the liquidation or winding up dissolution or changes of constitution or insolvency of the said Service Provider but shall in all respects and for all purposes be binding and operative until payment of all money due to you in respect of such liabilities is paid.
5. The bank undertakes not to revoke this guarantee during its currency without your previous consent and further agrees that the guarantee shall continue to be enforceable until it is discharged by GAIL in writing. However, if for any reason, the service provider is unable to complete the supply/work within the period stipulated in the order/contract and in case of extension of the date of delivery/completion resulting extension of defect liability period/guarantee period of the service provider fails to perform the supply/work fully, the bank hereby agrees to further extend this guarantee at the instance of the service provider till such time as may be determined by GAIL. If any further extension of this guarantee is required, the same shall be extended to such required period \_\_\_\_\_ on receiving instruction from M/s. \_\_\_\_\_ (Service Provider) on whose behalf this guarantee is issued.
6. Bank also agrees that GAIL at its option shall be entitled to enforce this Guarantee against the bank (as principal debtor) in the first instant, without proceeding against the service provider and notwithstanding any security or other guarantee that GAIL may have in relation to the supplier's/Service Provider's liabilities.
7. The amount under the Bank Guarantee is payable forthwith without any delay by Bank upon the written demand raised by GAIL. Any dispute arising out of or in relation to the said Bank Guarantee shall be subject to the exclusive jurisdiction of courts at New Delhi.
8. Therefore, we hereby affirm that we are guarantors and responsible to you on behalf of the Service provider up to a total amount of \_\_\_\_\_ (amount of guarantees in words and figures) and we undertake to pay you, upon your first written demand declaring the Service provider to be in default under the order/contract and without caveat or argument, any sum or sums within the limits of (amounts of guarantee) as aforesaid, without your needing to prove or show grounds or reasons for your demand or the sum specified therein.
9. We have power to issue this guarantee in your favor 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.

Notwithstanding anything contained herein:

- a) The Bank's liability under this Guarantee shall not exceed (currency in figures) . . . . .  
. . . . (currency in words only) . . . .



- b) This Guarantee shall remain in force upto \_\_\_\_\_ (this date should be expiry date of defect liability period of the Contract) and any extension(s) thereof; and
- c) The Bank shall be released and discharged from all liability under this Guarantee unless a written claim or demand is issued to the Bank on or before the midnight of .....(indicate date of expiry of claim period which includes minimum three months from the expiry of this Bank Guarantee) and if extended, the date of expiry of the last extension of this Guarantee. If a claim has been received by us within the said date, all the rights of GAIL under this Guarantee shall be valid and shall not cease until we have satisfied that claim.

Details of next Higher Authority of the Officials who have issued the Bank Guarantee:

Name .....

Designation .....

Yours faithfully,

\_\_\_\_\_  
Bank by its Constituted Attorney

Signature of a person duly  
Authorized to sign on behalf of the Bank

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**INSTRUCTIONS FOR FURNISHING**

**"CONTRACT PERFORMANCE SECURITY / SECURITY DEPOSIT" BY "BANK GUARANTEE"**

1. The Bank Guarantee by successful Bidder(s) will be given on non-judicial stamp paper as per 'stamp duty' applicable. The non-judicial stamp paper should be in name of the issuing bank.
2. The Bank Guarantee by Bidders will be given from bank as specified in cl.no. 38.3 of ITB [Section-III] of Tender Document.
3. A letter from the issuing bank of the requisite Bank Guarantee confirming that said Bank Guarantee and all future communication relating to the Bank Guarantee shall be forwarded to Employer.
4. If a Bank Guarantee is issued by a commercial bank, then a letter to Employer and copy to Consultant (if applicable) confirming its net worth is more than Rs. 100,00,00,000.00 [Rupees One Hundred Crores] or its equivalent in foreign currency alongwith documentary evidence or in the Bank Guarantee itself.
5. Service Provider shall submit attached cover letter (Annexure) while submitting Contract Performance Security.
6. In case BG is issued directly by a bank outside India (if allowed), it should be executed on Letter Head of the Bank and should be advised and made payable through their Indian Branch/Corresponding Bank in India



MATTER TO BE MENTIONED IN COVERING LETTER TO BE SUBMITTED BY VENDOR ALONG WITH BANK GUARANTEE

1	<b>BANK GUARANTEE NO</b>	:				
2	<b>VENDOR NAME / VENDOR CODE</b>	:	<b>NAME</b>			
			<b>VENDOR CODE</b>			
3	<b>BANK GUARANTEE AMOUNT</b>	:				
4	<b>PURCHASE ORDER/ LOA NO</b>	:				
5	<b>NATURE OF BANK GUARANTEE</b>	:				
	(Please Tick ( √ ) Whichever is Applicable)		<b>PERFORMANCE BANK GUARANTEE</b>	<b>SECURITY DEPOSIT</b>	<b>EMD</b>	<b>ADVANCE</b>
6	<b>BG ISSUED BANK DETAILS</b>					
(A)		<b>EMAIL ID</b>	:			
(B)		<b>ADDRESS</b>	:			
(C)		<b>PHONE NO</b>	:			



**F-5A**  
**AGREED TERMS & CONDITIONS FOR INDIAN BIDDER**

To,  
M/s GAIL (INDIA) LIMITED

SUB:  
TENDER NO:

This Format duly filled in, signed & stamped must form part of Bidder's Bid and should be returned along with Un-priced Bid. Clauses confirmed hereunder need not be repeated in the Bid.

Sl.	DESCRIPTION	BIDDER'S CONFIRMATION
1	Bidder's name, Vendor Code of GAIL (if any) and address  (FOA/Order shall be released in this name)	Bidder's name : GAIL's Vendor Code: Address:
2	<del>Bidder furnishes EMD/Bid Security details as under OR bid security declaration:</del> a) <del>EMD/ Bid Security No. &amp; date</del> b) <del>Value</del> c) <del>Validity</del> <del>Bank Address/e-mail ID/Mobile no. [in case of BG]</del>	
3	<del>Bidder confirms currency of quoted prices as:—</del>	
4	Bidder confirms quoted prices will remain firm and fixed till complete execution of the order (except where price escalation/variation is allowed in the Tender).	NOT APPLICABLE
5	Bidder confirms that they have quoted GST (CGST & SGST/ UTGST or IGST) in Schedule of Rates / Price Schedule of Price Bid.	NOT APPLICABLE
5.1	Whether in the instant tender services/works are covered in reverse charge rule of GST (CGST & SGST/UTGST or IGST)  If yes, Bidder confirms that they have quoted rate of applicable GST (CGST & SGST/ UTGST or IGST) in Price Schedule / Schedule of Rates of Price Bid	NOT APPLICABLE
5.2	<del>Bidder confirms that they have mentioned</del> Harmonized System Nomenclature (HSN)/Service Accounting Code (SAC) <del>in Schedule of Rates/ Price Bid &amp; GST percentage, if applicable.</del>	
5.3	Bidder confirms that the quoted prices in compliance with the Section 171 of CGST Act/ SGST Act as mentioned as clause no. 13.1.8 of ITB (Anti-profiteering clause).	NOT APPLICABLE
5.4	Whether bidder is liable to raise E-Invoice as per GST Act.  If yes, bidder will raise E-Invoice and confirm compliance to provision of tender in this regard.	Yes/No
6.	Bidder confirms acceptance of relevant Terms of Payment specified in the Bid Document.	
7.	Bidder confirms that Contract Performance Security will be furnished as per Bid Document, within 30 days of FOA in case of successful bidder.	



Sl.	DESCRIPTION	BIDDER'S CONFIRMATION
8.	Bidder confirms that Contract Performance Security shall be from any Indian scheduled bank (excluding Co-operative banks and Regional Rural bank) or a branch of an International bank situated in India and registered with Reserve bank of India as scheduled foreign bank. However, in case of bank guarantees from banks other than the Nationalised Indian banks, the bank must be a commercial bank having net worth in excess of Rs 100 crores or equivalent US Dollars and a declaration to this effect shall be made by such commercial bank either in the Bank Guarantee itself or separately on its letterhead.	
9.	Bidder confirms compliance to Completion Schedule as specified in Bid document and the same shall be reckoned from the date of Fax of Acceptance.	NOT APPLICABLE
10.	(i) Bidder confirms acceptance of Price Reduction Schedule for delay in completion schedule specified in Bid document. (ii) In case of delay, the bills/ invoices shall be submitted after reducing the price reduction due to delay (refer clause no. 48 of Section-III).	NOT APPLICABLE
11.	a) Bidder confirms acceptance of all terms and conditions of Bid Document (all sections). b) Bidder confirms that printed terms and conditions of bidder are not applicable.	
12.	Bidder confirms that their offer is valid for period specified in BDS from Final/Extended due date of opening of Techno-commercial Bids.	
13.	Bidder furnishes EMD/Bid Security details as under: Ⓐ EMD/ Bid Security No. & date Ⓑ Value Ⓒ Validity Ⓓ Bank Address/e-mail ID/Mobile no. [in case of BG]  <b>OR</b> Bidder furnishes bid security declaration [applicable for MSEs, Start-Ups and CPSEs (to whom exemption is allowed as per extant guidelines in vogue)]	
14.	Bidder confirms that (i) none of Directors (in Board of Director) of bidder is a relative of any Director (in Board of Director) of GAIL Or (ii) the bidder is not a firm in which any Director (in Board of Director) of GAIL or their relative is a partner.	
15.	Bidder confirms that all correspondence must be in ENGLISH language only.	
16.	Confirm that all Bank charges associated with Bidder's Bank regarding release of payment etc. shall be borne by Bidder.	
17.	<u>No Deviation Confirmation:</u> It may be note that any 'deviation / exception' in any form may result in rejection of Bid. Therefore, Bidder confirms that they have not taken any 'exception / deviation' anywhere in the Bid. In case any	



Sl.	DESCRIPTION	BIDDER'S CONFIRMATION
	'deviation / exception' is mentioned or noticed, Bidder's Bid may be rejected.	
18.	<p>If the Bidder becomes a successful Bidder pursuant to the provisions of the Tender Document, the following Confirmation shall be automatically become enforceable:</p> <p>"Bidder agrees and acknowledges that the Employer is entering into the Contract/Agreement solely on its own behalf and not on behalf of any other person or entity. In particular, it is expressly understood &amp; agreed that the Government of India is not a party to the Contract/Agreement and has no liabilities, obligations or rights thereunder. It is expressly understood and agreed that the Purchaser is authorized to enter into Contract/Agreement, solely on its own behalf under the applicable laws of India. Bidder expressly agrees, acknowledges and understands that the Purchaser is not an agent, representative or delegate of the Government of India. It is further understood and agreed that the Government of India is not and shall not be liable for any acts, omissions, commissions, breaches or other wrongs arising out of the Agreement. Accordingly, Bidder hereby expressly waives, releases and foregoes any and all actions or claims, including cross claims, VIP claims or counter claims against the Government of India arising out of the Agreement and covenants not to sue to Government of India as to any manner, claim, cause of action or things whatsoever arising of or under the Agreement."</p>	
19.	<p>Bidder hereby confirms that they are not on 'Holiday' by GAIL or Public Sector Project Management Consultant (like EIL, Mecon only due to "poor performance" or "corrupt and fraudulent practices") or banned by Government department/ Public Sector on due date of submission of bid. Further, Bidder confirms that neither they nor their allied agency/(ies) (as defined in the Procedure for Action in case of Corrupt/ Fraudulent/ Collusive/ Coercive Practices) are on banning list of GAIL or the Ministry of Petroleum and Natural Gas.</p> <p>Bidder also confirms that they are not under any liquidation, court receivership or similar proceedings or 'bankruptcy'.</p> <p>In case it comes to the notice of GAIL that the bidder has given wrong declaration in this regard, the same shall be dealt as 'fraudulent practices' and action shall be initiated as per the Procedure for action in case of Corrupt/Fraudulent/Collusive/Coercive Practices.</p> <p>Further, Bidder also confirms that in case there is any change in status of the declaration prior to award of contract, the same will be promptly informed to GAIL by them.</p>	
20.	<p>As per requirement of tender, bidder (having status as Pvt. Ltd. or Limited company) must upload bid duly digitally signed on e-portal through class-3B digital signature (DS). In case, class of DS or name of employee or name of employer is not visible in the digitally signed documents, the bid digitally signed as submitted by the person shall be binding on the bidder.</p>	NOT APPLICABLE
21.	<p>Bidder to ensure all documents as per tender including clause 11 of Section III and all Formats are included in their bid</p>	
22.	<p>Bidder understands that Tender Document is not exhaustive. In case any activity though specifically not covered in description of 'Schedule of Rates' but is required to complete the work as per Scope of Work, Conditions of Contract, or any other part of Bidding document, the quoted rates will deemed to be inclusive of cost incurred for such activities unless otherwise specifically excluded. Bidder confirms to perform for fulfilment of the contract and</p>	NOT APPLICABLE





Sl.	DESCRIPTION	BIDDER'S CONFIRMATION
	completeness of the supplies in all respect within the scheduled time frame and quoted price.	
23	Bidder confirms that they have read and understood the General Conditions of Contract – Services available on GAIL's Tender website ( <a href="http://gailtenders.in/Gailtenders/gccs.asp">http://gailtenders.in/Gailtenders/gccs.asp</a> ) & no 'exception / deviation' anywhere has been taken in the same and that they shall abide by provisions of relevant GCC-Services.	NOT APPLICABLE
24	Bidder certifies that they would adhere to the Fraud Prevention Policy of GAIL [available on GAIL's website ( <a href="http://www.gailonline.com">www.gailonline.com</a> ) under other links] and shall not indulge themselves or allow others (working in GAIL) to indulge in fraudulent activities and that they would immediately apprise GAIL of the fraud/suspected fraud as soon as it comes to their notice. Concealment of facts regarding their involvement in fraudulent activities in connection with the business transaction(s) of GAIL is liable to be treated as crime and dealt with by the procedures of GAIL as applicable from time to time.	
25.	Bidder confirms the contents of this Tender Document have not been modified or altered by them. In case, it is found that the tender document has been modified / altered by the bidder, the bid submitted by them shall be liable for rejection.	
26.	Bidder confirms that, in case of contradiction between the confirmations provided in this format and to the terms & conditions mentioned elsewhere in the offer, the confirmations given in this format shall prevail.	
27.	Bidders confirm to submit signed copy of Integrity Pact (wherever included in tender).  If Bidder is a partnership concern or a consortium, this agreement must be signed by all partners or consortium members.	
28.	Bidder confirms that (i) any variation in GST at the time of supplies for any reasons, other than statutory, including variations due to turnover, shall be borne by them and (ii) any error of interpretation of applicability of rate of GST (CGST & SGST/ UTGST or IGST) on components of an item and/or various items of tender by them shall be to bidder's account.	NOT APPLICABLE
29.	Bidder confirms that there is no conflict of interest with other bidders, as per clause no. 4.2 of Section-III (ITB) of Tender Document.	
30.	Bidder confirms that they have submitted the following documents apart from EMD: (a) Power of Attorney (b) Line of Credit (if any) in original	
31.	Bidder confirms the preference of locations (strike out the one which is not applicable): Preference No. 1: NEPAL / BANGLADESH Preference No. 2: NEPAL / BANGLADESH	



Place: [Signature of Authorized Signatory of Bidder]  
Date: Name:  
Designation:  
Seal:



**F-5B**

**AGREED TERMS & CONDITIONS FOR FOREIGN BIDDER**

To,

M/s GAIL (INDIA) LIMITED

SUB:

TENDER NO:

This Questionnaire duly filled in, signed & stamped must form part of Bidder's Bid and should be returned along with Un-priced Bid. Clauses confirmed hereunder need not be repeated in the Bid.

<b>Sl.</b>	<b>DESCRIPTION</b>	<b>BIDDER'S CONFIRMATION</b>
1a	Bidder's name, Vendor Code of GAIL (if any) and address  (FOA/Order shall be released in this name)	Bidder's name : GAIL's Vendor Code: Address:
1b	The address of the Fixed Place Permanent Establishment (PE) or name & address of the Dependent Agency PE of Foreign Bidder as per clause no.52 of ITB of Tender Document.	
2	Bidder furnishes EMD/Bid Security details as under: h) EMD/ Bid Security No. & date i) Value j) Validity k) Bank Address/e-mail ID/Mobile no. [in case of BG]	
3.	Bidder confirms currency of quoted prices as:-	NOT APPLICABLE
4	Bidder confirms that quoted prices will remain firm and fixed till complete execution of the order (except where price escalation/variation is allowed in the Tender).	NOT APPLICABLE
5a.	For Foreign bidder who is not having the Permanent Establishment / Tax Residency in India/ GST Registration, IGST (Intergraded Goods and Services Tax) in respect of Services/ Works shall be payable by GAIL wherever applicable to statutory authorities in India under reverse charge mechanism. Further, in cases where GST is not charged by foreign bidders in the invoices and GAIL makes payment of IGST under Reverse Charge to Exchequer, subject to provisions mentioned in clause no.13.2 of ITB.	Noted
5b1.	In case Foreign bidders is having the Permanent Establishment/ Tax Residency in India/ GST Registration, confirm quoted GST (CGST & SGST/UTGST or IGST)	NOT APPLICABLE
5b2.	In such cases, all other provision w.r.t. to GST (CGST & SGST/UTGST or IGST) in respect of Services/ Works shall be as per provision applicable to Indian bidder mentioned at clause no.13.1 of ITB.	NOT APPLICABLE
5b3.	Bidder confirms that the quoted prices is in compliance with the Section 171 of CGST Act/ SGST Act as mentioned as clause no. 13.1.8 of ITB (Anti-profiteering clause).	NOT APPLICABLE
5b4	Whether bidder is liable to raise E-Invoice as per GST Act.	Yes/No



Sl.	DESCRIPTION	BIDDER'S CONFIRMATION
	If yes, bidder will raise E-Invoice and confirm compliance to provision of tender in this regard.	
6.	Bidder confirms acceptance of relevant Terms of Payment specified in the Bid Document.	
7.	Bidder confirms that Contract Performance Security will be furnished as per Bid Document, within 30 days of FOA in case of successful bidder.	
8.	Bidder confirms that Contract Performance Security shall be from any Indian scheduled bank (excluding Co-operative banks and Regional Rural bank) or a branch of an International bank situated in India and registered with Reserve bank of India as scheduled foreign bank. However, in case of bank guarantees from banks other than the Nationalised Indian banks, the bank must be a commercial bank having net worth in excess of Rs 100 crores or equivalent US Dollars and a declaration to this effect shall be made by such commercial bank either in the Bank Guarantee itself or separately on its letterhead.	
9.	Bidder confirms compliance to Completion Schedule as specified in Bid document and same shall be reckoned from the date of Fax of Acceptance (FOA).	NOT APPLICABLE
10.	(i) Bidder confirms acceptance of Price Reduction Schedule for delay in completion schedule specified in Bid document. (ii) In case of delay, the bills shall be submitted after reducing the price reduction due to delay (refer PRS Clause).	NOT APPLICABLE
11.	a) Bidder confirms acceptance of all terms and conditions of Bid Document (all sections). b) Bidder confirms that printed terms and conditions of bidder are not applicable.	
12.	Bidder confirms their offer is valid for period specified in BDS from Final 'Bid Due Date'.	
13.	Bidder confirms that (i) none of Directors (in Board of Director) of bidder is a relative of any Director (in Board of Director) of GAIL Or (ii) the bidder is not a firm in which any Director (in Board of Director) of GAIL or their relative is a partner.	
14.	Bidder confirms that all correspondence must be in ENGLISH language only.	
15.	Bidder confirms that all Bank charges associated with Bidder's Bank regarding release of payment etc. shall be borne by Bidder.	
16.	Bidder to mention applicable Harmonized System Nomenclature (HSN)/Service Accounting Code (SAC), if applicable.	
17.	<b>No Deviation Confirmation:</b> It may be note that any 'deviation / exception' in any form may result in rejection of Bid. Therefore, Bidder confirms that they have not taken any 'exception / deviation' anywhere in the Bid. In case any 'deviation / exception' is mentioned or noticed, Bidder's Bid may be rejected.	



Sl.	DESCRIPTION	BIDDER'S CONFIRMATION
18.	<p>If the Bidder becomes a successful Bidder pursuant to the provisions of the Tender Document, the following Confirmation shall be automatically become enforceable:</p> <p>"Bidder agrees and acknowledges that the Employer is entering into the Contract/Agreement solely on its own behalf and not on behalf of any other person or entity. In particular, it is expressly understood &amp; agreed that the Government of India is not a party to the Contract/Agreement and has no liabilities, obligations or rights thereunder. It is expressly understood and agreed that the Purchaser is authorized to enter into Contract/Agreement, solely on its own behalf under the applicable laws of India. Bidder expressly agrees, acknowledges and understands that the Purchaser is not an agent, representative or delegate of the Government of India. It is further understood and agreed that the Government of India is not and shall not be liable for any acts, omissions, commissions, breaches or other wrongs arising out of the Agreement. Accordingly, Bidder hereby expressly waives, releases and foregoes any and all actions or claims, including cross claims, VIP claims or counter claims against the Government of India arising out of the Agreement and covenants not to sue to Government of India as to any manner, claim, cause of action or things whatsoever arising of or under the Agreement."</p>	
19.	<p>Bidder hereby confirms that they are not on 'Holiday' by GAIL or Public Sector Project Management Consultant (like EIL, Mecon only due to "poor performance" or "corrupt and fraudulent practices") or banned by Government department/ Public Sector on due date of submission of bid.</p> <p>Further, Bidder confirms that neither they nor their allied agency/(ies) (as defined in the Procedure for Action in case of Corrupt/ Fraudulent/ Collusive/ Coercive Practices) are on banning list of GAIL or the Ministry of Petroleum and Natural Gas.</p> <p>Bidder also confirms that they are not under any liquidation, court receivership or similar proceedings or 'bankruptcy'.</p> <p>In case it comes to the notice of GAIL that the bidder has given wrong declaration in this regard, the same shall be dealt as 'fraudulent practices' and action shall be initiated as per the Procedure for action in case of Corrupt/Fraudulent/Collusive/Coercive Practices.</p> <p>Further, Bidder also confirms that in case there is any change in status of the declaration prior to award of contract, the same will be promptly informed to GAIL by them.</p>	
20.	<p>As per requirement of tender, bidder (having status as Pvt. Ltd. or Limited company) must upload bid duly digitally signed on e-portal through class-3B digital signature (DS). In case, class of DS or name of employee or name of employer is not visible in the digitally signed documents, the bid digitally signed as submitted by the person shall be binding on the bidder.</p>	NOT APPLICABLE
21.	<p>Bidder confirms that the contents of this Tender Document have not been modified or altered by them. In case, it is found that the tender document has been modified / altered by the bidder, the bid submitted by them shall be liable for rejection.</p>	
22.	<p>Bidder to ensure all documents as per tender including clause 11 of Section III and all Formats are included in their bid</p>	
23.	<p>Bidder understands that Tender Document is not exhaustive. In case any activity though specifically not covered in description of 'Schedule of Rates' but is required to complete the work as per Scope</p>	NOT APPLICABLE



Sl.	DESCRIPTION	BIDDER'S CONFIRMATION
	of Work, Conditions of Contract, or any other part of Bidding document, the quoted rates will deemed to be inclusive of cost incurred for such activities unless otherwise specifically excluded. Bidder confirms to perform for fulfilment of the contract and completeness of the supplies in all respect within the scheduled time frame and quoted price.	
22.	<p>Confirm <b>ANY ONE</b> of the following as per 'TAX INCIDENCE' at clause no.52 of ITB of Tender Document.</p> <p>a) Bidder insists that Tax Liability is to be borne by GAIL (the bidder's total quoted prices shall be suitably loaded by equivalent amount for evaluation purpose and Withholding Tax [WHT] Certificate will be issued).</p> <p style="text-align: center;"><b>OR</b></p> <p>b) Bidder agrees to bear the WHT as per the provision of Income Tax Act 1961 (no loading on quoted prices towards WHT will be done. The WHT will be deducted from their payments due to them and WHT certificate will be issued as per IT Act).</p>	
23	Bidder confirms that they have read and understood the General Conditions of Contract - Services available on GAIL's Tender website ( <a href="http://gailtenders.in/Gailtenders/gccs.asp">http://gailtenders.in/Gailtenders/gccs.asp</a> ) & no 'exception / deviation' anywhere has been taken in the same and that they shall abide by provisions of relevant GCC- Services.	NOT APPLICABLE
24	<p>Bidder certifies that they would adhere to the Fraud Prevention Policy of GAIL [available on GAIL's website (<a href="http://www.gailonline.com">www.gailonline.com</a>)] and shall not indulge themselves or allow others (working in GAIL) to indulge in fraudulent activities and that they would immediately apprise GAIL of the fraud/suspected fraud as soon as it comes to their notice.</p> <p>Concealment of facts regarding their involvement in fraudulent activities in connection with the business transaction(s) of GAIL is liable to be treated as crime and dealt with by the procedures of GAIL as applicable from time to time.</p>	
25.	Bidder confirms that, in case of contradiction between the confirmations provided in this format and terms & conditions mentioned elsewhere in the offer, the confirmations given in this format shall prevail.	
26.	<p>Bidders confirm to submit signed copy of Integrity Pact (wherever included in tender).</p> <p>If Bidder is a partnership concern or a consortium, this agreement must be signed by all partners or consortium members.</p>	
27	Bidder confirms that there is no conflict of interest with other bidders, as per clause no. 4.2 of Section-III (ITB) of Tender Document.	
28.	<p>Bidder confirms that they have submitted the following documents apart from EMD:</p> <p>a) Power of Attorney</p> <p>b) Line of Credit (if any) in original</p>	
29.	<p>Bidder confirms the preference of locations (strike out the one which is not applicable):</p> <p>Preference No. 1: NEPAL / BANGLADESH</p>	





<b>Sl.</b>	<b>DESCRIPTION</b>	<b>BIDDER'S CONFIRMATION</b>
	Preference No. 2: NEPAL / BANGLADESH	

Place:

[Signature of Authorized Signatory of Bidder]

Date:

Name:

Designation:

Seal:



**F-6**

**ACKNOWLEDGEMENT CUM CONSENT LETTER**

**(On receipt of tender document/information regarding the tender, Bidder shall acknowledge the receipt and confirm his intention to bid or reason for non-participation against the enquiry /tender through e-mail/fax to concerned executive in GAIL issued the tender, by filling up the Format)**

To,

M/s GAIL (INDIA) LIMITED

---

SUB:

TENDER NO:

Dear Sir,

We hereby acknowledge receipt of a complete set of bidding document along with enclosures for subject item/job and/or the information regarding the subject tender.

- We intend to bid as requested for the subject item/job and furnish following details with respect to our quoting office:

Postal Address with Pin Code: .....

Telephone Number : .....

Fax Number : .....

Contact Person : .....

E-mail Address : .....

Mobile No. : .....

Date : .....

Seal/Stamp : .....

- We are unable to bid for the reason given below:

Reasons for non-submission of bid:

---

Agency's Name : .....

Signature : .....

Name : .....

Designation : .....

Date : .....

Seal/Stamp : .....



**F-7**  
**BIDDER'S EXPERIENCE**

To,

M/s GAIL (INDIA) LIMITED

---

SUB:

TENDER NO:

Sl. No	Description of the Services	LOA /WO No. and date	Full Address & phone nos. of Client. <i>Name, designation and address of Engineer/ Officer-in-Charge (for cases other than purchase)</i>	Postal & phone nos. of Client.	Value of Contract /Order (Specify Currency Amount)	Date of Commencement of Services	Scheduled Completion Time (Months)	Date of Actual Completion	Reasons for delay in execution, if any
(1)	(2)	(3)	(5)	(6)	(7)	(8)	(9)	(10)	

Place:

[Signature of Authorized Signatory of Bidder]

Date:

Name:

Designation:

Seal:

**Note: As per cl.no.D of Section-II, only documents (Work Order, Completion certificate, Execution Certificate etc.) which have been referred/ specified in the bid shall be considered in reply to queries during evaluation of Bids.**



**F-8 (A)**

**CHECK LIST**

Bidders are requested to duly fill in the checklist. This checklist gives only certain important items to facilitate the bidder to make sure that the necessary data/information as called for in the bid document has been submitted by them along with their offer. This, however, does not relieve the bidder of his responsibilities to make sure that his offer is otherwise complete in all respects.

Please ensure compliance and tick (√) against following points:

S. No.	DESCRIPTION	CHECK BOX	REFERENCE PAGE NO. OF THE BID SUBMITTED
1.0	Confirm that the following details have been submitted in the Un-priced part of the bid		X
I	Covering Letter, Letter of Submission		
II	EMD/Bid Security / Declaration for Bid Security [as applicable] as per provisions of Tender		
III	Digitally signed (in case of e-tendering) or 'signed & stamped (in case of Manual tender) tender document along with drawings and addendum (if any)	NA	
IV	Power of Attorney in the name of person signing the bid.		
V	Confirm submission of documents alongwith unpriced bid as per tender requirement (including cl.no.11.1.1 of Section-III)		X
2.0	Confirm that all forms duly filled in are enclosed with the bid duly <input type="checkbox"/> signed by authorised person(s)		
3.0	Confirm that the price part as per Price Schedule format submitted with Bidding Document/ uploaded in case of e-bid.	NA	X
4.0	Confirm that Undertaking as per Form 1 of Annexure-III to Section-III has been submitted (applicable for MSE and Class I /Class II Local supplier).	NA	
5.0	Confirm that Undertaking as per <i>Form-2 to Annexure-III to Section-III</i> and Certification from the statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of other than companies) as per <i>Form-3 to Annexure-III to Section-III</i> are submitted. (Applicable for all bidders including MSEs bidders)..	NA	
6.0	Confirm that Undertaking as per Form-1 to Section-II have been submitted by the bidder (Guidelines from Procurement from a Country sharing a Land Border with India)	NA	



7.0	Confirm submission of Checklist against Bid Evaluation Criteria as per format F-8(B)		
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Place:  
Date:

[Signature of Authorized Signatory of Bidder]  
Name & Designation:



**F-8(B)**  
**CHECKLIST FOR BID EVALUATION CRITERIA (BEC) QUALIFYING DOCUMENTS**  
**(refer Section II of Tender document)**

BEC Clause No.	Description	Documents required for qualification	Documents Submitted by Bidder	Documents attested as per Section-II of Tender	Reference Page No. of the Bid submitted
<b>Technical BEC</b>					
1.	<b>Experience</b>	REFER SECTION-II OF THE TENDER DOCUMENT		Yes/No	
2.	<b>Job executed for Subsidiary / Fellow subsidiary/ Holding company.</b>	Tax paid invoice(s) duly certified by statutory auditor of the bidder towards payment of statutory tax in support of the job executed for Subsidiary / Fellow subsidiary/ Holding company.		Yes/No	
3.	<del>Experience of bidder acquired as a subcontractor</del>	<del>Additional document required - certificate from end user by such bidder along with other specified documents.</del>	Yes/ No If yes, please specify name of End user.....	Yes/No	
4.	<b>Any other technical criteria in BEC</b>	REFER SECTION-II OF THE TENDER DOCUMENT		Yes/No	
<b>Financial BEC</b>					





1.	<b>Average Annual Turn Over</b>	Audited Financial Statements [including Auditor's Report, Balance sheet, Profit & Loss Accounts statements, Notes & schedules etc.] for preceding three Audited Financial Years.		Yes/No	
2.	<b>Net Worth</b>	Audited Financial Statements [including Auditor's Report, Balance sheet, Profit & Loss Accounts statements, Notes & schedules etc.] for last Audited Financial Year.		Yes/No	
3.	<b>Working Capital</b>	Audited Financial Statements [including Auditor's Report, Balance sheet, Profit & Loss Accounts statements, Notes & schedules etc.] for last Audited Financial Year.  If the bidder's working capital is negative or inadequate, the bidder shall submit a letter (in prescribed format) from their bank having net worth not less than Rs.100 Crores, confirming the availability of line of credit for at least working capital requirement as stated above.		Yes/No	
4.	<b>Format for Details of financial capability of Bidder</b>	Bidder shall submit "Details of financial capability of Bidder" in prescribed format duly signed and stamped by <del>a chartered accountant / Certified Public Accountant (CPA)</del> the concerned as mentioned in Financial BEC.			

Place:

[Signature of Authorized Signatory of Bidder]

Date:

Name:

Designation:

Seal:



**F-9**

**FORMAT FOR CERTIFICATE FROM BANK**  
**IF BIDDER'S WORKING CAPITAL IS INADEQUATE/NEGATIVE**

(To be provided on Bank's letter head)

Date:

To,  
M/s. GAIL (India) Limited

-----  
-----  
-----

Dear Sir,

This is to certify that M/s ..... (name of the bidder with address) (hereinafter referred to as Customer) is an existing customer of our Bank.

The Customer has informed that they wish to bid for GAIL's RFQ/Tender no. .... dated ..... for .....(Name of the supply/work/services/consultancy) and as per the terms of the said RFQ/Tender they have to furnish a certificate from their Bank confirming the availability of line of credit.

Accordingly M/s ..... (name of the Bank with address) confirms availability of line of credit to M/s ..... (name of the bidder) for at least an amount of Rs./USD

\_\_\_\_\_

It is also confirmed that the net worth of the Bank is more than Rs. 100 Crores (or Equivalent USD) and the undersigned is authorized to issue this certificate.

Yours truly

for ..... (Name & address of Bank)

(Authorized signatory)

Name of the signatory:

Designation :

Stamp

**Note:**

This Declaration Letter for line of credit shall be from single bank only. Letters from multiple banks shall not be applicable. However, banking syndicate will be acceptable wherein a group of banks can jointly provide line of credit to the bidder.



**F-10**

**FORMAT FOR CHARTERED ACCOUNTANT CERTIFICATE/ CERTIFIED PUBLIC ACCOUNTANT (CPA) FOR FINANCIAL CAPABILITY OF THE BIDDER**

We have verified the Audited Financial Statements and other relevant records of M/s..... (Name of the bidder) and certify the following:

**A. AVERAGE ANNUAL FINANCIAL TURNOVER\* DURING THE LAST THREE FINANCIAL YEARS:**

Year	Amount (USD*)
Year 1:	
Year 2:	
Year 3:	
Total (A)	
Average Annual Financial Turnover during the last three financial years (A/3)	

**B. NETWORTH\* AS PER LAST AUDITED FINANCIAL STATEMENT:**

Description	Year _____
	Amount (USD*)
1. Net Worth	

**C. WORKING CAPITAL\* AS PER LAST AUDITED FINANCIAL STATEMENT :**

Description	Year _____
	Amount (USD*)
1. Current Assets	
2. Current Liabilities	
3. Working Capital (Current Assets-Current liabilities)	

(Page 1 of 2)

**\*Refer Instructions**

**Note:**

- 1.0 It is further certified that the above mentioned applicable figures are matching with the returns filed with Registrar of Companies (ROC) [Applicable only in case of Indian Companies]
- 2.0 We confirm that above figures are after referring instructions at page 2 of 2 of F-10.
- 3.0 Practicing Chartered Accountants shall generate Unique Document Identification Number (UDIN) for all certificates issued by them

Name of Audit Firm:  
Chartered Accountant/CPA  
Date:

[Signature of Authorized Signatory]  
Name:  
Designation:  
Seal:  
Membership No.:  
UDIN:



**Instructions:**

1. ~~The Separate Pro forma shall be used for each member in case of JV/ Consortium (Refer Cl. 3 of ITB)~~
2. The financial year would be the same as one normally followed by the bidder for its Annual Report.
3. The bidder shall provide the audited annual financial statements as required for this Tender document. Failure to do so would result in the Proposal being considered as non- responsive.
4. For the purpose of this Tender document:
  - (i) **Annual Turnover** shall be “Revenue from Operations” as per Profit & Loss account of audited annual financial statements
  - (ii) **Working Capital** shall be “Current Assets less Current liabilities” and
  - (iii) **Net Worth** shall be aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, if any, but does not include reserves created out of revaluation of assets, write- back of depreciation and amalgamation.
5. **In case the date of constitution/incorporation of the bidder is less than 3 years old, the average turnover in respect of the completed financial years after the date of constitution/ incorporation shall be taken into account for minimum Average Annual Financial Turnover criteria.**
6. **Above figures shall be calculated after considering the qualification, if any, made by the statutory auditor on the audited financial statements of the bidder including quantified financial implication.**
7. **If in case, the figures mentioned in audited financial statements are in currency other than USD, then the Bidder necessarily needs to attach a Working Sheet deriving the equivalent values in USD covering the exchange rate details and these values (in USD) needs to be entered in above Tables A, B, and C.**
8. **This certificate, along with Working Sheet (if applicable as mentioned in Point 7 above), is to be submitted on the letter head of Chartered Accountant/CPA.**



**F-11**

**BIDDER'S QUERIES FOR PRE BID MEETING**

To,

M/s GAIL (INDIA) LIMITED

Sub :

Tender No :

SL. NO.	REFERENCE OF BIDDING DOCUMENT				BIDDER'S QUERY	GAIL'S REPLY
	SEC. NO.	Page No.	Clause No.	Subject		

**NOTE: The Pre-Bid Queries may be sent by fax / e-mail before due date for receipt of Bidder's queries in terms of Clause No. 8.1 of ITB.**

SIGNATURE OF AUTHORISED REPRESENTATIVE OF BIDDER: \_\_\_\_\_

NAME OF BIDDER : \_\_\_\_\_



**F-12**  
**REAL TIME GROSS SETTLEMENT (RTGS) / NATIONAL ELECTRONIC FUNDS**  
**TRANSFER (NEFT) MANDATE FORM**

(To be issued on vendors letter head)

1. Vendor/customer Name :
2. Vendor/customer Code:
3. Vendor /customer Address:
4. Vendor/customer e-mail id:
5. Particulars of bank account:
  - a) Account Holder / Beneficiary Name
  - b) Name of Bank:
  - c) Name of branch:
  - d) Branch code:
  - e) Address:
  - f) Telephone number:
  - g) Type of account (current/saving etc):
  - h) Account Number:
  - i) IFSC code of the bank branch:
  - j) Reason (if) Vendor (S.N.1) and Account Holder / Beneficiary name (S.N. 5 (a)) is not the same

I/We hereby authorize GAIL (India) Limited & its wholly owned subsidiary to release any amount due to me/us in the bank account as mentioned above. I/We hereby declare that the particulars given above are correct and complete. If the transaction is delayed or lost because of incomplete or incorrect information, we would not hold the GAIL(India) Limited responsible.

(Signature of vendor/customer)

**BANK CERTIFICATE**

We certify that Account Holder/Beneficiary \_\_\_\_\_ has  
an Account no. \_\_\_\_\_ and IFSC Code : \_\_\_\_\_ with us  
and we confirm that the details given above are correct as per our records.

Bank stamp

Date

(Signature of authorized officer of bank)





**F-14**

**FREQUENTLY ASKED QUESTIONS (FAQs)**

<b>SL.NO.</b>	<b>QUESTION</b>	<b>ANSWER</b>
1.0	Can any vendor quote for subject Tender?	Yes. A Vendor has to meet Bid Evaluation Criteria given under Section II of Tender document in addition to other requirements.
2.0	Should the Bid Evaluation Criteria documents be attested?	Yes. Please refer Section II of Tender document.
3.0	Is attending Pre Bid Meeting mandatory.	No. Refer Clause No. 17 of Instruction to Bidders of Tender Document. However attending Pre Bid Meeting is recommended to sort out any issue before submission of bid by a Bidder.
4.0	Can a vendor submit more than 1 offer?	No. Please refer Clause No. 4 of Instruction to Bidders of Tender Document.
5.0	Is there any Help document available for e-Tender.	Refer FAQs as available on Govt. e-Procurement System of National Informatics Center (NIC) <a href="https://etenders.gov.in/eprocure/app">https://etenders.gov.in/eprocure/app</a>
6.0	Are there are any MSE (Micro & Small Enterprises) benefits available?	Refer Clause No. 40 of Instructions to Bidders of Tender Document.
7.0	Are there are any benefits available to Start-Ups?	Refer Clause No. 48 of Instructions to Bidders of Tender Document.

All the terms and conditions of Tender remain unaltered.



F-15

**UNDERTAKING REGARDING SUBMISSION OF ELECTRONIC INVOICE (E-  
INVOICE AS PER GST LAWS)**

**(to be submitted on letter head along with documents for release of payment)**

To,

M/s GAIL (INDIA) LIMITED

\_\_\_\_\_

SUB:

LOA NO:

**Dear Sir,**

We \_\_\_\_\_ (Name of the Service Provider) hereby confirm that E-Invoice provision as per the GST Law is

- (i) Applicable to us [     ]
- (ii) Not Applicable to us [     ]

**(Service Provider is to tick appropriate option (✓) above).**

In case, same is applicable to us, we confirm that we will submit E-Invoice after complying with all the requirements of GST Laws. If the invoice issued without following this process, such invoice can-not be processed for payment by GAIL as no ITC is allowed on such invoices. We also confirm that If input tax credit is not available to GAIL for any reason attributable to Service Provider (both for E-invoicing cases and non-E-invoicing cases), then GAIL shall not be obligated or liable to pay or reimburse GST (CGST & SGST/UTGST or IGST) claimed in the invoice(s) and shall be entitled to deduct / setoff / recover such GST amount (CGST & SGST/UTGST or IGST) or Input Tax Credit amount together with penalties and interest, if any, by adjusting against any amounts paid or becomes payable in future to the Service Provider under this contract or under any other contract.

Place:

[Signature of Authorized Signatory of Bidder]

Date:

Name:

Designation:

Bidder Name:

Seal:



**F-16A**

**UNDERTAKING FOR NO BUSINESS CONNECTION IN INDIA**  
**FORMAT OF DECLARATION BY THE SELLER THAT THE SELLER DOES NOT**  
**HAVE A BUSINESS CONNECTION IN INDIA**

This is to certify that.....(Name of the entity) a company /LLP/Partnership Firm etc. in .....(Country) having its registered office at ..... (Address of company)

1. Is a tax resident of .....; and
2. Till 31 March ....., we did not have a business connection or fixed base in India as per the provisions of Indian Income Tax Act, 1961. Further, up to 31 March ....., we have no intention to have a business connection or fixed base in India.

We further undertake to notify your good office immediately if there is a change in the facts or status of our company in relation to being or operating a business connection of fixed base as stated herein above.

For

(Authorized Signatory)

Name:

Address:-

Local Contact No.(with ISD Code) :-

Email ID:-



**F-16B**

**UNDERTAKING FOR NO PE IN INDIA**  
**FORMAT OF DECLARATION BY THE SELLER THAT THE SELLER DOES NOT**  
**HAVE A PERMANENT ESTABLISHMENT (PE) IN INDIA**

**We, the beneficiary, hereby confirm as follows:**

1. We are resident of a \_\_\_\_\_ (Contracting State) in accordance with the provisions of Article 4 of the Convention between the Government of the \_\_\_\_\_ (Contracting State) and the Government of the Republic of the \_\_\_\_\_ (Other Contracting State/ India) for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (“Treaty”) and are eligible to claim relief under the provisions of the Treaty including Article 5.
2. Till 31 March ....., we did not have a permanent establishment in India as contemplated under Article 5 of the Treaty respectively. Further, up to 31 March ....., we have no intention to have a fixed base or permanent establishment in the \_\_\_\_\_ (Other Contracting State/ India) within the meaning of Article 5 of the Treaty respectively.

**Authorized Signatory**  
**(Name & designation of the person & seal)**



**F-16C**

**[For entities Located in Country or specified territories with which India has DTAA]**  
**(This Form contains Form 10F as per Indian Income Tax Act, 1961)**

**Form 10 F**

**Information to be provided under sub-section (5) of section 90 or sub-section (5) of section 90A of the Indian Income-tax Act, 1961**

I..... \*son/daughter of Mr..... in the capacity of .....  
..... (designation) do provide the following information, relevant to the previous year. ....  
..... \*in my case/in the case of. .... for the purposes of sub-section  
(5) of \* section 90/section 90A:—

<i>Sl. No.</i>	<i>Nature of information</i>	<i>: Details#</i>
(i)	Status (individual; company, firm etc.) of the assessee	:
(ii)	Permanent Account Number (PAN) of the assessee if allotted	:
(iii)	Nationality (in the case of an individual) or Country or specified territory of incorporation or registration (in the case of others)	:
(iv)	Assessee's tax identification number in the country or specified territory of residence and if there is no such number, then, a unique number on the basis of which the person is identified by the Government of the country or the specified territory of which the assessee claims to be a resident	:
(v)	Period for which the residential status as mentioned in the certificate referred to in sub-section (4) of section 90 or sub-section (4) of section 90A is applicable	:
(vi)	Address of the assessee in the country or territory outside India during the period for which the certificate, mentioned in (v) above, is applicable	:

2. I have obtained a certificate to in sub-section (4) of section 90 of sub-section (4) of section 90A from the Government of ..... (name of country or specified territory outside India)

Signature: .....

Name: .....

Address: .....

Permanent Account Number (If allotted): .....



**Verification**

I. .... do hereby declare that to the best of my knowledge and belief what is stated above is correct complete and is truly stated.

Verified today the ..... day of. ....

.....

Signature of the person providing the information

Place: .....

Notes :

1. Copy of supporting documents to be provided for the details mentioned.
2. \*Delete whichever is not applicable.
3. #Write N.A. if the relevant information forms part of the certificate referred to in sub-section (4) of section 90 or sub-section (4) of section 90A.



F-17

**NO CLAIM CERTIFICATE  
(TO BE SUBMITTED BEFORE RELEASE OF CPS/SECURITY DEPOSIT)**

*[On the Letter-head of Contractor]*

We, \_\_\_\_\_, a company incorporated under the laws of India/ a Consortium between \*\_\_\_ and \*\_\_\_ (*name of Consortium partners to be inserted*)/ a Partnership Firm consisting of \*\_\_\_ and \*\_\_\_ (*name of Partners to be inserted*)/ a Sole Proprietorship (as the case may be), having its registered office at \_\_\_\_\_ and carrying on business under the name and style M/s. \_\_\_\_\_ were awarded the contract by GAIL (India) Ltd. in reference to Tender No. \_\_\_\_\_ dated \_\_\_\_\_ (“Order/Contract”).

After completion of the above-said items/job under the Order/Contract, we have scrutinized all our claims, contentions, disputes, issues and we hereby confirm that after adjusting all payments received by us against our R.A. Bills and final bill, we have no claims, dues, issues and contentions from GAIL (India) Ltd.

We further absolve GAIL (India) Ltd. from all liabilities present or future arising directly or indirectly out of the Contract.

There is no economic duress or any other compulsion on us for submission of this no claim certificate.

Place: \_\_\_\_\_ [Signature of Authorized Signatory of Contractor]

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

Designation: \_\_\_\_\_

Seal: \_\_\_\_\_





**F-18**

**THIRD PARTY DEPOSIT CONFIRMATION LETTER**

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

To,

GAIL (India) Limited,

.....  
.....  
.....

Dear Sir/ Madam

**Sb: Issuance of Cumulative FDR..... amounting to ₹.....valid till.....**

It is hereby certified that Cumulative Fixed Deposit Receipt (FDR) bearing number.....dated..... amounting to ₹..... (Amount in figure and words) has been issued by ..... (Name of the Bank) branch address..... The maturity value is ₹..... on dated.....

This FDR has been issued on the request of M/s ..... (Name of the contractor) under the PO no. / W.O. No/Tender no..... This FDR can be encashed/ redeemed without any consent/ letter from the contractor M/s.....(Name of the contractor) on the demand by M/s GAIL (India) Limited and the payment will be made to M/s GAIL (India) Limited excluding the interest earned thereon. The Contractor cannot encash/ premature above FDR unless above original FDR is accompanied by the discharge letter/NOC/approval of GAIL.

If the FDR is not withdrawn, till date of maturity, it may be renewed or treated as instructed by the Contractor & GAIL for renewal.

This FDR has been issued by authorized signatory of the Bank.

For or on behalf of ..... [Name of the Bank & Branch details (Including IFS Code)]

Signature.....

Name:.....

Designation:.....

Contact no. ....

Email Id. ....

Stamp of Bank.....

**Note:**

- (i) **This letter forms an integrated part of FDR**
- (ii) **In case confirmation is required, the communication can be send to the following:**  
Details for confirmations (including Address, Email Id, IFS Code and contact no.)



# **SECTION-VI**

# **SCOPE OF WORK**



## **1. SCOPE OF WORK**

Following activities need to be performed by Agent in the appointed country:

- a. Coordination with the local customers of the country where Agent is appointed (viz. \_\_\_\_\_) for booking orders on behalf of GAIL as per terms and conditions for sale of product by GAIL. Regular customer contacts- personal visits as well as over phone, e-mail, etc., for procurement of orders from customers.
- b. Customer Registration - Each Customer shall be registered with GAIL. In case of new customer, Agent shall facilitate the registration of the Customer as per instructions / policy of GAIL.
- c. To coordinate with the local customers / bank of the country where Agent is appointed (viz. \_\_\_\_\_) and GAIL in regard to financial issues like Letter of Credit (L/C) / Advance / any other mode of payment as informed by GAIL – financial issues like establishment of L/C, processing of full payment by customer through L/C or advance or any other mode of payment as informed by GAIL in a time bound manner.
- d. To follow-up with the local customers of the country where Agent is appointed (viz. \_\_\_\_\_) in reference to logistic issues - nomination of transporter / freight forwarder by customer, material lifting by customer as per the delivery terms of GAIL.
- e. Share draft proforma invoice to GAIL as per GAIL's terms and conditions.
- f. Market analysis – to send weekly report to GAIL's authorized representative covering feedback received for the market prices, competition, grade wise



- supply - demand, projected demand of GAIL's product for the coming month, etc. in the country where Agent is appointed, on sustainable basis.
- g. Post sale documents submission by customer to GAIL – To coordinate with the local customers of the country where Agent is appointed (viz. \_\_\_\_\_) for timely submitting copy of Bill of Lading, etc.
  - h. Obtain Landing Certificate or any other document as a proof of goods crossing the importer's country custom's border.
  - i. Assist in arranging Customer meets, trade fairs or any other promotional activities GAIL is organizing.
  - j. Any other activities related to the sales / services to the local customers of the country where agent is appointed
  - k. Agent shall inform the prices for the Products upon prior confirmation of the same from GAIL.
  - l. Once the order for supply of Products is/are confirmed by the customer, the Agent shall provide GAIL with the following particulars:
    - (a) Quantity to be supplied.
    - (b) Product/grade to be supplied.
    - (c) Name and address of the customer.
    - (d) Particulars of the banker issuing the letter of credit.
  - m. Coordination with bank for ensuring that GAIL receives its payment within the payment due date
  - n. Coordination with Government or local authorities for any business related work assigned by GAIL

Apart from above, agent has to perform any other activity told by GAIL from time to time in the interest of GAIL's business.



**SECTION – VII**  
**SPECIAL CONDITIONS OF**  
**CONTRACT**



Following are the special conditions of contract:

### **1. About GAIL (India) Limited**

GAIL (India) Limited is India's principal Natural Gas Company with activities ranging from Gas Transmission and Marketing to Gas Processing (for fractionating LPG, Propane, Pentane and Naphtha); transmission of Liquefied Petroleum Gas (LPG) and production and marketing of Polymers like HDPE and LLDPE. The Company has extended its presence in Liquefied Natural Gas (LNG) sourcing and re-gasification, City Gas Distribution, Exploration & Production, Power & Renewable Energy through equity and joint venture participations.

With a lean and thin work force of around 5000, GAIL plays a significant role in the nation's social and economic development and contributes towards energy security of the country. As recognition of its capacity to emerge as a global company and the significant role it plays in the country's economic development, GAIL has been bestowed with the status of Maharatna Company by the Government of India - the youngest Public Sector Undertaking to have been accorded the coveted grade.

#### **GAIL's Vision**

Be the leader in natural gas value-chain and beyond, with global presence, creating value for stakeholders with environmental responsibility.

#### **GAIL's Mission**

Enhancing quality of life through clean energy and beyond.

#### **GAIL's Petrochemical Business**

With ISO 9001:2015, ISO 14001:2015, ISO 45001:2018 and ISO 50001:2018 accreditations, GAIL is committed towards producing quality products ensuring a safe and clean environment. GAIL's polymer products are environment-friendly and fully recyclable. GAIL provides a wide choice of grades with consistent and reliable quality to its customers. Its manufacturing processes and quality systems ensure that the products conform to the technical specifications, backed by high quality services to provide complete solution to the customers. GAIL has been granted BIS License as per IS 7328:2020 for Product Quality Certification of polyethylene grades (Raw Material) used for moulding and extrusion. This establishes our Product Quality Certification from statutory agency (BIS) and our compliance to DCPC notification on "Quality control order. The company's marketing network is designed to ensure regular supply of material from PATA Plant and from consignment stockist stock points situated across the country.



### **About Petrochemical Plants**

GAIL owns and operates a gas based Petrochemical Complex at PATA, District Auraiya, near Kanpur in UP (around 380 km from Delhi). GAIL has a “Sclairtech” solution polymerization process licensed from M/s Nova Chemicals, Canada to produce LLDPE and HDPE, with a nameplate capacity of 2,10,000 MT/annum and has two slurry based polymerization processes licensed from M/s Mitsui Chemicals, Japan to produce HDPE, each with a nameplate capacity of 1,00,000 MT/annum and has a gas phase Unipol PE Process of M/s Univation Technology, USA, with a nameplate capacity of 400,000 MT/ annum to produce HDPE/LLDPE.

GAIL is diversifying its Petrochemical business by entering into Polypropylene business. GAIL is setting up a 500 KTA PP plant based on PDH technology at Usar, Maharashtra to be commissioned by 2025 and another 60 KTA PP plant is also being set up at PATA petrochemical complex to be commissioned by 2024. M/s W R Grace is the technology Licensor for both the upcoming PP plants and will be utilizing Unipol PP process technology with latest generation catalyst to produce world class PP products. Homopolymer Polypropylene grades will be produced at Usar PP plant whereas both Homopolymer as well as Co-Polymer Polypropylene grades will be produced from Pata PP plant.

2. The instant tender is for appointment of agent for polymer exports in two locations namely Nepal and Bangladesh. If a Bidder wants to apply for both the locations, then the Bidder needs to submit separate bids location wise along with separate EMDs. However, if in case, Bidder submits a single EMD for two locations, then in that case, the preference no. 1 location as mentioned in Form F-5 by the Bidder shall be taken into consideration and the bid for second location will not be considered by GAIL.

### **3. CONTRACT PERIOD**

The initial appointment of Agent is for a period of one year and the same shall be renewed on yearly basis subject to satisfactory performance as mentioned in Annexure-V of this tender document.

### **4. AGENT COMMISSION**

The Contract shall come into force on the date of FOA and the same shall be binding on Employer and Service Provider. The Agent shall be entitled to Agent Commission only upon receiving of full payment by GAIL of the complete sale price with respect to Product sold to Customer(s). For clarity, Agent Commission will not be accrued till the full value of the Product along with interest due, if any, and any other statutory dues are realized by GAIL from Customer(s).





For the services rendered by the Agent under agreement, the GAIL shall pay to the Agent, an Agent Commission as decided by GAIL from time to time, with respect of the quantity of the said Products sold by the Agent. Subject to any change of the Agent Commission informed by GAIL, the Agent Commission shall accrue at the following rates:

SLAB	QUANTITY BOOKED (MT/MONTH)	COMMISSION (USD PMT)
Slab-1	$\geq 1000$	\$ 10
Slab-2	$< 1000$	\$ 9

The Agent shall raise invoices for commission in USD and send statement on monthly basis duly supported by relevant documents of export sales realized and GAIL shall settle and pay such invoices within 30 days from the receipt of the commission invoice. The agent shall raise Commission Invoice for a month only when GAIL confirms the payment receipt for all orders booked in that particular month. All taxes and levies in the territory applicable on commission (if any) shall be borne by the Agent. All Foreign Bank charges (outside India) will be borne by the Agent. All Indian Bank charges (within India) will however be borne by GAIL.

5. If in case due to Government restrictions, payment of commission invoice is to be made in INR instead of USD, the commission shall be paid in equivalent value in INR as per SBI Bill Selling Rate on date of payment by GAIL.
6. The appointment of agent shall be country specific.
7. The Agent shall ensure the confidentiality of all information and shall not misuse/divulge the proprietary information of GAIL, which broadly includes customer-database, pricing strategy, details regarding development / improvement of the Product(s) etc., with any other entity if selected as Agent by GAIL.
8. The appointed agent cannot buy polymer product in its firm's name.

**9. SIGNING OF AGREEMENT:**

- In case of non-acceptance of FOA/LOA by selected agent or in case the selected agent fails to enter into agreement after acceptance of FOA/LOA (within the stipulated period as specified in the tender document), GAIL shall forfeit the EMD / Security Deposit amount submitted by the bidder and such bidder shall be debarred from participation in retendering of the same location. Further, such bidder will be put on watch list as per C&P procedure of GAIL/Tender Conditions and thereafter invite fresh tender.
- The successful Tenderer/Service Provider (Selected Agent) shall be required to execute an Agreement within 15 days of the FOA in the format attached/enclosed with Tender Document. In the event of failure on the part



of the Service Provider to sign the Agreement within the aforesaid stipulated period, the Earnest Money Deposit or initial Security Deposit/Performance Security Deposit (as available, preferably the later) will be forfeited and Employer may consider the Contract as terminated.

#### **10.LIABILITY OF GOVERNMENT OF INDIA:**

It is expressly understood and agreed by and between Bidder /Service Provider and Employer that Employer is entering into this agreement solely on its own behalf and not on behalf of any other person or entity. In particular, it is expressly understood and agreed that the Government of India is not a party to this agreement and has no liabilities, obligations or rights hereunder. It is expressly understood and agreed that Employer is an independent legal entity with power and authority to enter into Contracts solely on its own behalf under the applicable Laws of India and general principles of Contract Law. The Bidder/Service Provider expressly agrees, acknowledges and understands that Employer is not an agent, representative or delegate of the Government of India. It is further understood and agreed that the Government of India is not and shall not be liable for any acts, omissions, commissions, breaches or other wrongs arising out of the Contract. Accordingly, Bidder/Service Provider hereby expressly waives, releases and foregoes any and all actions or claims, including cross claims, impleader claims or counter claims against the Government of India arising out of this Contract and covenants not to sue to Government of India as to any manner, claim, cause of action or thing whatsoever arising of or under this agreement/Contract.

#### **11.ACTION IN CASE OF CORRUPT/ FRAUDULENT/ COLLUSIVE/ COERCIVE PRACTICES AND POOR PERFORMANCE:**

The Bidder(s)/Service Provider(s) are required to abide by the following documents:

- (i) The procedure for action in case of Corrupt/ Fraudulent/ Collusive/ Coercive Practices containing provisions for putting a Bidder/Service Provider on suspension and/or banning list (as the case may be) if such an agency has indulged in Corrupt/ Fraudulent/ Collusive/ Coercive Practices.

The Procedure is enclosed as Annexure-IV of ITB of this Tender Document.

Further, Bidder(s)/Service Provider(s) accepts and certifies that they would adhere to the Fraud Prevention Policy of GAIL and shall not indulge themselves or allow others (working in GAIL) to indulge in fraudulent activities and that they would immediately apprise the Owner/GAIL/Organization(s) of the fraud/ suspected fraud as soon as it comes



to their notice. The Fraud Prevention Policy document is available on GAIL's website ([www.gailonline.com](http://www.gailonline.com)).

(ii) The procedure for evaluation of performance of Service Provider containing provisions for putting a Service Provider on suspension and/or holiday list (as the case may be).

The Procedure is enclosed as Annexure-V of ITB of this Tender Document.

## **12. GENERAL OBLIGATIONS OF SERVICE PROVIDER:**

Service Provider shall, in accordance with and subject to the terms and conditions of this Contract:

Perform the services in accordance with the Scope of Services /Specifications and Activity Schedule of the Tender Document and carry out its obligations with all due diligence and efficiency, in accordance with generally accepted professional techniques and practices and shall observe sound management practices and employ appropriate advance technology and safe methods. When completed, the job/services shall be fit for the purpose for which the services are intended as specifically defined in the Contract

provide all labour as required to provide the Service unless otherwise provided in the Scope of Services or Special Conditions of the Contract.

perform all other obligations, jobs / services which are required by the terms of this Contract or which reasonably can be implied from such terms as being necessary for providing necessary service as per the Contract.

give or provide all necessary supervision during the performance of the services and as long thereafter within the warranty period/DLP as Employer may consider necessary for the proper fulfilling of Service Provider's obligations under the Contract.

not disrupt the Services of the Employer being carried out by the Service Provider / and shall provide access for carrying out job/services to:

- Employer's personnel(s), and /or
- any other Contractor(s) / Service Provider(s) employed by Employer, and /or
- personnel of public authority(ies)/third party(ies)



Further, the Service Provider shall execute the job carefully without causing damage to the existing facility(ies) and facility(ies) of third party(ies) and in case of such happening shall immediately bring to the notice of EIC.

Further, the coordination and inspection of the day-to-day job under the Contract shall be the responsibility of the Engineer-in-Charge (EIC). The EIC or his authorised representative including any statutory authority shall at all reasonable times, have full power and authority to access and inspect the Services wherever in progress either on the Site or at the Service Provider's premises/workshops and the Service Provider shall afford or procure every facility and assistance to carry out such inspection. Such Inspection shall not release the Service Provider from any obligation under the Contract.

### **13.CONTRACT PERFORMANCE SECURITY (CPS):**

The Service Provider shall provide Contract Performance Security (CPS) to the Employer, within 30 days from the date of notification of award (i.e. FOA/Letter of Acceptance) or the date specified in the notification of award whichever is earlier, for an amount mentioned therein. The CPS shall be returned/refunded three months after Contract completion period and Defects Liability Period (DLP), if any. All costs associated with CPS shall be borne by the Service Provider. No charges or interest shall be payable by the Employer even if the CPS is in the form of a Demand Draft.

The Service Provider shall furnish the CPS in the form of a Demand Draft or a Bank Guarantee or an irrevocable Letter of Credit from any Indian scheduled bank or a branch of an International bank situated in India and registered with Reserve Bank of India as scheduled foreign bank. However, for other than the Nationalized Indian Banks, the banks whose BGs are furnished, must be commercial banks having net worth in excess of Rs. 100 crores and a declaration to this effect should be made by such commercial bank either in the bank guarantee itself or separately on a letter head. The bank guarantee or the Letter of Credit shall be submitted in the prescribed format.

The said Bank Guarantee shall be valid for a period of 12 months from the date of fax of acceptance with an additional period of minimum 3 months claim period and will be renewed from time to time and such renewals shall be furnished at least one month before the expiry of the same.

If the Service Provider or their employees /agents / representatives or Sub-Service Provider (if authorized by Employer) shall damage, break, deface or destroy any property /equipment belonging to the Employer or third party(ies) during the execution of this Contract, the same shall be made good by the Service Provider at his own expenses and in default thereof, the EIC may cause the same to be made



good by other agencies and recover expenses plus 15% overhead from the Service Provider. The decision of EIC in this matter shall be final and binding on the Service Provider.

All compensation, claim or other sums of money payable by the Service Provider to the Employer under terms of this Contract may be deducted from or paid by the encashment of a sufficient part of his Contract Performance Security or from any sums which may be due or may become due to the Service Provider by the Employer on any account whatsoever and in the event of his CPS being reduced by reasons of any such deductions or sale of aforesaid, the Service Provider shall within ten days thereafter make good in form of bank draft(s)/BG/LC (as the case may be) as aforesaid any sum or sums which may have been deducted from or realised by encashment of his CPS, or any part thereof. The Service Provider shall pay to the Employer on demand without protest any balance remaining due. In this regard no interest shall be payable by the Employer to Service Provider for such sum deposited as CPS.

Failure of the successful bidder to comply with the requirements mentioned above shall constitute sufficient grounds for the annulment of the award, the forfeiture of CPS and any other actions or remedies available to the Employer.

#### **14. FAILURE BY THE SERVICE PROVIDER TO COMPLY WITH THE PROVISIONS OF THE CONTRACT:**

If the Service Provider refuses or fails to provide the Service or any part thereof with such diligence as will ensure its performance within the time specified in the Contract or extension thereof or fails to perform any of his obligation under the Contract or in any manner commits a breach of any of the provisions of the Contract it shall be open to the Employer at its option by written notice to the Service Provider:

- a) TO DETERMINE THE CONTRACT in which event the Contract shall stand terminated and shall cease to be in force and effect on and from the date appointed by the Employer on that behalf, whereupon the Service Provider shall stop forthwith any of the Service then in progress, except such Service as the Employer may, in writing, require to be done to safeguard any property or work or installations from damage, and the Employer, for its part, may take over the Service remaining unfinished by the Service Provider and complete the same through another service provider or by other means, at the risk and cost of the Service Provider, and any of his sureties if any, shall be liable to the Employer for any excess cost occasioned by such service having to be so taken over and



obtained by the Employer over and above the cost at the rates specified in the schedule of quantities and rate/prices.

- b) WITHOUT DETERMINING THE Contract to take over the Service of the Service Provider or any part thereof and complete the same through other service provider or by other means at the risk and cost of the Service Provider. The Service Provider and any of his sureties are liable to the Employer for any excess cost over and above the cost at the rates specified in the Schedule of Quantities/ rates, occasioned by such services having been taken over and completed by the Employer.

In such events of Clause 14 above, the following shall be applicable:-

- a) The whole or part of the Contract Performance Security furnished by the Service Provider is liable to be forfeited without prejudice to the right of the Employer to recover from the Service Provider the excess cost referred to in the sub-clause aforesaid. The Employer shall also have the right of taking possession and utilising in completing the services or any part thereof, such as materials, equipment and plants available at service site belonging to the Service Provider as may be necessary and the Service Provider shall not be entitled for any compensation for use or damage to such materials, equipment and plant.
- b) The amount that may have become due to the Service Provider on account of service already executed by him shall not be payable to him until after the expiry of Six (6) calendar months reckoned from the date of termination of Contract or from the taking over of the Service or part thereof by the Employer as the case may be, during which period the responsibility for faulty material or workmanship in respect of such service shall, under the Contract, rest exclusively with the Service Provider. This amount shall be subject to deduction of any amounts due from the Contract to the Employer under the terms of the Contract authorised or required to be reserved or retained by the Employer.

Before taking any action as per Clause 14 if in the judgment of the Employer, the default or defaults committed by the Service Provider is/are curable and can be cured by the Service Provider if an opportunity given to him, then the Employer may issue Notice in writing calling the Service Provider to cure the default within such time specified in the Notice.

The Employer shall also have the right to proceed or take action as per 14 above, in the event that the Service Provider becomes bankrupt, insolvent,





compounds with his creditors, assigns the Contract in favour of his creditors or any other person(s) or being a company or a corporation goes into voluntary liquidation, provided that in the said events it shall not be necessary for the Employer to give any prior notice to the Service Provider.

Termination of the Contract as provided for in sub- clause 14 above shall not prejudice or affect their rights of the Employer which may have accrued upto the date of such termination.

## **15. TERMINATION OF CONTRACT:**

### **TERMINATION OF CONTRACT FOR DEATH**

If the Service Provider is an individual or a proprietary concern and the individual or the proprietor dies or if the Service Provider is a partnership concern and one of the partner dies then unless, the Employer is satisfied that the legal representative of the individual or the proprietary concern or the surviving partners are capable of carrying out and completing Contract, the Employer is entitled to cancel the Contract for the uncompleted part without being in any way liable for any compensation payment to the estate of the deceased Service Provider and/or to the surviving partners of the Service Provider's firm on account of the cancellation of Contract. The decision of the Employer/EIC in such assessment shall be final & binding on the parties. In the event of such cancellation, the Employer shall not hold the estate of the deceased Service Provider and/or the surviving partners of Service Provider's firm liable for any damages for non-completion of the Contract.

### **TERMINATION OF CONTRACT IN CASE OF LIQUIDATION / BANKRUPTCY, ETC.**

If the Service Provider shall dissolve or become bankrupt or insolvent or cause or suffer any receiver to be appointed of his business or any assets thereof compound with his Creditors, or being a corporation commence to be wound up, not being a member's voluntary winding up for the purpose of amalgamation or reconstruction, or carry on its business under a Receiver for the benefits of its Creditors any of them, Employer shall be at liberty to terminate the Contract forthwith upon coming to know of the happening of any such event as aforesaid by notice in writing to the Service Provider or to give the Receiver or Liquidator or other person, the option of carrying out the





Contract subject to his providing a guarantee up to an amount to be agreed upon by the Employer for due and faithful performance of the Contract.

### **TERMINATION OF CONTRACT FOR CORRUPT / FRAUDULENT / COLLUSIVE / COERCIVE PRACTICES AND NON-PERFORMANCE**

If the Bidder/Service Provider is found to have indulged in Corrupt/ Fraudulent /Collusive/Coercive practices, the Contract shall be terminated and the Bidder/ Service Provider shall be banned for future business with GAIL.

Due to non-performance of the Service Provider leading to termination of the Contract, the Service Provider initially shall be put on suspension list and thereafter on holiday list of Employer for a period mentioned in the detailed procedure, to be reckoned from the date of communication by Owner/Employer.

### **TERMINATION FOR CONVENIENCE**

Notwithstanding anything contained in the Contract, the Employer may, by 30 (Thirty) days written notice, terminate the Contract in whole or in part.

In case of such termination, the obligation of the Employer to pay, shall be limited to the extent of work/job completed by the Service Provider as per provision of the Contract upto the date of termination, subject to the Service Provider complying with other terms of the Contract.

Notwithstanding the termination of the Contract, the parties shall continue to be bound by the provisions of this Contract that reasonably require some action or forbearance after such termination.

### **AMOUNT PAYABLE IN CASE OF TERMINATION:**

In all cases of termination herein set forth, the obligation of the Employer to pay, shall be limited to the extent of service rendered by Service Provider as per provision of the Contract upto the date of termination, subject to the Service Provider complying with other terms of the Contract. Notwithstanding the termination of the Contract, the parties shall continue to be bound by the



provisions of this Contract that reasonably require some action or forbearance after such termination.

**16. MEMBERS OF THE EMPLOYER NOT INDIVIDUALLY LIABLE:**

No Director, or official or employee of the Employer shall in any way be personally bound or liable for the acts or obligations of the Employer under the Contract or answerable for any default or omission in the observance or performance of any of the acts, matters or things which are herein contained.

**17. EMPLOYER NOT BOUND BY PERSONAL REPRESENTATIONS:**

The Service Provider shall not be entitled to any increase on the scheduled rates or any other right or claim whatsoever by reason of any representation, explanation statement or alleged representation, promise or guarantees given or alleged to have been given to him by any person.

**18. FORCE MAJEURE:**

In the event of either party being rendered unable by Force Majeure to perform any obligations required to be performed by them under the Contract the relative obligation of the party affected by such Force Majeure shall upon notification to the other party be suspended for the period during which Force Majeures event lasts. The cost and loss sustained by the either party shall be borne by the respective parties.

The term "Force Majeures" as employed herein shall include:

- (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/Services are performed, and which affect an essential portion of



the Works/Services but excluding any industrial dispute which is specific to the performance of the Works/Services 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

The affected party 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.

Further, the Service Provider shall with all reasonable diligence remove from the Site all the Service Provider's equipment and shall give similar facilities to his Sub Service Provider to do so.

Payment in case of termination due to Force Majeure

The Contract Price attributable to the Works/Services performed till the date of the commencement of the relevant event of Force Majeure with effective recovery/ retention shall be payable to Service Provider.

The Service Provider has no entitlement and Employer has no liability for:

- a) any costs, losses, expenses, damages or the payment of any part of the Total Contract Price during an event of Force Majeure; and
- b) any delay costs in any way incurred by the Service Provider due to an event of Force Majeure.

Time for performance of the relative obligation suspended by the Force Majeure shall then stand extended by the period for which such cause lasts.

Outbreak of War:

If during the currency of the Contract there shall be an out break of war whether declared or not, in that part of the World which whether financially or otherwise materially affect the execution of the Work, the Service Provider shall unless and until the Contract is terminated under the provisions in this clause continue to use his best endeavour to complete the execution of the Work/Services, provided always that the Employer shall be entitled, at any time after such out break of war to terminate or re-negotiate the Contract by giving notice in writing to the Service Provider and upon such notice being given the Contract shall, save as to the rights of the parties under this clause and to the operation of the clauses entitled settlement of Disputes and Arbitration hereof, be terminated but without prejudice to the right of either party in respect of any antecedent breach thereof.

## **19.ASSIGNMENT/SUBLET:**

The Service Provider shall not, save with previous written consent of GAIL, sublet, transfer or assign the Contract or any part thereof or interest therein or



benefit or advantage thereof in any manner whatsoever. Provided, nevertheless, that any such consent shall not relieve the Service Provider from any obligation, duty or responsibility under the Contract.

The basic scope of Services cannot be sublet. However, on specific request of the Service Provider and subject to written consent of Employer, the Service Provider may sublet allied/incidental jobs related to the Services. Such consent shall not relieve the Service Provider from any obligation, duty or responsibility under the Contract and Service Provider shall be fully responsible for the Services hereunder and the execution and performance of the Contract.

Sub-letting of whole Contract is prohibited. An undertaking to this effect will be given by Service Provider along with each invoice/ bill.

## **20.LIENS:**

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

The final payment shall not become due until the Service Provider delivers to the EIC a complete release or waiver of all liens arising or which may arise out of his agreement or receipt in full or certification by the Service Provider in a form approved by EIC that all invoices for labour, materials, services have been paid in lien thereof and if required by the EIC in any case an affidavit that so far as the Service Provider has knowledge or information the releases and receipts include all the labour and material for which a lien could be filled.

Service Provider will indemnify and hold the Employer harmless, for a period of two years after the issue of Completion/Execution Certificate, from all liens and other encumbrances against the Employer on account of debts or claims alleged to be due from the Service Provider or his Sub-Service Provider to any person and on behalf of Employer, the Service Provider will defend at his own expense, any claim or litigation brought against the Employer or the Service



Provider including Sub-Service Provider in connection therewith. Service Provider shall defend or contest at his own expense, any fresh claim or litigation against the Employer by any person including his Sub-Service Provider, till its satisfactory settlement even after the expiry of two years from the date of issue of Completion/Execution Certificate.

**21.DELAYS BY EMPLOYER OR HIS AUTHORISED REPRESENTATIVE:**

In case the Service Provider's performance is delayed due to any act or omission on the part of the Employer or his authorized Representative, then the Service Provider shall be given due extension of time for the completion of the Service, to the extent such omission on the part of the Employer has caused delay in the Service Provider's performance of his Services.

No adjustment in Contract Price shall be allowed for reasons of such delays and extensions granted except as provided in Tender Document, where the Employer reserves the right to seek indulgence of Service Provider to maintain the agreed Time Schedule of Completion. In such an event the Service Provider shall be obliged to provide Service for additional time beyond stipulated time including Off-days / Holidays or by enhancing resources to achieve the completion date/interim targets.

**22.NO WAIVER OF RIGHTS:**

None of the terms and conditions of this Contract shall be deemed waived by either party unless such waiver is executed in writing by the duly authorized representative of both the parties.

**23.CERTIFICATE NOT TO AFFECT RIGHT OF EMPLOYER AND LIABILITY OF SERVICE PROVIDER:**

No interim payment certificate(s) issued by the EIC of the Employer, nor any sum paid on account by the Employer, nor any extension of time for execution of the service granted by Employer shall affect or prejudice the rights of the Employer against the Service Provider or relieve the Service Provider of his obligations for the due performance of the Contract, or be interpreted as approval of the Service done and no certificate shall create liability for the Employer to pay for alterations, amendments, variations or additional services not ordered, in writing, by Employer or discharge the liability of the Service Provider for the payment of damages whether due, ascertained, or certified or



not or any sum against the payment of which he is bound to indemnify the Employer.

**24.LANGUAGE AND MEASURES:**

All documents pertaining to the Contract including Specifications, Schedules, Notices, Correspondence, operating and maintenance Instructions or any other writing shall be written in English/Hindi language. The Metric System of measurement shall be used in the Contract unless otherwise specified.

**25.RELEASE OF INFORMATION:**

The Service Provider shall not communicate or use in advertising, publicity, sales releases or in any other medium, photographs, or other reproduction of the Service under this Contract or description of the site dimensions, quantity, quality or other information concerning the Service unless prior written permission has been obtained from the Employer.

**26.COMPLETION PERIOD, CONTRACT PERIOD AND COMPLETION OF CONTRACT:**

The Completion Period of Service and Contract Period shall be as mentioned in Special Conditions of Contract.

Unless terminated under the provisions of any other relevant clause, this Contract shall be deemed to have been completed at the expiration of the Defect Liability Period as provided for under the Contract.

**27.INDEPENDENT CAPACITY**

The parties intend that an independent Service Provider relationship will be created by this Contract. The Service Provider and his/her employees or agents performing under this Contract are not employees or agents of the Employer. The Service Provider will neither hold himself/herself out as nor claim to be an officer or employee of the Employer by reasons hereof, nor will the Service Provider make any claim of right, privilege or benefit that would accrue to such employee under law. Conduct and control of work will be solely with the Service Provider.

**28.NOTICE**

**TO THE SERVICE PROVIDER:** Any notice to be given to the Service Provider or his duly authorised representative at the job Site under the terms of the Contract may be served by the Employer by facsimile / e-mail or through registered post/Courier at the address/contact information furnished by the





Service Provider. Proof of issue of any such notice could be conclusive of the Service Provider having been duly informed of all contents therein.

**TO THE EMPLOYER:** Any notice to be given to the EIC of the Employer under the terms of the Contract may be served by the Service Provider, by facsimile / e-mail or delivering the same through registered post /Courier at the concerned site office.

Either party may change a nominated address to another address in the country where the Services are being provided by prior notice to the other party, with a copy to EIC and the EIC may do so by prior notice to both the parties. The decision of EIC in this regard shall be final and binding on the parties.

### **29.CONFIDENTIALITY:**

The Service Provider, it's Sub-Service Provider and their personnel shall not, either during the term or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential information related to Service/project, this Contract, or Employer's business or operations without the prior written consent of the Employer.

### **30.INTELLECTUAL PROPERTY RIGHT:**

The Service Provider shall retain the copy right and other intellectual property rights in the Service Provider's document and other design documents made by (or on behalf of) the Service Provider.

Subject to the confidentiality obligations, by signing the Contract, within the Contract Price, the Service Provider shall be deemed to give to the Employer a non-terminable, transferable, non-exclusive and royalty-free right to copy, use and communicate the Service Provider's documents for the operation, maintenance, repair of the Service and Statutory purposes, but not for any other purpose. Such documents of the Service Provider shall not be used, copied or communicated to a third party by or on behalf of the Employer for the purposes other than those permitted, without the Service Provider's Consent.

### **31. EXECUTION OF SERVICES:**

All Services shall be provided in strict conformity with the provisions of the Contract Documents and with such explanatory detailed specification and instruction as may be furnished from time to time to the Service Provider by EIC. The Service Provider shall undertake to perform all Services under this Contract with all reasonable skill, diligence and care in accordance with sound



industry practice or international / national standards, wherever applicable (as the case may be) to the satisfaction of the Employer and accept full responsibility for the satisfactory quality of such services as performed by them.

### **32.SUSPENSION OF SERVICES:**

Subject to the provisions of sub-para of this clause, the Service Provider shall, if ordered in writing by the EIC, temporarily suspend the Services or any part thereof for such written order and not proceed with the Service therein ordered to be suspended until, he shall have received a written order to proceed therewith. The Service Provider shall not be entitled to claim compensation for any loss or damage sustained by him by reason of temporary suspension of the Services aforesaid. An extension of time for completion, corresponding with the delay caused by any such suspension of the Services as aforesaid will be granted to the Service Provider should he apply for the same provided that the suspension was not consequent to any default or failure on the part of the Service Provider.

In case of suspensions of entire Service, ordered in writing by EIC, for a period of more than two months, the Service Provider shall have the option to terminate the Contract.

### **33.COMPLETION CERTIFICATE:**

**APPLICATION FOR COMPLETION CERTIFICATE:** When the Service Provider fulfills his obligation under the Contract he shall be eligible to apply for Completion Certificate. The EIC shall normally issue to the Service Provider the Completion Certificate within one month after receiving any application thereof from the Service Provider after verifying from the completion documents and satisfying himself that the Service has been rendered in accordance with and as set out in the Contract Documents. The Service Provider, after obtaining the Completion Certificate, is eligible to present the final bill for the Service executed by him under the terms of Contract.

Completion of jobs/services for issuance of completion certificate shall constitute completion of jobs/ services as per provisions of LOA/Contract duly accepted and certified by EIC.

**COMPLETION CERTIFICATE:** Within one month from receipt of application from Service Provider after the completion of the Service in all respects, the Service Provider shall be furnished with a certificate by the EIC of such



completion, but no certificate shall be given nor shall the Service be deemed to have been rendered until all scaffolding, Equipment(s) & machine(s), surplus materials and rubbish brought for/ generated during execution of service is cleared off the Site completely. EIC's certification about completion of service in all aspects shall be binding and conclusive.

**COMPLETION CERTIFICATE DOCUMENTS:** For the purpose of Completion, the following documents will be deemed to form the completion documents:

- i) The technical documents according to which the Service was carried out.
- ii) Material appropriation, Statement for the materials issued by the Employer for the Service and list of surplus materials returned to the Employer's store duly supported by necessary documents

**EXECUTION CERTIFICATE:**

Execution Certificate against Rate/ Maintenance contract shall be issued by EIC against written request from Service Provider.

### **34. LIMITATION OF LIABILITY**

Notwithstanding anything contrary contained herein, the aggregate total liability of Service Provider to Employer under the Contract shall not exceed the Total Contract Value, except that this clause shall not limit the liability of the Service Provider 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 Service Provider or any person acting on behalf of the Service Provider; or
- (c) In the event of acts or omissions of the Service Provider which are contrary to the most elementary rules of diligence which a conscientious Service Provider 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 Service Provider or any person or firm acting on behalf of the Service Provider in executing the Works/Services.

However, neither party shall be liable to the other Party for any 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.

**35. INDEMNITY:**

If any action is brought before a Court, Tribunal or any other Authority against the Employer or an officer or agent of the Employer, for the failure, omission or neglect on the part of the Service Provider to perform any acts, matters, covenants or things under the Contract, or damage or injury caused by the alleged omission or negligence on the part of the Service Provider, his agents, representatives or his Sub- Service Provider's, or in connection with any claim based on lawful demands of Sub-Service Provider's servicemen suppliers or employees, the Service Provider, shall in such cases indemnify and keep the Employer and/or their representatives harmless from all losses, damages, expenses or decrees arising out of such action.

**36. DEDUCTION FROM THE CONTRACT PRICE:**

All costs, damages or expenses which Employer may have paid or incurred, which under the provisions of the Contract, the Service Provider is liable to pay to the Employer. All such claims shall be claimed by the Employer from the Service Provider regularly as and when they fall due. Such claims shall be paid by the Service Provider within 15 (fifteen) days of the receipt of the corresponding bills/ claims and if not paid by the Service Provider within the said period, the Employer may, then, deduct the amount from any immediate moneys due to the Service Provider like R.A Bills, Final Bills, Contract Performance Security or any payment becoming due to the Service Provider under the Contract or may be recovered by actions of law or otherwise, if the Service Provider fails to satisfy the Employer of such claims.

**37. SERVICE PROVIDER'S REMUNERATION:**

The price to be paid by the Employer to Service Provider for the whole of the Service to be done and for the performance of all the obligations undertaken by the Service Provider under the Contract Documents shall be ascertained and payment to be made accordingly for the Services actually executed and approved by the Engineer-in-Charge. The sum so ascertained shall (except only as and to the extent expressly provided herein) constitute the sole and inclusive remuneration of the Service Provider under the Contract and no further or other payment whatsoever shall be or become due or payable to the Service Provider under the Contract.

**38.** The Bill(s) complete in all respect with details and enclosure(s) is to be submitted by Service Provider in line with terms of the Contract. Employer



shall make all endeavour to release payments of undisputed amount of the bills submitted within 30 (Thirty) days from the date of certification by the Engineer-in-Charge.

### **39.COMPUTERISED BILLING SYSTEM:**

GAIL (India) Limited has introduced Computerised Billing System whereby whenever the Bill(s) are submitted in GAIL by a Service Provider, a receipt number is usually generated. The Service Provider may also know the status of the Bill through GAIL's website.

### **40.DISPUTE RESOLUTION AND ARBITRATION:**

#### **DISPUTE RESOLUTION:**

GAIL (India) Limited has framed the Conciliation Rules 2010 in conformity with supplementary to Part – III of the Indian Arbitration and Conciliation Act 1996 for speedier, cost effective and amicable settlement of disputes through conciliation. A copy of the said rules made available on GAIL's web site [www.gailonline.com](http://www.gailonline.com) for reference. Unless otherwise specified, the matters where decision of the Engineer-in-Charge is deemed to be final and binding as provided in the Contract and the issues/disputes which cannot be mutually resolved within a reasonable time, all disputes shall be settled in accordance with the Conciliation Rules 2010.

Any dispute(s)/difference(s)/issue(s) of any kind whatsoever between/amongst the Parties arising under/out of/in connection with this Contract shall be settled in accordance with the aforesaid rules.

In case of any dispute(s)/difference(s)/issue(s), a Party shall notify the other Party (ies) in writing about such a dispute(s) / difference(s) / issue(s) between / amongst the Parties and that such a Party wishes to refer the dispute(s)/ difference(s)/issue(s) to Conciliation. Such Invitation for Conciliation shall contain sufficient information as to the dispute(s)/difference(s)/issue(s) to enable the other Party (ies) to be fully informed as to the nature of the



dispute(s)/ difference(s) /issue(s), the amount of monetary claim, if any, and apparent cause(s) of action.

Conciliation proceedings commence when the other Party(ies) accept(s) the invitation to conciliate and confirmed in writing. If the other Party (ies) reject(s) the invitation, there will be no conciliation proceedings.

If the Party initiating conciliation does not receive a reply within thirty days from the date on which he/she sends the invitation, or within such other period of time as specified in the invitation, he/she may elect to treat this as a rejection of the invitation to conciliate. If he/she so elects, he/she shall inform the other Party(ies) accordingly.

Where Invitation for Conciliation has been furnished, the Parties shall attempt to settle such dispute(s) amicably under Part-III of the Indian Arbitration and Conciliation Act, 1996 and GAIL (India) Limited Conciliation Rules, 2010. It would be only after exhausting the option of Conciliation as an Alternate Dispute Resolution Mechanism that the Parties hereto shall go for Arbitration. For the purpose of this clause, the option of 'Conciliation' shall be deemed to have been exhausted, even in case of rejection of 'Conciliation' by any of the Parties.

The cost of Conciliation proceedings including but not limited to fees for Conciliator(s), Airfare, Local Transport, Accommodation, cost towards conference facility etc. shall be borne by the Parties in equal share.

The Parties shall freeze claim(s) of interest, if any, and shall not claim the same during the pendency of Conciliation proceedings. The Settlement Agreement, as and when reached/agreed upon, shall be signed between the Parties and Conciliation proceedings shall stand terminated on the date of the Settlement Agreement.

#### **ARBITRATION:**

If the issues/disputes which cannot be resolved through dispute resolution mechanism pursuant to above clause, all disputes such shall be referred to arbitration by Sole Arbitrator. The Employer shall suggest a panel of three independent and distinguished persons to the /Service Provider to select any one among them to act as the Sole Arbitrator. In the event of failure of the other parties to select the Sole Arbitrator within 30 days from the receipt of the communication suggesting the panel of arbitrators, the right of selection of the sole arbitrator by the other party shall stand forfeited and the Employer shall





have discretion to proceed with the appointment of the Sole Arbitrator. The decision of Employer on the appointment of the sole arbitrator shall be final and binding on the parties. The award of sole arbitrator shall be final and binding on the parties and unless directed/awarded otherwise by the sole arbitrator, the cost of arbitration proceedings shall be shared equally by the parties. The Arbitration proceedings shall be in English language and seat/venue shall be New Delhi, India. Subject to the above, the provisions of Indian Arbitration & Conciliation Act 1996 and the Rules and amendment thereof shall be applicable. All matter relating to this Contract are subject to the exclusive jurisdiction of the court situated in the state of Delhi.

Contractor may please note that the Arbitration & Conciliation Act 1996 was enacted by the Indian Parliament and is based on United Nations Commission on International Trade Law (UNCITRAL model law), which were prepared after extensive consultation with Arbitral Institutions and centers of International Commercial Arbitration. The United Nations General Assembly vide resolution 31/98 adopted the UNCITRAL Arbitration rules on 15 December 1976.

Notwithstanding anything contained contrary in ~~GCC~~ and other Contract Documents, in case it is found that the Bidder/Service Provider indulged in fraudulent/ coercive practices at the time of bidding or during execution of the contract as mentioned in “Procedure for action in case of Corrupt/ Fradulent/ Collusive /Coersive Practices”, the Service Provider / Bidder shall be banned (in terms of aforesaid procedure) from the date of issuance of such order for banning.

The Bidder/Service Provider understands and agrees that in such cases of banning, the decision of Employer shall be final and binding on such Bidder/Service Provider and the Arbitration Clause mentioned in ~~the GCC~~ and other Contract Documents shall not be applicable for any issue /dispute arising in the matter.

**SETTLEMENT OF COMMERCIAL DISPUTES BETWEEN PUBLIC SECTOR ENTERPRISE(S) INTER SE AND PUBLIC SECTOR ENTERPRISE(S) AND GOVERNMENT DEPARTMENT (S) THROUGH ADMINISTRATIVE MECHANISM FOR RESOLUTION OF CPSEs DISPUTES (AMRCD) IN THE DEPARTMENT OF PUBLIC ENTERPRISES:**

In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract(s) between Central Public Sector Enterprises (CPSEs) inter se and also between CPSEs and Government





Departments / Organizations (excluding disputes concerning Railways, Income Tax, Customs & Excise Departments), such dispute or difference shall be taken up by either party for resolution through AMRCD as mentioned in DPE OM No. 4(1)/2013-DPE (GM) / FTS-1835 dated 22.05.2018.

#### **JURISDICTION:**

The Contract shall be governed by and constructed according to the laws in force in India. The Service Provider hereby submits to the jurisdiction of the Courts situated at New Delhi/Delhi only for the purposes of disputes, actions and proceedings arising out of the Contract and it is agreed that the Courts at New Delhi/Delhi only will have the exclusive jurisdiction to hear and decide such disputes, actions and proceedings.

#### **CONTINUANCE OF THE CONTRACT:**

Notwithstanding the fact that settlement of dispute(s) (if any) may be pending, the parties hereto shall continue to be governed by and perform the Services in accordance with the provisions under this Contract.

#### **41. Sequence of Documents**

Following shall be the sequencing of documentation post award of instant tender:

- (a) Issuance of LOA/FOA
- (b) Signing of Agreement – should be signed within 15 days from issuance of LOA/FOA
- (c) Submission of CPS by appointed Agent – should be issued within 30 days from issuance of LOA/FOA

#### **43. Priority of Contract Documents:**

Except if and the extent otherwise provided by the Contract/Agreement, the provisions of the Special Conditions shall prevail over those of any other documents forming part of the Contract/Agreement. Several documents forming the Contract/Agreement are to be taken as mutually explanatory of one another, but in case of ambiguities or discrepancies the same shall be explained and adjusted by the GAIL Corporate Petrochemical Marketing department who shall thereupon issue to the Agent instructions thereon and in such event, unless otherwise provided in the Contract, the priority of the documents forming the Contract/Agreement shall be as follows:

- a) The Agreement between GAIL and Agent
- b) The Letter of Acceptance (LoA) / Fax of Acceptance (FoA)
- c) Scope of Work
- d) Special Conditions of Contract (SCC)
- e) The (Instructions to Bidders) ITB



DATE \_\_\_\_\_

## Agent AGREEMENT

Place of Execution: Noida, India

BY AND BETWEEN

GAIL (INDIA) LIMITED

AND

M/s \_\_\_\_\_  
as 'Agent for \_\_\_\_\_'



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## Agent AGREEMENT

This **Agent Agreement** is made on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at Noida, India, by and between

1. **M/S. GAIL (INDIA) LIMITED**, (formerly known as GAS AUTHORITY OF INDIA LIMITED), a Government Company within the meaning of Section 617 of the Companies Act 1956 having its registered office at 16, Bhikaiji Cama Place, New Delhi 110066 (hereinafter referred to as '**GAIL**' / '**the Company**', which expression shall, unless repugnant to the context or meaning, be deemed to include its successors, administrators, legal representatives and assigns) of the **FIRST PART**;

**AND**

2. **M/S. \_\_\_\_\_**, \_\_\_\_\_, a \_\_\_\_\_ Company incorporated under the laws of \_\_\_\_\_, having its principal/registered office at \_\_\_\_\_ acting through the sole Proprietor/Managing Partner/ Managing Director/ (hereinafter referred to as the '**Agent**', which expression shall, unless repugnant to the context or meaning, be deemed to include its successors, administrators, legal representatives, nominees and permitted assigns) of the **Second Part**. (in case of Managing Director copy of Board Resolution, in case of Managing Partner Letter of Authority signed by all the Partner in favour of Managing Partner, in case of Authorized Signatory, please attach Original/ notarized copy of the authority letter)

GAIL and Agent may, hereinafter collectively be referred to as 'Parties' and individually as 'Party'.

### WHEREAS:

- (A) GAIL is having its production plant presently at GAIL Petrochemicals Complex at GAIL Pata, District Auraiya.
- (B) GAIL is also having marketing arrangements of Polymers to be supplied from its joint venture production units like BCPL, OPaL, etc.
- (C) GAIL also intends to undertake business of Exporting of polymers to any entity
- (D) GAIL wishes to appoint Agent for the purpose of organizing, promoting, marketing and sale of the Product(s) (as defined below) from Pata, Uttar Pradesh or any other place(s) as informed by GAIL from time to time.
- (E) WHEREAS Agent has approached GAIL and expressed its desire to be appointed as the Agent of the Company in respect of the Products (hereinafter defined)
- (F) AND WHEREAS GAIL at the request of the Agent has agreed to appoint the latter as Agent for the Products on the terms and conditions hereinafter appearing. The Agent has represented to GAIL that it has adequate resources and experience to render services as Agent with respect to the Products and GAIL has agreed to



engage the services of the Agent on a non-exclusive basis within the Territory (as defined below) during the Term (as defined below), subject to and in accordance with terms and conditions set forth herein.

**NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

**1. DEFINITIONS AND PRINCIPLES OF INTERPRETATION**

**1.1 Definitions**

In this Agreement, the following expressions shall have the following respective meanings:

“**Affiliate**” means a company or a body: (a) which directly or indirectly controls or is controlled by the Agent; or (b) which directly or indirectly controls or is controlled by a company which directly or indirectly controls or is controlled by the Agent.

“**Agreement**” means this Agent Agreement and all amendments, modifications, side letters and revisions to this Agent Agreement signed by the Parties.

“**Agent**” shall mean Person or Persons, as defined in clause 1.2.9, appointed for the purpose of organizing, promoting, marketing and sale of the Product(s).

“**Agent office**” shall mean the office at the location for which Agent is being appointed, located at M/s. \_\_\_\_\_, admeasuring \_\_\_\_\_ sq. ft.

“**Control**” means the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders’ agreement or voting agreements or in any other manner.

“**Customer**” shall mean any Person desirous of purchasing the Product(s) and /or who purchases the Product(s).

“**Execution Date**” means the date when this Agreement has been signed and executed by the Parties.

“**Liabilities**” shall mean all direct, indirect and consequential losses, costs, damages, expenses, penalties, interest, claims (including third party claims) and liabilities imposed, claimed or levied or assessed against GAIL officials, representatives, attorneys” fees and disbursements of any kind or any nature whatsoever imposed upon GAIL, whether incurred directly or indirectly by GAIL.

“**Person**” shall have the meaning ascribed to it in Clause 1.2.9.

“**Product(s)**” shall mean material being sold / marketed by GAIL (India) Limited.

“**Confidential Information**” means GAIL’s confidential information relating to technical, financial and business information, all tangible and intangible



embodiments thereof of any kind whatsoever, as well as information obtained orally or through observation or examination of the foregoing, including by way for example but without limitation, samples, information embodied in the sample, reports, studies, product plans, findings, forecasts and ideas relating to the Products disclosed by GAIL to Agent under this Agreement and all information generated by the Agent which contains such information.

“**INCOTERMS**” means the latest edition of the standardized terms and conditions for commercial transactions published by the international chamber of commerce.

“**Plant**” means the production facilities of GAIL.

“**Specifications**” means the technical specification of each PRODUCTS.

“**Agent Commission**” shall mean commission payable per metric ton in USD of Products as per terms & conditions of this Agreement.

“**Term**” shall mean the contractual duration of this Agreement, as defined in clause 9.0.

“**Termination Date**” shall mean the date of termination of this Agreement under Section 8.0.

“**Territory**” shall mean the country or location allotted to the Agent to facilitate selling GAIL’s products on its behalf.

“**Banking Holiday or Non-Business Day**” means day on which Banks are closed for Forex settlement in New Delhi, Mumbai, New York and Agents Country.

## **1.2 Principles of Interpretation**

- 1.2.1 Except where the context requires otherwise, references to Articles, Annexure are to Articles or Annexure of this Agreement and references to sections, clauses, sub-clauses or paragraphs are to sections, clauses, sub-clauses or paragraphs of the Article in which the reference appears.
- 1.2.2 Titles of Articles, Sections, Clauses, Sub-Clauses, Paragraphs and or Annexure are intended for convenience of reading only and do not represent nor shall they be construed to represent any other meaning.
- 1.2.3 References in this Agreement to any agreement or document shall be construed as a reference to each such agreement or document as the same may have been, or may from time to time be, amended, varied, novated, replaced or supplemented.
- 1.2.4 Unless otherwise specified, expressions such as ‘hereby’, ‘herein’, ‘hereof’, ‘hereunder’ or the like are intended as ‘by this Agreement’ and ‘under this Agreement’ or the like as applicable and not by or under a specific Article, Section, Clause, Sub-Clause or Paragraph.
- 1.2.5 The words ‘include’, ‘includes’ and ‘including’ shall be deemed to be followed by the phrase ‘without limitation’ and general words introduced by the word ‘other’ or



any similar term shall not be given restrictive meaning by reason of the fact that they are preceded or followed by words indicating a particular class of acts, matters or things.

- 1.2.6 Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase shall have the corresponding meanings.
- 1.2.7 Except where the context specifically requires otherwise, words importing one gender shall be treated as importing any gender; words importing individuals shall be treated as importing corporations and vice versa; words importing the singular shall include the plural and vice versa; and words importing the whole shall be treated as including a reference to any part of the whole.
- 1.2.8 References to statutory provisions, enactment shall include references to any amendment, modification, extension, consolidation, replacement or re-enactment of any such provision, enactment (whether before or after the date of this Agreement), to any previous enactment which has been replaced or amended and to any regulation, instrument or order or other subordinate legislation made under such provision, enactment, except where expressly stated to the contrary.
- 1.2.9 References to 'Persons' shall be construed so as to include:
- (a) Means any sole proprietor, company, partnership firm, limited liability partnership (LLP) firm,
  - (b) That Person's successors in title and assigns or transferees in accordance with the terms of this Agreement; and
  - (c) References to a Person's representatives shall be to its officers, employees, legal or other professional advisers, sub-contractors, agents, attorneys and other duly authorized representatives.
- 1.2.10 If any condition or obligation contained in this Agreement requires a Party to it not to do an act or thing it shall be a breach of any such condition or obligation to permit or suffer such act or thing to be done.
- 1.2.11 In addition to the terms defined in Section 1.1, certain other terms are defined elsewhere in this Agreement and whenever such terms are used in this Agreement, they shall have their respective defined meanings, unless the context expressly or by necessary implication otherwise requires.

## **2. EFFECTIVE DATE**

This Agreement shall come into full force and effect on the Execution Date.

## **3. PURPOSE OF ENGAGEMENT**

GAIL has appointed the Agent on non-exclusive basis for specified location for the purpose of organizing, promoting, marketing and sale of the Product(s) from Pata, Uttar Pradesh or any other place(s) as informed by GAIL from time to time





generally having Incoterm FCA, DAP, CFR, CIF, etc. (INCOTERMS 2020), during the Term of the Agreement and on terms and conditions contained herein.

#### **4. BASIS OF ENGAGEMENT**

The engagement by GAIL of the Agent in terms of this Agreement is on a non-exclusive basis, and nothing contained herein shall affect/constrain the right of GAIL to engage services of other Person(s) or employ other channels of distribution for similar services within the country or outside.

#### **5. SCOPE / ROLES & RESPONSIBILITY OF THE AGENTS WILL BE AS PER THE BELOW MENTIONED GUIDELINES**

##### **5.1 Scope / Roles & Responsibility**

- 5.1.1 Coordination with the local customers of the country where Agent is appointed (viz. \_\_\_\_\_) for booking orders on behalf of GAIL as per terms and conditions for sale of product by GAIL. Regular customer contacts- personal visits as well as over phone, e-mail, etc., for procurement of orders from customers.
- 5.1.2 Customer Registration - Each Customer shall be registered with GAIL. In case of new customer, Agent shall facilitate the registration of the Customer as per instructions / policy of GAIL.
- 5.1.3 To coordinate with the local customers / bank of the country where Agent is appointed (viz. \_\_\_\_\_) and GAIL in regard to financial issues like Letter of Credit (L/C) / Advance / any other mode of payment as informed by GAIL – financial issues like establishment of L/C, processing of full payment by customer through L/C or advance or any other mode of payment as informed by GAIL in a time bound manner.
- 5.1.4 To follow-up with the local customers of the country where Agent is appointed (viz. \_\_\_\_\_) in reference to logistic issues - nomination of transporter / freight forwarder by customer, material lifting by customer as per the delivery terms of GAIL.
- 5.1.5 Share draft proforma invoice to GAIL as per GAIL's terms and conditions.
- 5.1.6 Market analysis – to send weekly report to GAIL's authorized representative covering feedback received for the market prices, competition, grade wise supply - demand, projected demand of GAIL's product for the coming month, etc. in the country where Agent is appointed, on sustainable basis.
- 5.1.7 Post sale documents submission by customer to GAIL – To coordinate with the local customers of the country where Agent is appointed (viz. \_\_\_\_\_) for timely submitting copy of Bill of Lading, etc.
- 5.1.8 Obtain Landing Certificate or any other document as a proof of goods crossing the importer's country custom's border.



- 5.1.9 Assist in arranging Customer meets, trade fairs or any other promotional activities GAIL is organizing.
- 5.1.10 Any other activities related to the sales / services to the local the local customers.
- 5.1.11 Agent shall inform the prices for the Products upon prior confirmation of the same from GAIL.
- 5.1.12 Once the order for supply of Products is/are confirmed by the customer, the Agent shall provide GAIL with the following particulars:
  - (a) Quantity to be supplied.
  - (b) Product/grade to be supplied.
  - (c) Name and address of the customer.
  - (d) Particulars of the banker issuing the letter of credit.
- 5.1.13 Coordination with bank for ensuring that GAIL receives its payment within the payment due date
- 5.1.14 Coordination with Government or local authorities for any business related work assigned by GAIL
- 5.1.15 Acceptance of all orders shall be undertaken by GAIL exclusively.
- 5.1.16 GAIL shall issue pro forma invoice after the receipt of the firm order by email. Thereafter, the Agent shall within 1 full working day ensure return of the pro forma invoice duly countersigned and accepted by the customer failing which GAIL reserves the right to cancel the order.
- 5.1.17 Delivery of products shall be as per INCOTERMS mentioned in the proforma invoice.
- 5.1.18 Notwithstanding anything contained in this agency agreement, GAIL, however reserves the right to sell the products directly to customers in the area and in such circumstances, the Agent shall not be entitled to any commission.
- 5.1.19 Agent shall ensure quick and timely payment by the customers which shall be as per pro forma invoice. For delay, beyond due date, GAIL reserves the discretion to charge interest from the customer on the due amount for the delayed period. If the same is not paid by customers as demanded by GAIL, GAIL reserves the right to charge the same from the Agent.
- 5.1.20 GAIL shall be responsible to raise the necessary invoices and the other documents directly on the customers to enable encashment of the letter of credit and for release of the shipment to the customers. Wherever necessary, GAIL shall make available copies of such documents to Agent to enable Agent to conduct necessary follow up for payment/other formalities/informing customers. Agent shall however has no authority to accept payment or give receipts on GAIL's behalf.



- 5.1.21 Agent shall be responsible for timely opening of letter of credit by the customers as mentioned in the pro forma invoice. If any amendments are required to the letter of credit, same shall be carried out within 4 working days and in a single lot, failing which GAIL reserves its right to cancel supply of the products.
- 5.1.22 In case of transactions through letter of credit, if there is discrepancy in shipping documents, vis-à-vis letter of credit terms (except for discrepancy with regards to value and quantity), because of errors by way of omission and / or commission i.e. typographical errors, Agent will take all reasonable efforts as may be desired by GAIL for encashment of letter of credit.
- 5.1.23 Should orders be cancelled during transit for any reason whatsoever or shipping documents are rejected by the customer, Agent will inform GAIL immediately and will take all necessary efforts to ensure safekeeping of the goods, disposal of the goods and collection of payment as per the instructions of GAIL and upon failure to do so, GAIL reserves the right to claim appropriate compensation from the Agent to the extent of loss/damage suffered by GAIL

## **5.2 Sale of Product**

- 5.2.1 The Products shall be sold as per rates determined in accordance with the declared Price List time to time, unless specified otherwise by GAIL.
- 5.2.2 GAIL may from time to time, formulate policy/guidelines with respect to the sale of Product(s), quantities and other like factors connected therewith, which shall be binding upon the Agent.

## **5.3 Security Deposit / Bank Guarantee**

- 5.3.1 The Agent shall furnish to the company an unconditional bank guarantee, in the manner as prescribed in Form F-4 of GAIL's Tender No. GAIL/NOIDA/PMG/2024-25, of amount as mentioned in Bidding Data Sheet (BDS) of same tender, from Indian scheduled bank or a branch of an International bank situated in India and registered with Reserve Bank of India as scheduled foreign bank and which shall not be a co-operative bank, acceptable to the GAIL in the form prescribed by GAIL.
- 5.3.2 The said Bank Guarantee shall be valid for a period of 12 months from the date of fax of acceptance with an additional period of minimum 3 months claim period and it will be renewed from time to time. Such renewals shall be furnished at least one month before the expiry of the same.
- 5.3.3 GAIL shall be entitled to invoke the security deposit/ BG in case of loss or damage caused to/suffered or would be caused to or suffered by GAIL by reason as may deemed fit including but not limited to any breach or event of default by the Agent.

## **6. AGENT COMMISSION**

- 6.1 The Contract shall come into force on the date of FOA and the same shall be binding on Employer and Service Provider. The Agent shall be entitled to Agent Commission only upon receiving of full payment by GAIL of the complete sale



price with respect to Product sold to Customer(s). For clarity, Agent Commission will not be accrued till the full value of the Product along with interest due, if any, and any other statutory dues are realized by GAIL from Customer(s).

- 6.2 For the services rendered by the Agent under agreement, the GAIL shall pay to the Agent, an Agent Commission as decided by GAIL from time to time, with respect of the quantity of the said Products sold by the Agent. Subject to any change of the Agent Commission informed by GAIL, the Agent Commission shall accrue at the following rates:

SLAB	QUANTITY BOOKED (MT/MONTH)	COMMISSION (USD PMT)
Slab-1	$\geq 1000$	\$ 10
Slab-2	$< 1000$	\$ 9

- 6.3 The Agent shall raise invoices for commission in USD and send statement on monthly basis duly supported by relevant documents of export sales realized and GAIL shall settle and pay such invoices within 30 days from the receipt of the commission invoice. The agent shall raise Commission Invoice for a month only when GAIL confirms the payment receipt for all orders booked in that particular month. All taxes and levies in the territory applicable on commission (if any) shall be borne by the Agent.

- 6.4 The Agent cannot buy polymer product in its firm's name.

## 7. PAYMENT TERMS

- 7.1 Payment against Agent Commission shall be made through wire transfer through banking channels against submission of original Invoice duly certified by GAIL's authorized representative on monthly basis subject to receipt of the following within 30 days of presentation of all documents

- (a) Unconditional acceptance of FOA
- (b) Signed Agreement
- (c) Submission of CPS

- 7.2 If the 30th day is the **Banking Holiday or Non-Business Day** then payment will be made on next day on which Banks are open.

- 7.3 If in case due to Government restrictions, payment of commission invoice is to be made in INR instead of USD, the commission shall be paid in equivalent value in INR as per SBI Bill Selling Rate on date of payment by GAIL. All Foreign Bank charges (outside India) will be borne by the Agent. All Indian Bank charges (within India) will however be borne by GAIL.

### 7.4 Taxes and duties

#### 7.4.1 Taxes and duties in case of Agent



The Agent shall be responsible for full and exclusive liability at his own cost for the payment of any and all good and services tax and any other taxes, duties and levies etc. as are payable to any government, local or statutory authority in any country including India as are now in force or as hereafter imposed, increased or modified and as are payable by Agent for performance of Agent services. The Agent shall be deemed to have been fully informed with respect to all such liabilities.

The Income Tax (TDS) on the Agent Commission shall be dealt as per the Income Tax Act, 1961 and shall be borne by the Agent. The required documents in this regard shall also be provided by the Agent to GAIL.

## **8. TERMINATION OF AGENT SERVICES**

**8.1** The Agent reserves the right to terminate agency by giving at least 6 (six) month notice in writing to GAIL.

**8.2** GAIL reserves the right to terminate agency on the happening of any of the following events:

- (a) If the Agent, being the sole proprietor of the proprietary firm dies, or is declared lunatic, or
- (b) If the Agent becomes insolvent or if his/its business is wound up or dissolved or if there is any constitutional change of the Agent, or
- (c) If the Agent is guilty of any conduct which is in the opinion of the GAIL, is prejudicial or detrimental to the company's interest, or
- (d) If the Agent purports to sell, assign, transfer, or otherwise encumber the whole or part of his/its rights, benefits and liabilities herein, or
- (e) If the performance of the Agent is, in the opinion of the GAIL, not satisfactory, or
- (f) If the Agent violates the norms of the Agent as set by the GAIL, or
- (g) If the Agent fails to maintain a minimum Bank Guarantee for an amount, as determined by GAIL from time to time or a cash deposit in lieu thereof.
- (h) in case any representation of the Agent is found untrue, inaccurate or misleading,
- (i) Termination at the option of GAIL without assigning any reasons, by giving at least 1 (one) month notice in writing to the Agent.

**8.3** In the event of such termination,

- (a) GAIL shall have right to adjust any amount due to it from the Agent against any dues payable by GAIL to the Agent in connection with any transactions.



- (b) The Agent shall be liable for all obligations accrued prior to the Termination Date.
- (c) The Agent shall not use the trademark/brand name/trade name of GAIL, whether with or without addition of any other trademark/ trade name with effect from the Termination Date.
- (d) The Agent shall not affect provisions due to termination of this Agreement, which are intended by their very nature to survive, including provisions relating to 'indemnity', 'confidentiality' and 'handover upon termination'.
- (e) Clause 12.3, 13.2 and 13.4 shall survive termination of this Agreement.
- (f) Upon termination of this Agreement for whatever reason, Agent shall facilitate a smooth transition by rendering all such co-operation, including but not limited to handing over all stocks, materials, stationery belonging to GAIL, furnishing all relevant documents/records, as may be requested by GAIL and such a transition shall be completed within a period of 30 (thirty) days from the date of such expiration or termination.

## **9. TERM OF AGENT**

The term of Agent shall be for 1 (one) year from the date of signing of agreement between the parties. It shall be renewed after every year subject to satisfactory performance and mutual agreement. Agent may be terminated due to non-performance or for breach of terms and conditions or in any manner as prescribed under Article 8 of this Agreement.

## **10. LIABILITIES TOWARDS CUSTOMER'S COMPLAINTS**

Agent will investigate, discuss any issues pertaining to claims related to the products raised by the customers at no extra cost of GAIL and shall take all out efforts in resolution to the best interest of GAIL.

## **11. AGENT OFFICE FACILITIES / INFRASTRUCTURE**

**11.1** Agent shall maintain office facilities in their name in the country / location for which appointment is being made. The change of office can be done only in exceptional circumstances with prior approval of GAIL and that too by an office of the equivalent specification. Agent shall maintain office facilities which shall include;

- (a) A proper office for GAIL business with furniture/fixtures, telephone (with ISD facility), latest computers with internet connectivity and fax facility.
- (b) During the period of this Agreement, the Agent shall install and maintain at its cost, facility of at least 1 scanner.
- (c) Proper High speed internet connection at all times.

**11.2** The Agent shall;



Engage adequate number of competent sales persons, accountants, computer operators or any other manpower, etc. exclusive for GAIL business, as may be required for the purposes of implementation of this Agreement. Further, the Agent shall also arrange for necessary training for its personnel.

## **12. GENERAL COVENANTS**

### **12.1 Inspection and Investigation**

GAIL shall at all times have full access to the Agent office to carry out inspection of any material/process carried therein for ensuring compliance by Agent of this Agreement. Agent shall, at the request of GAIL, make available for inspection by GAIL such records/documents bearing connection with the performance of the Agreement by Agent and also furnish photocopies of such documents, as may be requested by GAIL. Provided however, any such inspection is a right of GAIL and not its obligation, and such inspection by GAIL shall not in any manner relieve the Agent of its obligations or responsibilities under the Agreement.

### **12.2 Disclosure of Agency**

While effecting sales of the Products, the Agent shall disclose that he/it is an Agent of GAIL, though, however, he/it shall affect sales of the Products on standard formats of the bills prescribed by the Company and printed by the Agent at their cost. The Agent alone shall be responsible for discharging all the liabilities attracted under any sales tax legislations in respect of the sales affected by them on behalf of the Company. If the Company is made liable to pay any tax or penalty or any other dues in respect of this Agreement, the Agent shall indemnify the Company against the same. The Agent shall also comply with the prevailing direct and indirect tax regulations such as GST rules and regulations, shall get the TIN (Tax identification Number) and shall issue invoices as per the GST regulations.

### **12.3 Indemnity**

- 12.3.1 The Agent agrees to indemnify and keep GAIL indemnified in case any representations or warranties under the Agreement are found to be untrue, inaccurate or misleading.
- 12.3.2 The Agent shall be liable to fully indemnify and keep GAIL indemnified against all Liabilities, in case of any loss caused to GAIL or any of its employees, directors or consultants, authorized representatives, agents, subsidiaries, successors and assigns, in the course of performance of the Agreement by Agent.
- 12.3.3 The Agent agrees to indemnify absolutely, unconditionally and fully and at all times keep indemnified GAIL against all Liabilities, in case of any loss or damage caused to or suffered by GAIL by reason of non-payment of the price of the Product(s) supplied to any Customer, including interest due if any, or by reason of breach by the Agent of any of the terms and conditions of this Agreement,





including but not limited to breach of any statutory provisions or by reason of the Agent's failure to perform this Agreement.

- 12.3.4 Without prejudice to the generality of the aforesaid Clause, Agent agrees to indemnify GAIL against all Liabilities by virtue of, or in connection with, or arising out of any;
- (a) Failure of Agent to maintain or take appropriate licenses/permits/ consent to carry out the purposes of the Agreement,
  - (b) Claims made by any employee(s) or agent(s) or contractor(s) or subsidiary(ies) or affiliate(s) of Agent, including any claim by Agent personnel that they are GAIL employees for any purpose,
  - (c) Claims arising from the negligence of Agent in performing its obligations under the Agreement;
  - (d) Claim(s) from any tax authority(ies); and
  - (e) Claim(s) by Customers regarding any defective or damaged Product(s) supplied by the Agent, provided such defect or damage is not a manufacturing defect and is not in any way attributable to any act/ omission of GAIL.
- 12.3.5 In case of any liability on GAIL due to non-compliance of any law including relating to GST and any other taxation laws by Agent, the same will be recovered by GAIL from the security given by Agent.
- 12.3.6 GAIL shall not be liable to the Agent or any other third party for any damages, costs or losses whatsoever (including, without limitation for negligence, gross negligence or any other category of liability whatsoever) for any action taken by it under or in connection with this Agreement.

## **12.4 Encumbrance**

- 12.4.1 The Agent acknowledges that it has no right to create any lien, liability or encumbrance over the Product(s) stored with the Agent or in the event of any claim pending against GAIL pursuant to this Agreement or under any other circumstance.
- 12.4.2 Agent shall not mortgage / hypothecate or create any charge on the Products of GAIL, except for selling the same to authorized and registered customers of GAIL for and on behalf of GAIL.
- 12.4.3 GAIL shall remain exclusive owner of all its Products which are in the possession and control of Agent till it is sold by Agent to authorized and registered customer(s) of GAIL.

## **12.5 Representations and Warranties**

### **12.5.1 Representations and Warranties of GAIL**



- (a) GAIL hereby represents and warrants to the Agent as follows:
- (b) GAIL is competent to enter into the Agreement and perform in terms hereof.
- (c) Execution of this Agreement or performance hereof by GAIL shall not violate any rule, regulation, law, order of court or contract by which GAIL is bound.
- (d) This Agreement constitutes valid legal and binding obligations of GAIL, enforceable in accordance with the terms of this Agreement.

### **12.5.2 Representations and Warranties of the Agent**

The Agent hereby represents and warrants to GAIL as follows:

- (a) All the information furnished by the Agent prior to the execution of this Agreement, basis of which the Agent has been granted this Agreement is true and valid in all reasonable manner.
- (b) The Agent is competent to enter into the Agreement and perform in terms hereof.
- (c) Execution of this Agreement or performance hereof by the Agent shall not violate any rule, regulation, law, order of court or contract by which the Agent is bound.
- (d) The representations and warranties made by the Agent, as contained in the Tender document or any other such relevant document(s), based on which the Agent was selected are true, accurate and not misleading in any manner.
- (e) The Agent is fully entitled to operate the Agent Stock Point and the equipment in terms of the Agreement and the same are not encumbered in any manner and the Agent has not entered into any agreement whereby the same may be subject to encumbrance.

## **13. OTHER PROVISIONS**

### **13.1 Force Majeure**

- 13.1.1 In the event of either party being rendered unable by Force Majeure to perform any obligations required to be performed by them under the Contract the relative obligation of the party affected by such Force Majeure shall upon notification to the other party be suspended for the period during which Force Majeures event lasts. The cost and loss sustained by the either party shall be borne by the respective parties.

The term "Force Majeures" as employed herein shall include):

- (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/Services are performed, and which affect an essential portion of the Works/Services but excluding any industrial dispute which is specific to the performance of the Works/Services 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.

#### 13.1.2 Notification of Force Majeure:

The affected party 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.

#### 13.1.3 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.

Further, the Service Provider shall with all reasonable diligence remove from the Site all the Service Provider's equipment and shall give similar facilities to his Sub Service Provider to do so.

#### 13.1.4 Payment in case of termination due to Force Majeure

The Contract Price attributable to the Works/Services performed till the date of the commencement of the relevant event of Force Majeure with effective recovery/retention shall be payable to Service Provider.

The Service Provider has no entitlement and Employer has no liability for:



- a) any costs, losses, expenses, damages or the payment of any part of the Total Contract Price during an event of Force Majeure; and
- b) any delay costs in any way incurred by the Service Provider due to an event of Force Majeure.

Time for performance of the relative obligation suspended by the Force Majeure shall then stand extended by the period for which such cause lasts.

#### 13.1.5 Outbreak of War:

- 13.1.6 If during the currency of the Contract there shall be an out break of war whether declared or not, in that part of the World which whether financially or otherwise materially affect the execution of the Work, the Service Provider shall unless and until the Contract is terminated under the provisions in this clause continue to use his best endeavour to complete the execution of the Work/Services, provided always that the Employer shall be entitled, at any time after such out break of war to terminate or re-negotiate the Contract by giving notice in writing to the Service Provider and upon such notice being given the Contract shall, save as to the rights of the parties under this clause and to the operation of the clauses entitled settlement of Disputes and Arbitration hereof, be terminated but without prejudice to the right of either party in respect of any antecedent breach thereof.

### 13.2 Dispute Resolution

- 13.2.1 In case of any disputes or differences arising between the Parties hereto in connection with, out of or in relation to this Agreement including any interpretation hereof, a Party shall notify the other Party in writing about such dispute(s) / difference(s) / issue(s) between the Parties and that the Party wishes to refer the dispute(s)/difference(s)/issue(s) to the Settlement Advisory Committee of Conciliators for Conciliation under the GAIL Conciliation Rules, 2010. Such Invitation for Conciliation shall contain sufficient information as to the dispute(s)/difference(s)/issue(s) to enable the other Party (ies) to be fully informed as to the nature of the dispute(s)/difference(s)/issue(s), the amount of monetary claim, if any, and apparent cause(s) of action.
- 13.2.2 Conciliation proceedings shall commence, when the other Party accept(s) the invitation to conciliate and confirm(s) its acceptance in writing. If the other Party rejects the invitation, there will be no conciliation proceedings.
- 13.2.3 If the Party initiating Conciliation does not receive a reply within 30 (thirty) days from the date on which he/she sends the invitation, or within such other period of time as specified in the invitation, it may elect to treat this as a rejection of the Invitation for Conciliation. If it so elects, it shall inform the other Party accordingly.
- 13.2.4 Where Invitation for Conciliation has been furnished, the Parties shall attempt to settle such dispute(s) amicably under Part-III of the Indian Arbitration and Conciliation Act, 1996. It would be only after exhausting the option of Conciliation as an Alternate Dispute Resolution Mechanism that the Parties hereto



shall go for Arbitration. For the purpose of this clause, the option of 'Conciliation' shall be deemed to have been exhausted, even in case of rejection of 'Conciliation' by any one of the Parties.

- 13.2.5 The cost of conciliation proceedings including but not limited to fees for conciliator(s), airfare, local transport, accommodation, cost towards conference facility, etc. shall be borne by the parties equally.
- 13.2.6 The Parties shall freeze claim(s) of interest, if any, and shall not, claim the same during the pendency of Conciliation proceedings. The Settlement Agreement, as and when reached/agreed upon, shall be signed between the Parties and Conciliation proceedings shall stand terminated on the date of the Settlement Agreement.
- 13.2.7 Any dispute arising in connection with existing agreement which is not resolved by amicable settlement through above clauses of conciliation, shall be settled through arbitration by a sole arbitrator on invocation of arbitration clause by a party, GAIL will suggest a panel of three independent and distinguished persons to that party to select any one among them to act as sole arbitrator.
- 13.2.8 If the Agent fails to appoint the Sole Arbitrator from the list provided by GAIL within 30 days from the receipt of the letter, then GAIL shall select and appoint the Arbitrator from the said list. The decision of GAIL on appointment of sole arbitrator shall be final and binding on parties.
- 13.2.9 In the event of the arbitrator to whom the matter is originally referred, being transferred or vacates his office or being unable to act as arbitrator in accordance with the terms of the Agreement, GAIL may designate any other person to act as an arbitrator. Such person shall be entitled to proceed with the reference from the stage at which it was left by his/her predecessor, subject to the provisions of Arbitration and Conciliation Act, 1996.
- 13.2.10 The arbitration proceedings shall be conducted in accordance with the Indian Laws and the provisions of the Arbitration and Conciliation Act, 1996 and rules thereunder as amended from time to time.
- 13.2.11 Seat of the arbitration shall be at New Delhi.
- 13.2.12 Courts in Delhi shall have exclusive jurisdiction.
- 13.2.13 The Parties to the dispute shall bear the costs of Arbitration & Conciliation in equal proportion unless otherwise awarded.
- 13.2.14 Language of the arbitration shall be in English.

### **13.3 Assignment**

The Agent shall not assign this Agreement or any part hereof without the prior written consent of GAIL. However, GAIL shall at all times be free to assign this Agreement.



### **13.4 Confidentiality**

- 13.4.1 The Agent shall keep strictly confidential and shall not disclose to any third party the contents of this Agreement, any information provided to the Agent ('Receiving Party') by GAIL ('Disclosing Party') pursuant to this Agreement or relating to the negotiations or performance of this Agreement. The Agent shall ensure that its employees, agents, partners, contractors, consultants have similar obligation of confidentiality.
- 13.4.2 Nothing contained herein shall prevent the Receiving Party from disclosing any confidential information received from the Disclosing Party, if and to the extent; (i) required to do so by law or any court, governmental or regulatory authority, provided that the Receiving Party shall give the Disclosing Party, a complete description of the required disclosure; (ii) required to be disclosed to the professional advisers or auditors of such Party, provided that such disclosure shall be made only to the professional advisors or auditors (as the case may be) and no other Persons and after the same has been intimated to the Disclosing Party; (iii) such information has come into the public domain through no fault of the Receiving Party; or (iv) the Disclosing Party has given its prior written consent to such disclosure.

### **13.5 Entire Agreement**

This Agreement represents the entire agreement between the Parties in relation to the subject matter contained herein. All the information furnished by the Agent prior to the execution of this Agreement, basis of which the Agent has been granted this Agreement shall form part of this Agreement and shall be read along with this Agreement. Any amendment to this Agreement shall be in writing as may be mutually agreed between the Parties.

### **13.6 Severability**

If any provision of this Agreement shall be determined to be void or unenforceable under any applicable law, such provisions, shall be deemed to be amended or deleted in so far as is reasonably inconsistent with the provision of this Agreement and to the extent necessary to conform with applicable laws and the remaining provisions of the Agreement shall remain valid and enforceable in accordance with its terms.

### **13.7 Waiver**

Failure of either Party to enforce at any time or for any period of time, any provision hereof shall not be construed to be waiver of any right to enforce each and every provision; nor shall any single or partial exercise of any right, power or privilege preclude any future exercise of rights hereunder.

### **13.8 Concurrent Rights**

Parties shall be free to exercise any one or more of their rights concurrently.



### 13.9 Jurisdiction and Governing Laws

This Agreement shall be governed by the laws of India and all suits, legal proceedings or arbitration award under this Agreement will be filed, entertained and decided in the Courts at Delhi and the Courts at Delhi only will have the exclusive jurisdiction over all such disputes/claims.

### 13.10 Notice

All notices, requests, demands, declarations and other communications required hereunder or given pursuant hereto shall be in writing in English and shall become effective.

- (a) If given by Agent by e-mail, when transmitted and receipt has been confirmed,
- (b) If given by courier when received, or
- (c) If personally delivered, when so delivered, address as follows

- (i) If intended for GAIL:

Designation\_\_\_\_\_

Address\_\_\_\_\_

- (ii) If intended for Agent:

Designation\_\_\_\_\_

Address\_\_\_\_\_

- (d) All other correspondence and invoices sent by Agent to GAIL shall be addressed for the attention of the \_\_\_\_\_, and for those to be sent by GAIL to Agent, the same shall be addressed to the attention of such person as is indicated by the Agent.
- (e) The above addresses may be changed by giving two (2) weeks written notice thereof to the other Party.

### 13.11 Database

- (a) The Agent agrees that it will take reasonable precautions to prevent any unauthorized use, disclosure, publication or dissemination of the database of GAIL furnished. The Agent further agrees that it shall protect the database by exercising the same standard of care as the Agent would exercise for its own confidential information in the ordinary course of business and the same shall be stored and handled in such a manner as to prevent unauthorized disclosure and exploitation.
- (b) The Agent acknowledges that the database of GAIL and underlying documents is valuable, special and unique asset of GAIL.





- (c) Unless a contrary provision or intention is present in the terms and/or condition of this Agreement, the terms and conditions as agreed by the Agent prior to the execution of this Agreement shall be deemed to be a part and parcel of this Agreement.

### **13.12 Change in Control**

In case of any change in the status of the Agent or its shareholding resulting in a change in the control of any Agent or the control of the parent company of the Agent. The Agent shall seek prior written consent of GAIL for assigning its rights and obligations under the changed circumstances.

### **13.13 Counterparts**

This Agreement shall be executed in two counterparts and each of them shall be an original but both the counterparts together shall constitute one and the same instrument.



**IN WITNESS WHEREOF**, the Parties hereto have signed and executed this agreement on the date first mentioned hereinabove.

**For & Behalf of  
GAIL (INDIA) LIMITED**

**For & Behalf of  
\_\_\_\_\_.**

**(Signature)  
For M/s. GAIL (India) Limited  
(Authorized Signatory)**

**(Signature)  
For M/s \_\_\_\_\_.  
(Authorized Signatory)**

**Witness**

**Signature:**

**Signature:**

**Name:**

**Name:**

**Particulars:**

**Particulars:**

**Address:**

**Address:**

**Date:**

**Date:**

# INTEGRITY PACT

(IP signed by GAIL's executive shall be made part of tender document)

A handwritten signature in blue ink, appearing to be 'Gail', with a long horizontal stroke extending to the right.

## **INTEGRITY PACT**

### **INTRODUCTION:**

GAIL as one of its endeavour to maintain and foster most ethical and corruption free business environment, have decided to adopt the Integrity Pact, a tool developed by the Transparency International, to ensure that all activities and transactions between the Company (GAIL) and its Counterparties (Bidders, Contractors, Vendors, Suppliers, Service Providers/Consultants etc.) are handled in a fair and transparent manner, completely free of corruption. Accordingly, an MOU on Integrity Pact has been signed on 23.07.2007 by GAIL with Transparency International India.

Considering the above, the details mentioned at attached Annexure-1 are applicable as stated in Instruction to Bidders of Bid Document in addition to the existing stipulation regarding Corrupt and Fraudulent Practices.

The attached copy of the Integrity Pact at Annexure- 2 shall be included in the Bid submitted by the bidder (to be executed by the bidder for all tenders of value Rs. 1 (One) crore and above). In case a bidder does not sign the Integrity Pact, his bid shall be liable for rejection.



**Bidder is required to sign the Integrity Pact with GAIL as per format & terms and conditions enclosed with tender. In case a bidder does not sign the Integrity Pact, his bid shall be liable for rejection.**

**I COMMITMENTS AND OBLIGATIONS OF THE “COUNTERPARTY”**

- a) The Counterparty, directly or indirectly (through agent, consultant, advisor, etc.), shall not pay any bribe/ influence or give undue/ unlawful benefit to anyone to gain undue advantage in dealing with GAIL.
- b) The Counterparty will not engage in collusion of any kind including price fixation etc. with other Counterparts.
- c) The counterparty will not pass GAIL’s confidential information to any third party unless specifically authorized by GAIL in writing.
- d) The Counterparties shall promote and observe best ethical practices within their respective organizations.
- e) The Counterparty shall inform the Independent External Monitor.
  - i) If it received any demand, directly or indirectly, for a bribe/ favour or any illegal gratification/ payment / benefit;
  - ii) If it comes to know of any unethical or illegal payment / benefit;
  - iii) If it makes any payment to any GAIL associate.
- f) The Counterparty shall not make any false or misleading allegations against GAIL or its associates.

**II VIOLATIONS & CONSEQUENCES:**

- a) If a Counterparty commits a violation of its Commitments and Obligations under the Integrity Pact Programme during bidding process, their entire Earnest Money Deposit/ Bid Security, would be forfeited and in addition, action shall be taken as per **“Procedure for action in case Corrupt /Fraudulent/ Collusive/Coercive Practices”**
- b) In case of violation of the Integrity pact by Counterparty after award of the Contract, GAIL shall be entitled to terminate the Contract. Further, GAIL would forfeit the security deposits/ Contract Performance Bank Guarantee and in addition, action shall be taken as per **“Procedure for action in case Corrupt /Fraudulent/ Collusive/Coercive Practices”**



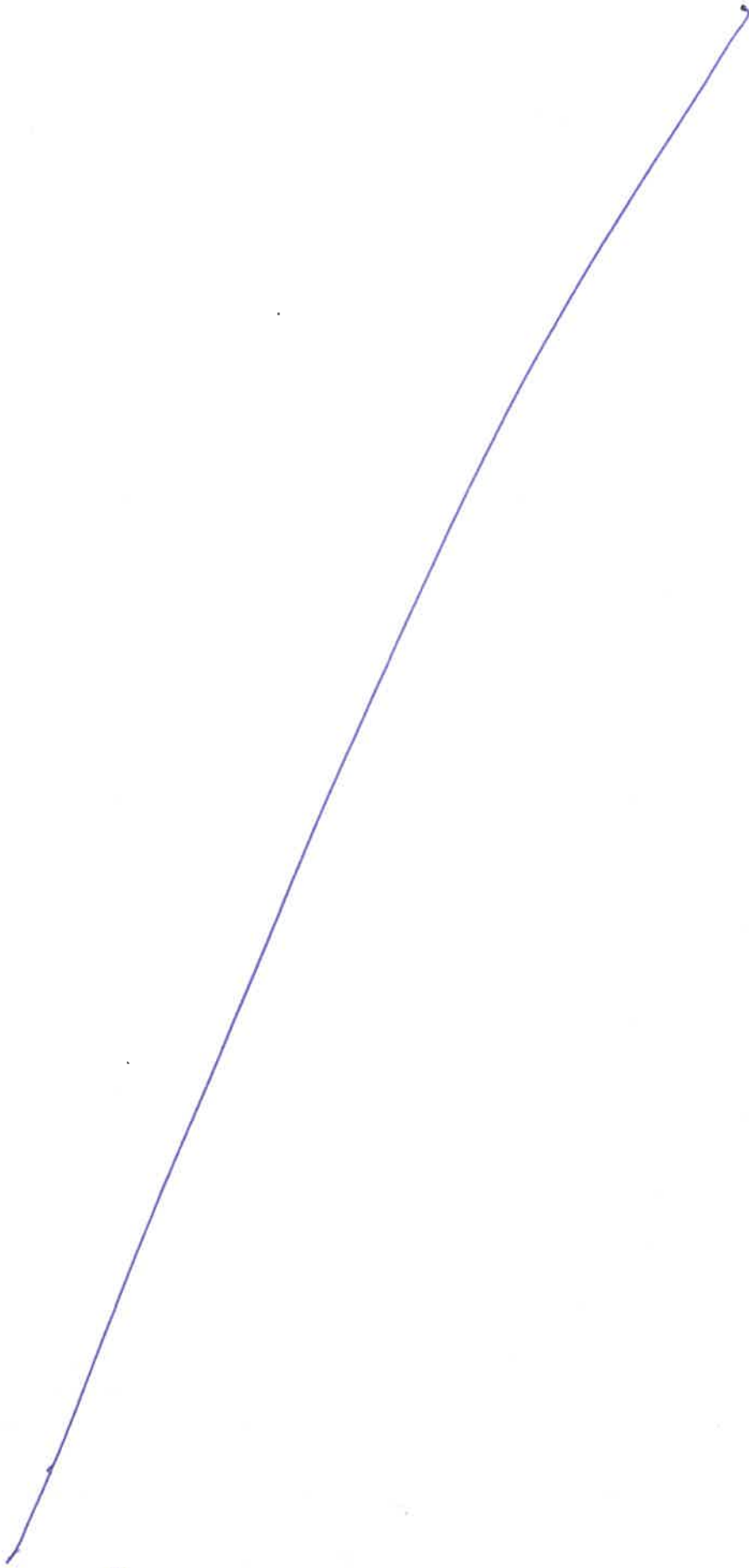
## **INDEPENDENT EXTRNAL MONITORS (IEMS)**

Presently the panel consisting of the following Independent External Monitors (IEMs) has been appointed by GAIL, in terms of Integrity Pact(IP) which forms part of GAIL Tenders / Contracts.

- i) Shri Deepak Kashyap, (email id : [deepakkashyapnd02@gmail.com](mailto:deepakkashyapnd02@gmail.com))
- ii) Shri Yogendra Tripathi (email id : [yogendratripathi@yahoo.com](mailto:yogendratripathi@yahoo.com) )
- iii) Shri Amrit Lugun (email id : [asha74lugun@gmail.com](mailto:asha74lugun@gmail.com))

This panel is authorised to examine / consider all references made to it under this tender/ contract. "The bidder(s), in case of any dispute(s) / complaint(s) pertaining to this tender falling under provisions of Integrity Pact may raise the same either directly with the IEMs on the panel viz Shri Deepak Kashyap, Email : [deepakkashyapnd02@gmail.com](mailto:deepakkashyapnd02@gmail.com) , Shri Yogendra Tripathi , Email id : [yogendratripathi@yahoo.com](mailto:yogendratripathi@yahoo.com) & Shri Amrit Lugun , Email id : [asha74lugun@gmail.com](mailto:asha74lugun@gmail.com) or with CC to them through their Nodal Officer- Sh. T Xalxo, GM (C&P)- Email [txalxo@gail.co.in](mailto:txalxo@gail.co.in), GAIL ( India) Limited, GAIL Bhawan, 16, Bhikaiji Cama Place, R.K. Puram, New Delhi – 110066. On receipt of such complaints/representations, Nodal Officer shall coordinate with IEM Panel and GAIL authorities concerned for their disposal as per extant guidelines."





*ly*



**INTEGRITY PACT**

**(To be executed on plain paper)**

**Between GAIL (India) Limited, a Government of India Public Sector, (here-in-after referred to as “Principal ”).**

**AND**

\_\_\_\_\_ **(here-in-after referred to as “The Bidder/ Contractor”).**

**(Principal and the Bidder / Contractor are here-in-after are referred to individually as “Party” or collectively as “Parties”).**

**PREAMBLE**

The Principal intends to award under laid down organizational procedures, contract/s for \_\_\_\_\_. The Principal values full compliance with all relevant laws of land rules, regulations, and economic use of resources and of fairness /transparency in its relations with its Bidder (s) and/or Contractor (s).

In order to achieve these goals, the Principal will appoint Independent External Monitors (IEMs) who will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

**Section 1 – Commitments of the Principal**

1. The Principal commits itself to take all measures necessary to prevent corruption and to observe the following Principles:-
  - i) No employee of the Principal, personally or through family members, will in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for self or for a third person, any material or immaterial benefit which the person is not legally entitled to.
  - ii) The Principal will, during the tender process treat all Bidder(s) with equity and reasons. The Principal will in particular, before and during the tender process , provide to all Bidder (s) the same information and will not provide to any Bidder (s) confidential / additional information through which the Bidder (s) could obtain an advantage in relation to the tender process or the contract execution.
  - iii) The Principal will exclude from the process all known prejudiced persons.



2. If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the Indian Penal Code (IPC)/ Prevention of Corruption Act (PC Act), or if there be a substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officers and in addition can initiate disciplinary actions.

### **Section 2 – Commitments of the Bidder (s)/Contractor (s)**

1. The Bidder (s) / Contractor (s) commits themselves to take all measures necessary to prevent corruption. The Bidder (s)/ Contractor (s) commits themselves to observe the following principles during participation in the tender process and during the contract execution:
- i) The Bidder (s) / Contractor (s) will not, directly or through any other person or firm, offer, promise or give to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person any material or other benefit which he / she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.
  - ii) The Bidder (s) / Contractor (s) will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other action to restrict competitiveness or to introduce cartelisation in the bidding process.
  - iii) The Bidder (s) / Contractor (s) will not commit any offence under the relevant IPC/PC Act; further, the Bidder (s) / Contractor (s) will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
  - iv) The Bidder (s)/ Contractor (s) of foreign origin shall disclose the name and address of the Agents/ representatives in India, if any. Similarly, the Bidder (s)/ Contractor (s) of Indian Nationality shall furnish the name and address of the foreign principals, if any. Further, all the payments made to the Indian agent/ representative have to be in India Rupees only.
  - v) The Bidder (s) / Contractor (s) will, when presenting their bid, disclose any and all payments made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.



- vi) Bidder(s) / Contractor(s) who have signed the Integrity Pact shall not approach the Courts while representing the matter to IEMs and shall wait for their decision in the matter.
2. The Bidder(s)/ Contractor(s) shall not instigate third person to commit offences outlined above or be an accessory to such offences.

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

If the Bidder (s) / Contractor (s), before award or during execution has committed a transgression through a violation of Section 2, above or in any other form such as to put their reliability or credibility in question, the Principal is entitled to disqualify the Bidder (s) / Contractor (s) from the tender process or take action as per provisions of “**Procedure for action in case Corrupt /Fraudulent/ Collusive/Coercive Practices**”.

### **Section 4 – Compensation for Damages**

1. If the Principal has disqualified the Bidder (s) from the tender process prior to the award according to Section 3, the Principal is entitled to demand and recover the damages equivalent to Earnest Money Deposit / Bid Security .
2. If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to Section 3, the Principal shall be entitled to demand and recover from the Contractor liquidated damages equal to the Contract Value or the amount equivalent to Performance Bank Guarantee.

### **Section 5 – Previous transgression**

1. The Bidder declares that no previous transgression occurred in the last three years, with any other Company in any country conforming to the anti-corruption approach or with any Public Sector Enterprise in India that could justify his exclusion from the tender process.
2. If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or actions can be taken as per provisions of “**Procedure for action in case Corrupt /Fraudulent/ Collusive/Coercive Practices**”

### **Section 6 – Equal treatment to all Bidders / Contractors / Subcontractors**

1. In case of sub-contracting, the Principal contractor shall take the responsibility of the adoption of IP by the sub-contractor. It is to be ensured by him that all sub-contractors also sign the IP.



2. The Principal will enter into agreements with identical conditions as this one with all Bidders and Contractors.
3. The Principal will disqualify from the tender process all bidders who do not sign this Pact or violate its provisions.

**Section 7 – Criminal charges against violating Bidder (s) / Contractor (s) / Sub-contractor (s)**

If the Principal obtains knowledge of conduct of a Bidder, Contractor or Subcontractor, or of an employee or a representative or an associate of a Bidder, Contractor or Subcontractor which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the same to the Chief Vigilance Officer.

**Section 8 –Independent External Monitor / Monitors**

1. The Principal appoints competent and credible Independent External Monitor for this Pact after approval by Central Vigilance Commission. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.
2. The Monitor is not subject to instructions by the representatives of the parties and performs his/her functions neutrally and independently. The Monitor would have access to all documents/records pertaining to the contract for which a complaint or issue is raised before them, as and when warranted. However, the documents/records/information having National Security implications and those documents which have been classified as Secret/Top Secret are not to be disclosed. It will be obligatory for him/ her to treat the information and documents of the Bidders/ Contractors as confidential. He/she reports to the C&MD, GAIL.
3. The Bidder (s)/ Contractor (s) accepts that the Monitor has the right to access without restriction to all Project documentation of the Principal including that provided by the Contractor. The Contractor will also grant the Monitor, upon his/her request and demonstration of a valid interest, unrestricted and unconditional access to their project documentation. The same is applicable to Sub-contractors.
5. The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the Principal and the Contractor. The parties offer to the Monitor the option to participate in such meetings.



6. As soon as the Monitor notices, or believes to notice, a violation of this agreement, he/she will so inform the Management of the Principal and request the Management to discontinue or to take corrective action, or to take other relevant action. The monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.
7. The Monitor will submit a written report to the C&MD, GAIL within 30 days from the date of reference or intimation to him by the 'Principal' and, should the occasion arise, submit proposals for correcting problematic situations.
8. If the Monitor has reported to the C&MD, GAIL, a substantiated suspicion of an offence under relevant IPC/PC Act, and the C&MD, GAIL has not, within reasonable time, taken visible action to proceed against such offence or reported it to the Chief Vigilance Officer, then only in case of very serious issue having a specific, verifiable Vigilance angle, the matter should be reported directly to the Central Vigilance Commission.
9. The word 'Monitor' would include both singular and plural.
10. In case of any complaints referred under IP Program, the role of IEMs is advisory and would not be legally binding and it is restricted to resolving the issues raised by an intending bidder regarding any aspect of the tender which allegedly restricts competition or bias towards some bidder.
11. After award of contract, the IEMs shall look into any issue relating to execution of contract, if specifically raised before them. As an illustrative example, if a contractor who has been awarded the contract, during the execution of contract, raises issue of delayed payment etc. before the IEMs, the same shall be examined by the panel of IEMs.

### **Section 9 – Pact Duration**

This Pact begins when both parties have legally signed it. It expires for the Contractor 12 months after the last payment under the respective contract, and for all other Bidders 6 months after the contract has been awarded. Any violation to the same would entail disqualification of the bidders and exclusion from future business dealing.

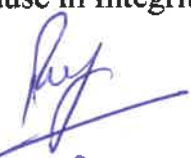

If any claim is made / lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified above, unless it is discharged/determined by the C&MD, GAIL.





**Section 10 – Miscellaneous provisions**

1. This agreement is subject to Indian Law. Place of performance and exclusive jurisdiction is the Registered Office of the Principal, i.e. New Delhi.
2. Changes and supplements as well as termination notices, if any, need to be made in writing. Side agreements have not been made.
3. If the Contractor / Bidder is a Joint Venture or a partnership concern or a consortium, this agreement must be signed by all partners or consortium members.
4. Should one or several of the provisions of this agreement turn out to be invalid, the remainder of this agreement shall remain valid. In this case, the parties will strive to come to an agreement to their original intentions in such a case.
5. Issues like warranty / guarantee, etc. shall be outside the purview of IEMs.
6. In the event of any contradiction between the Integrity Pact and its Annexure, the Clause in Integrity Pact will prevail.

  
*(Rakesh Kumar Yadav)*  
-----  
(For & on Behalf of Principal)  
*General Manager - PC*  
(Office Seal)  


-----  
(For & on Behalf of Bidder/Contractor)  
  
(Office Seal)

Place -----  
Date -----

Witness 1:  
(Name & Address) .....

Witness 2:  
(Name & Address) .....

