

## REQUEST FOR QUOTATION

To,  
GAIL WEBSITE VENDOR,  
India  
Vendor Code : 101019938

RFQ No.  
:GAIL/FL-047/NBD/3200052073/JP/C&P/08-09  
Date:30.03.2009  
RFQ Due on : 08.04.2009 at 14:00 Hrs IST  
Tender Opening Date : 08.04.2009 at 15.00 Hrs IST

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Dear Sir(s)/Madam,

GAIL (India) Ltd. invites you to submit your offer in sealed envelope, superscribing RFQ No. & Due date for the following item(s) in complete accordance with enquiry documents/attachments:

Sl. No	MatCode	UOM	QTY	Unit Price
	Description			(in figures & words)

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**Group : 1**

ADDITIONAL REQUIREMENTS:

DIESEL, HSD

SUPPLEMENTARY REQUIREMENTS:

1	8705055003	LITER	24,000	_____
	DIESEL,HIGH SPEED			
	DIESEL, HIGH SPEED			

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**EMD Details** : Not applicable.

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### **Instruction to Bidders : -**

1 GAIL (India) Limited, Jamnagar - Loni LPG Pipeline Head Quarter at GAIL - Bhawan, Sector-6, Vidhyadhar Nagar, Jaipur-302023, Rajasthan (having its registered office at 16, Bhikaji Cama Place, New Delhi-110066), hereinafter called GAIL/Purchase invites you to submit sealed bids for "Supply of HSD at GAIL, Nasirabad, Ajmer (RAJASTHAN)" from reputed & eligible bidders(s) under single stage single bid (envelope) system, as per scope of supply, specifications and terms & conditions as specified in this RFQ and its attachments.

This bid document is also available on our website [www.gailonline.com](http://www.gailonline.com).

2 Bid(s) shall be submitted within the above specified bid due date & time in a manner as described hereinafter.

BID CONTAINING COMPLETE TECHNICAL & COMMERCIAL DETAILS ALONG WITH ENCLOSED 'PRICE SCHEDULE' (WITH FULL PRICES/RATES DETAILS) COMPLETE IN ALL RESPECT AS PER PROVISIONS OF THIS BIDDING DOCUMENT.

3 FOLLOWING DOCUMENTS (original plus one copy) ARE REQUIRED TO BE SUBMITTED AS A PART OF BID:

a) Copy of this bidding document duly signed and stamped on each page in token of bidder's acceptance to all terms and conditions of bidding document.

b) Copy of 'AGREED TERMS & CONDITIONS' duly filled & signed.

c) Copy of 'Price Schedule' (with full prices/rates details) clearly stating 'NOT QUOTED' wherever bidder has not quoted for an item/items of 'Price Schedule'.

d) Complete techno-commercial details as per requirement of technical specifications and commercial terms & conditions of the bid document.

e) Any other document/information/data as may be required under the provisions of this bidding document.

4 Sealed envelope containing the Bid shall be marked with the enclosed CUT-OUT SLIP bearing following MARKINGS:

QUOTATION FOR - "Supply of HSD at GAIL, Nasirabad, Ajmer (RAJASTHAN)" - DO NOT OPEN

BID/TENDER DOCUMENT NO.: GAIL/FL-047/NBD/3200052073/JP/C&P/08-09

BID DUE DATE AND TIME: 08.04.2009, 1400 Hrs.(IST)

DATE & TIME OF OPENING OF BIDS: 08.04.2009, 1500 Hrs.(IST)

The bid shall be addressed and submitted to the office of:

Head of Department (C&P),

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GAIL - Bhawan,  
Sector-6, Vidhyadhar Nagar,  
Jaipur-302023, Rajasthan  
Tel. Nos.: 0141 2230347/617/698

The envelope shall also bear bidder's name and address along with contact telephone nos., fax nos., e-mail ID, if any, on left bottom corner of the envelope.

Sealed Bid(s) complete in all respect should reach the office of HoD(C&P), GAIL, Jaipur on the above specified address on or before the above specified bid due date & time. The bids may also be placed personally (on any official working day & within office working timings of 9:15 hrs. till 17:45 hrs) in the Tender Box kept in GAIL's office on or before the specified bid due date and time.

In case of any difficulty in submission of bid/dropping in Tender Box, bidders may contact following:

- Shri K N Dey, Chief Manager (C&P)
- Shri A S Shekhawat, Dy. Manager (C&P)

GAIL shall not be responsible for premature opening of bid, if instructions contained in this bidding document for preparation and submission of bids, are not followed strictly. Further, any bid not prepared & submitted as per provisions of this bidding document may be rejected by GAIL.

5 Bid(s) shall be valid for 90 days from bid due date. A bid for a shorter period shall be rejected as a non-responsive bid. GAIL may solicit bidder's consent for extension of period of validity of bid. A bidder granting the request will neither be required nor permitted to modify its bid while confirming extension of the bid validity. A bidder may refuse the request for extension of the bid validity.

6 This bidding document is not transferable.

7 Rate/price once quoted will not be open for any subsequent change/revision/adjustment/revamping. Any change in rates/prices or substance of the bid subsequent to Bid due date and time, opening of bid or during evaluation of bid shall render the bid liable for rejection.

8 Bidder shall bear all costs associated with preparation & submission of its bid including against this bidding document.

9 Incomplete offer and/or offers not as per terms and conditions of this bidding document including conditional offers may be rejected by purchaser.

10 Offer(s) sent by Fax/E-mail/without proper marking on envelope/Bid not prepared & submitted as per instructions contained & specified in this RFQ shall not be considered.

11 GAIL shall not be responsible for any delay in receiving the bids for any reasons whatsoever. Bids received after the specified Bid Due Date & Time, for whatsoever may be the reason, shall be summarily rejected.

12 The bid prepared by bidder & all correspondence thereto shall be written in English language only.

13 A bidder seeking any clarification to the bidding document may notify the same in writing. GAIL

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will respond to such queries which are received 10 days prior to the deadline for submission of bid without disclosing source of query. Query, if any, may be sent at the postal address mentioned above or through fax/e-mail at following:

Fax No. 0091 141 2230374  
e-mail: ajaysingh@gail.co.in

(Kindly fax a copy of your communication, even if sent thru e-mail, as e-mails are seldom blocked at server, due to security reasons).

14 Any amendment made by GAIL subsequent to issue of bidding document will be notified to all the prospective bidders in writing which will be binding on them.

15 Bidder(s) are expected to examine instructions, forms, terms & conditions specified in the bidding document. Failure on the part of bidder to furnish any information required in the bidding document and/or non submission of documents/information as required in the bidding document shall be at bidder's risk and may result in rejection of the bid.

Technical specifications of quoted/offered supplies shall be strictly as per Bid /Tender Document based on commercial terms & conditions specified in the bid/tender document. In case of any unavoidable deviations, same shall be spelt out clearly by bidder in its bid under the heading 'Techno-commercial Deviations' separately (as Technical & Commercial) in its bid.

16 There should be no overwriting. Each cutting must be authenticated by initials. Entries must be made absolutely legible. Each page of the tender document should be signed by the contractor.

17 GAIL at its discretion, on giving reasonable notice by fax/e-mail to all prospective bidders, extend the bid due date & time, in which case all rights & obligations of GAIL & the bidder(s) previously subject to the Bid Due Date & Time, shall thereafter be subject to the new Bid Due Date & Time, as is extended.

18 No bid shall be modified or withdrawn subsequent to deadline for submission of bid. Any modification or withdrawal of bid subsequent to deadline for submission of bid shall render the bid liable for rejection.

19 Alternative bids & Conditional bids will not be accepted.

20 The bidder shall quote in the enclosed 'Price Schedule' the all inclusive 'unit prices/rates' and '(Total prices/amount' and the other details for each item separately on FOR DESTINATION DOOR DELIVERY BASIS in a manner as required in the enclosed 'Price Schedule' & described elsewhere in the Bid document. The rates quoted shall be "COMPOSITE & FIRM" and shall remain unchanged during the currency of the contract. Rate of statutory taxes, duties, levies etc. included in quoted prices/rates must be specified clearly in the bid.

21 Bidder(s) are advised to ensure that their offer is on single bidder point responsibility basis & is complete in all respect as specified in Bid Document.

22 Bidders may note that all payment shall be released after receipt and acceptance of goods at designated site. No advance payment shall be released. Alternatively Purchaser may accept bidder's request for payment thru' bank provided bidder furnishes an undertaking at the time of document negotiation that

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the documents have been presented strictly as per provisions of order.

23 Purchaser will open the bids, of only those bidders, which are received on or before the specified bid due date & time and will take up such bids for evaluation & finalization of award.

24 The Purchaser will open bids at the specified date & time of opening of bids in the presence of bidder's representatives (duly authorized by a competent person and having the Letter of Authority), who choose to attend. The bidders' representatives, who are present shall sign a register evidencing their attendance. The representative of bidder(s) whose bids are not being opened for Late submission shall not be allowed to witness the bids opening process.

The bidder's name, modifications, bid withdrawal(s) and Bid prices, discount(s) offered, if any, and such other details as the Purchaser, at its discretion, may consider appropriate will be announced & recorded at the time of opening of the bids.

25 Prior to the evaluation and comparison of bids the GAIL will determine the substantial responsiveness of each Bid to the Bidding Document as specified in this bidding document.

26 Evaluation & comparison of prices/rates of substantially responsiveness Bids shall be done on FOR DESTINATION DOOR DELIVERY basis for each item of 'Price Schedule' separately unless specified otherwise in the bidding document. Itemized evaluated prices of all the substantially responsive bidder(s) shall be compared together to arrive at the lowest bid for each item separately unless specified otherwise in the bidding document.

27 The bidder may note that the purchase reserves the right to place order for part items of the RFQ and place the order on itemized basis on one or more bidders depending upon the outcome of evaluation & comparison of prices.. However the quantity tendered for each item shall be ordered on one vendor.

28 All lump sum charges quoted for any requirement of Bidding Document if any, shall be pro-rated on value basis to arrive at such charges on individual item basis, if not quoted on individual item basis.

29 No bidder shall contact purchaser on any matter relating to its bid from the time of bid closing date to the time the contract is awarded. Any effort by a bidder to influence GAIL's decision in respect of evaluation or finalisation of award will render the bid liable for rejection.

30 Purchaser will award the CONTRACT to the successful Bidder whose Bids has been determined to be the lowest-evaluated, responsive Bid (on itemwise lowest evaluated responsive bid basis unless specified otherwise in the bidding document).

31 The purchaser reserves the right at the time of award of CONTRACT to increase or decrease by up to twenty percent (20%) of the scope of supply specified in the bid document, without any change in Unit price/rates or any other terms and conditions.

32 The Purchaser reserves the right to accept or reject any bid or all bids without assigning any reasons whatsoever and to annul the Bidding process at any time prior to award of CONTRACT, without thereby incurring any liability to the affected Bidder or Bidders and without any obligation to inform the affected Bidders of the grounds for the GAIL's action.

33 Prior to the expiration of the period of Bid validity, the GAIL will notify the successful Bidder(s) in

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writing or by fax/e-mail, to be confirmed in writing, that its Bid has been accepted. The notification of award (Fax of Intent)/Purchase Order (PO) will constitute the formation of a Contract. Upon the successful Bidder's furnishing of unqualified acceptance of order as per provisions of order.

34 Failure of the successful Bidder(s) to comply with the requirement of submission of unqualified acceptance of order as per provisions of order/contract shall constitute sufficient grounds for the annulment of the award, in which event the purchaser may take alternate action at the risk and cost of the successful Bidder(s) & invoke any or all provisions of contract including but not limited to termination of contract and/or placing the bidder(s) on holiday (for short/long period)/blacklisting as per purchaser's policy in this regard.

35 All correspondence against this RFQ shall be addressed to HoD (C&P), GAIL, Jaipur clearly specifying Bid Document Number.

### 36 AGREEMENT (TO BE FILLED, DULY SIGNED AND SUBMITTED ALONG WITH THE UNPRICED PART OF THE BID)

It is expressly understood and agreed by and between ..... (the bidder) and GAIL (India) Ltd. (A Public Sector Undertaking) that GAIL (India) Ltd., 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 right hereunder. It is expressly understood and agreed that GAIL (India) Ltd. is an independent legal entity with power & authority to enter into contracts solely on its own behalf under the applicable Laws of India and general principals of Contract Law. The .....(the bidder) expressly agrees, acknowledges and understands that GAIL (India) Ltd., 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 .....(the bidder) hereby expressly waive, 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 out of or under agreement.

37 Based on the contemporary Investment Criteria, bidders are required to confirm, whether their enterprise is a Micro/Small/Medium enterprise as follows:

"We confirm that we are a Micro/Small/Medium enterprise under the MSMED Act 2006" (please strike off whichever status is not applicable)

Further, with respect to Micro & Small enterprises, the MSMED Act defines the terms "supplier" as an enterprise which has filed a memorandum with the authority specified by the respective State Government. Hence, if the bidder is a Micro/Small enterprise & has filed a memorandum with the specified authority, is required to confirm the following:

"We are a supplier within the definition of section 2(n) of the MSMED Act - (Yes/No)"

If the response of above is "Yes", then please provide a copy of the Entrepreneurs Memorandum (EM) filed with the authority specified by the respective State Government. If bidder fails to provide the evidence in terms of the EM, bidder shall not be considered as a supplier.

Above information must be provided in your offer, else we will presume that you do not qualify as a Micro

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or Small enterprise under the MSMED Act 2006.

38 In case a bidder, to whom this RFQ has been issued by GAIL, is not interested to participate in the bidding process for any reasons whatsoever, such a bidder is requested to return copy of bid document along with 'REGRET LETTER' specifying its intent of 'NOT QUOTING' against the RFQ with reasons of such an action, if any, within the specified BID DUE DATE & TIME.

#### **Price Basis : -**

1) The bidder shall indicate in the enclosed 'Price Schedule' the 'unit prices' and 'total prices' and other details for each item separately in a manner as described hereunder & elsewhere in the Bid document. Quoted Prices shall be written both in words & figures.

a) Ex- works price including packing & forwarding, taxes & duties on raw materials components, but excluding inland transportation to Purchaser's Site/Ultimate Consignee as specified for each item of 'Price Schedule' separately.

b) Separate & clear break-up of Terminal Excise Duty & Taxes, including applicable rates, which will be payable extra on the finished goods, in case of award, for each item of 'Price Schedule' separately.

GAIL shall not issue any form(s) for availing concessions in Sales Tax.

c) Separate and clear break-up of firm charges for inland transportation and other local costs incidental for delivery of goods to the designated Sites/ultimate consignee on FOR DESTINATION DOOR DELIVERY basis, for each item of 'Price Schedule' separately. Bidders to note that evaluation & comparison of prices shall be done on FOR DESTINATION DOOR DELIVERY basis only as per provisions of this bidding document. Hence, prices quoted other than FOR DESTINATION DOOR DELIVERY basis may render the bid liable for rejection.

d) Transit Insurance shall be arranged by GAIL.

e) The statutory variation, in taxes & duties (payable on finished products), if any, within the contractual delivery period, shall be borne by the purchaser.

f) The Bidder's separation of the price components in accordance with above will be solely for the purpose of facilitating the comparison of bids by the purchaser and will not in any way limit the purchaser's right to contract on any of the terms offered.

2) Fixed Price: Prices quoted by the bidder shall be firm & fixed during the bidder's performance of the contract and not subject to variation on any account. A bid submitted with an adjustable price quotation will be treated as non-responsive and rejected.

3) Discounts, if any, must be offered item wise only. Conditional discount, if offered shall not be considered for evaluation.

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**Delivery/Completion Schedule :**

Delivery period shall be as following:

- 1) First lot of 12 KL within 02 Days from the date of notification of award (PO).
- 2) Supply request for second lot of 12 KL shall be raised within 2-3 months from the supply date of first lot.

**Terms of delivery :** The delivery terms are binding and essential and consequently, no delay is allowed without the written approval of Purchaser. Any request concerning delay will be void unless accepted by Purchaser through a modification to the CONTRACT.

In the event of delay in delivery, beyond contractual delivery date (CDD), Price Reduction Schedule / Liquidated Damages as stipulated in this bidding document shall apply.

Bidders shall dispatch goods to the designated site through Bank approved road transporters on freight prepaid basis & door delivery basis.

**Consignee Address :** The ultimate consignee/designated site as referred to in this Bid Document is to be taken as:

VILL.DILWARI  
NASIRABAD-KISHANGARH BYE PASS,  
NASIRABAD - 305601  
DISTT. AJMER  
TEL: 01491 - 221681/82/83



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### **Terms of payment : -**

- 1) Bidders may note that subject to submission of unqualified acceptance of Purchase Order as per provisions of Purchase Order (PO), payment shall be released within reasonable time after receipt and acceptance of goods at designated site.
- 2) The invoice must be prepared strictly as per agreed & accepted unit rates, amount & tax structure as per order & as applicable, only.
- 3) In case of delay in delivery beyond contractual delivery date (CDD), the invoice shall be presented for the reduced value proportionate to PRS amount as applicable per provisions of order. The bidders may note that the bank charges, associated with release of payments against the order, shall be to respective account.
- 4) As per practice adopted by GAIL for greater transparency in transactions payments are released thru' e-banking thru' designated banks like HDFC Bank, ICICI Bank and specified branches of SBI. Bidders are there requested to provide relevant details for e-payments as a part of their bid.

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**Price Reduction Schedule :** If the SELLER fails to deliver any or all of the Goods or perform the services within the time period(s) specified in the CONTRACT, the Purchaser shall without prejudice to other remedies available under the CONTRACT, deduct from the CONTRACT PRICE, a sum calculated on the basis of the total CONTRACT PRICE, including subsequent modifications. Deduction shall apply as per following formula:

In case of delay of equipment/materials or delay in completion, total contract price shall reduced by 1/2% of the total Order/Contract value per week of delay or part thereof subject to a maximum of 5% (five percent) of the total order/contract price. In case of delay in delivery on the part of Seller, the invoice/document value shall be reduced proportionately for the delay and payment shall be released accordingly.

In the event the invoice value is not reduced proportionately for the delay, the Purchaser may deduct the amount so payable by the SELLER, from any amount falling due to the SELLER or by recovery against the Performance Bank Guarantee. Both SELLER and Purchaser agree that the above percentage of price-reduction are genuine pre-estimates of the loss/damage which the Purchaser would have suffered on account of delay/breach on the part of the SELLER and the said amount will be payable on demand without there being any proof of the actual loss/or damage caused by such breach/delay. A decision of the Purchaser in the matter of applicability of Liquidated damages / price reduction shall be final and binding.

[Date of RR/LR shall be considered as date of delivery, in case of FOT dispatch point orders & date of receipt of material by ultimate consignee, in case of FOR DESTINATION DOOR DELIVERY basis orders]

The equipment/materials ordered, will be deemed to have been delivered only when all its components, parts are also delivered. If certain components are not delivered within the delivery schedule specified in the contract , the equipments/materials will be considered as delayed until such time all the missing parts/components are also delivered as per contract,

**Performance Bank Guarantee :** Not applicable.

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### Other contractual stipulations : -

- 1) Seller's Sales Conditions: Bidders are requested to submit offer based on terms & conditions specified in this RFQ and its attachments and not to insist purchaser to accept their 'terms & conditions of sales' for speedy decision making for finalization of award. Offers with & based on 'seller's terms & conditions of sales' may not be considered.
- 2) Unsolicited clarification to the Bid and/or change in price during its validity period would render the Bid liable for outright rejection.
- 3) A Bid determined as not substantially responsive will be rejected by GAIL and may not subsequently be made responsive by the Bidder by correction of the non conformity.
- 4) Bidder's bid shall be considered non-responsive and may be rejected if deviations are taken to the under-mentioned provisions of the Bid Document by the Bidder(s):
  - Provisions of 'Force Majeure' as per Bid Document.
  - "Provisions of 'Resolution of Disputes' as per Bid document.
  - Provisions of 'Guaranty / Warranty' as per Bid Document.
  - Any 'advance payment' sought by bidder
  - 'Firm prices' without any price variation
  - 'Delivery/Completion Period' as specified in the RFQ.
  - Provisions of 'Price Reduction Schedule' for delay in delivery beyond contractual Delivery Date (CDD) as per Bid Document.
  - 'Period of validity of Bid' as per Bid Document.
  - Any other such provisions if specifically stipulated else where in the Bid Document including deviations to technical specifications and 'scope of supply'
- 5) Bids not conforming to technical specifications/requirements as mentioned in the bid document will be rejected.
- 6) DESPATCH OF GOODS AS ONE COMPLETE FINISHED ITEM(S): The complete ordered goods shall be dispatched as one complete finished item(s) from the bidder's works.
- 7) REPEAT ORDER: For any item(s) ordered on Seller, the Purchaser reserves the right to place repeat order for additional quantity of similar goods up to 50% of the originally ordered quantity on same prices, terms & conditions of the original order, within 6 months of notification of award.
- 8) CONTRACT OBLIGATIONS: If after award of the contract as per the Instructions to Bidders (ITB) the Seller does not acknowledge the receipt of award or fails to furnish the performance security/guarantee within the prescribed time limit, the Purchaser reserves the right to cancel the contract and apply all remedies available to him under the terms and conditions of this contract. Once a contract is confirmed and signed, the terms & conditions contained therein shall take precedence over the Seller's bid and all previous correspondence.
- 9) Provisions of Inspection shall be as per enclosed GCC.
- 10) DELAY IN THE SELLER'S PERFORMANCE: If the specified delivery schedule as per Purchase Order/Contract is not adhered to or the progress of manufacture or supply of the items is not satisfactory or is

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not in accordance with the progress schedule, the Purchaser has the right to :

ii) Hire for period of delay, from elsewhere goods which in Purchaser's opinion will meet the same purpose as the goods which are delayed and SELLER shall be liable without limitation for the hire charges,  
OR

ii) Cancel the CONTRACT in whole or in part without liability for cancellation charges. In the that event, Purchaser may procure from elsewhere goods which in Purchaser's opinion would meet the same purpose as the goods for which CONTRACT is cancelled and SELLER shall be, liable without limitations, for the difference between the cost of such substitution and the price set forth in the CONTRACT for the goods involved  
OR

iii) Hire the substitute goods vide (i) above and if the ordered goods continue to remain undelivered thereafter, cancel in part or in full vide (ii) above.

Any inexcusable delay by the SELLER or his sub-contractor shall render the SELLER liable, without prejudice to any other terms of Contract, to any or all of the following sanctions :-

- Imposition of price reduction/Liquidated Damages for delay in delivery and
- Termination of the contract for default.

### 13) TERMINATION OF CONTRACT

#### 13.1 Termination for Default

13.1.1 The Purchaser may, without prejudice to any other remedy for breach of CONTRACT, by written notice of default sent to the SELLER terminate the CONTRACT in whole or in part.

A) If the SELLER fails to deliver any or all of the GOODS within the time period(s) specified in the CONTRACT

Or

B) If the SELLER fails to perform any other obligation(s) under the CONTRACT,

And

C) If the SELLER, in either of the above circumstances, does not cure his failure within a period of 30 days (or such longer period as the Purchaser may authorize in writing) after receipt of the default notice from the Purchaser.

13.1.2 In the event the Purchaser terminate the CONTRACT in whole or in part, pursuant to above, the Purchaser may procure, upon such terms and in such manner as it deems appropriate, goods similar to those undelivered and the SELLER shall be liable to the Purchaser of any excess costs for such similar GOODS. However, the SELLER shall continue performance of the CONTRACT to the extent not terminated.

#### 13.2 Termination for Insolvency

The Purchaser may at any time, terminate the CONTRACT by giving written notice to the SELLER, without compensation to the SELLER, if the SELLER becomes bankrupt or otherwise insolvent, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the Purchaser.

#### 13.3 Termination for Convenience

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13.3.1 The Purchaser may, by written notice sent to the SELLER, terminate the CONTRACT, in whole or part, at any time for his convenience. The notice of termination shall specify that termination is for Purchaser's convenience, the extent to which performance of work under the CONTRACT is terminated and the date upon which such termination becomes effective.

13.3.2 The GOODS that are complete and ready for shipment within 30 days after the SELLER's receipt of termination shall be purchased by the GAIL at the CONTRACT terms and prices. For the remaining GOODS, the Purchaser may opt :

- a) to have any portion completed and delivered at the CONTRACT terms & prices, and/or
- b) to cancel the remainder and pay to the SELLER an agreed amount for partially completed GOODS and for materials and parts, previously procured by the SELLER.

**Despatch Details :** Dispatches shall be arranged strictly as per 'Standard Packing, Marking, Dispatch & Documentations Specifications'. Dispatch particulars shall be furnished to:-

- i) Underwriters (for arranging transit insurance)
- ii) Purchaser (GAIL, Jaipur) &
- iii) Ultimate Consignee at the addresses provided in purchase order (PO) & its attachments.

**General Conditions of Contract :** All other terms & conditions shall be as per General Conditions of Contract (Goods) as attached. However, if the condition(s) deviate elsewhere in this RFQ (Request for Quotation), then the condition(s) stand modified accordingly.

**Special Conditions of Contract :** GAIL shall accept material (diesel) from bidder in SEALED condition ONLY as supplied from OMC end.

**Enclosures : -**

- 1) Summary of Agreed Terms & Conditions
- 2) Proforma for Deviation
- 3) Proforma of Letter of authority for negotiations and signing the agreement
- 4) Bid Form
- 5) General Conditions of Contracts (GCC) - Goods
- 6) CUT OUT SLIP (to be pasted on outer envelope with details duly filled)

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### Techno-Comm Bid Evaluation :-

- 1) The Purchaser will examine the bids to determine whether they are complete, whether any computational error(s) have been made, whether the documents have been properly signed and whether the bids are generally in order.
- 2) Once quoted bidder shall not make any subsequent price changes, whether resulting or arising out of any technical/commercial clarifications sought regarding the bid, even if any deviation or exclusion may be specifically stated in the bid. Such price change shall render the bid liable for rejection. All responses to request for clarifications shall be in writing.
- 3) Unsolicited clarification to the Bid and/or change in price during its validity period shall render the Bid liable for outright rejection.
- 4) To assist in the examination, evaluation and comparison of bids, the Purchaser may, at its discretion, ask the bidder for a clarification of its bid. The request for such clarification and the response thereof shall be in writing and no change in the price or substance of bid shall be sought, offered or permitted. However, in the event as a result of techno-commercial discussions or pursuant to seeking clarifications/confirmations from bidders, while evaluating the techno-commercial part of the bid, any of the bidder(s) submits a sealed envelope stating that it contains revised prices; then unless the clarifications sought from the bidder/discussions held with the bidder(s) had resulted in change of specification(s) for which specific request from the bidder(s) was made by GAIL to furnish price impact, such bidder(s) will be required to withdraw the revised prices failing which their bid will not be considered for evaluation.
- 5) Prior to the evaluation and comparison of bids, the Purchaser will determine the substantial responsiveness of each bid to the bidding document. For purpose of this Article a substantially responsive bid is one which conforms to all the terms and conditions of the bidding document without deviations or reservations. The Purchaser's determination of a bid's responsiveness is to be based on the contents of the bid itself without recourse to the extrinsic evidence.
- 6) A Bid determined as substantially non-responsive will be rejected by the Purchaser and may not subsequently be allowed by the Purchaser to be made responsive by the bidder by correction of the non-conformity.
- 7) Bidder's Bid shall be considered non-responsive and rejected, if deviations are taken to the under mentioned provisions of Bid Documents by the Bidder :-
  - Scope of supply & specifications
  - Period of validity of Bid
  - Force Majeure
  - Resolution of Dispute/Arbitration
  - Guarantee/Warranty provisions
  - Any advance sought by a Bidder
  - Firm prices
  - Delivery/Completion period
  - Termination of Contract
  - Rejection & removal of goods
  - Any other such provisions if specifically stipulated elsewhere in the Bid Document (like prices/rates not quoted as per requirement of 'Price Schedule' etc.

## REQUEST FOR QUOTATION (Cont.)

### RFQ

No:GAIL/FL-047/NBD/3200052073/JP/C&P/08-09

9) Bids not confirming to technical specifications/requirements as mentioned in Bid Document will be rejected.

10) COMPARISON OF BIDS: The purchaser will evaluate and compare bids previously determined to be substantially responsive.

12) Arithmetical errors will be rectified on the following basis:-

'If there is a discrepancy between the 'unit price' and the 'total price', that is obtained by multiplying the 'unit price' and 'quantity', the 'unit price' shall prevail and the 'total price' will be corrected. If there is a discrepancy between the 'total amount' and the 'sum of total prices', the 'sum of the total prices' shall prevail and the 'total bid' amount will be corrected.'

13) EVALUATION & COMPARISON OF PRICES

The Evaluated price(s) of bidders shall include the following :

i. Ex-works price(s) including packing & forwarding, taxes and duties on raw materials/components but excluding Inland Transportation to Purchaser's Site & other charges associated for delivery of goods on door delivery basis.

ii. Terminal Excise duty on the finished goods.

iii. Sales tax/VAT on finished goods

iv. Inland Transportation to Purchaser's Site & other charges associated for delivery of goods on door delivery basis.

14) Purchase preference to Central Government Public Sector Undertaking shall be allowed as per Government of India instructions in vogue.

15) Comparison of Bids will be done on Individual item basis unless specified otherwise in the bidding document.

16) Any suo-moto reduction/discount in prices offered by bidder after opening of the bids shall not be considered while evaluating the bid. However, if the bidder happens to be the lowest evaluated bidder, without considering such suo moto reduction/discount, then the benefit of such suo moto reduction/discount shall be availed by purchaser at the time of award.

17) The evaluated prices of all the as above on FOR DESTINATION - DOOR DELIVERY basis shall be compared together to arrive at the lowest bid. Order shall be placed on lowest evaluated responsive bid basis on Individual item basis unless specified otherwise in the bidding document.

18) Even the existing vendors who has/had been doing the job in GAIL shall also comply with submission of documents as prescribed in the tender document, failing which the bid is liable to be rejected.

19) GAIL reserves the right to seek authentication of the documents submitted by the bidders, by obtaining supporting/additional documents such as TDS certificate, client certificate, etc., wherever required.

## **REQUEST FOR QUOTATION (Cont.)**

**RFQ**

**No:GAIL/FL-047/NBD/3200052073/JP/C&P/08-09**

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**Agreed upon Terms & Conditions :** Enclosed.

**Important :**

1. Percentage of Taxes, Duties, P&F, Freight charges etc. of quoted basic price should be clearly mentioned in the quotation.
2. Please go through the General Purchase Conditions (GPC) enclosed as Annexure. Deviations to GPC shall liable for rejection of your offer.
3. Please submit Catalogue/Specification Details, Test Certificates/Traceability Certificate for accuracy along with your quotation.

**Yours truly,  
For and on behalf of  
GAIL ( India ) Ltd.**

**(Authorized signatory)**



# REQUEST FOR QUOTATION (Cont.)

RFQ

No.:GAIL/FL-047/NBD/3200052073/JP/C&P/08-09

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## Format for Details of Terms & Conditions to be Filled By Vendor

Offer Ref . & Date ..... Price Basis: Ex-Works.....  
Telephone No ..... FOT Site of Plant.....  
Fax No. ....  
E-Mail .....

Delivery Schedule .....  
Offer validity for: 90 days/120 days/180 days  
Payment Terms .....

1. Discount % on basic Unit price, if any .....
2. Packing & Forwarding, if applicable.....
3. Excise Duty % (if applicable).....
4. LST/CST (with/without concessional Form), if applicable .....
5. Freight, if applicable .....
6. Other Charges, if any.....

**Signature of Vendor with Office Seal**

## AGREED UPON TERMS & CONDITIONS

Bidder M/s.....

RFQ/Bid Document No.....

Offer Ref.No.....

This Questionnaire duly filled in should be submitted along with each copy of Un-priced Bid. Confirmation given hereunder to various Terms & Conditions should not be repeated elsewhere in the Bid. ALL THE COMMERCIAL TERMS & CONDITIONS SHOULD BE INDICATED IN THIS FORMAT ONLY. IF REQUIRED DETAILS INCLUDING DEVIATION TO GCC/SCC, IF ANY, SHOULD BE INDICATED AS AN ANNEXURE TO THIS FORMAT.

Sl.No.	Description	Bidder's Confirmation
1	It is noted that deviations to terms & condition shall lead to loading of prices, in case specified or rejection of offer, as specified in the Bid Document.	
2.	Ensure and confirm that unit prices quoted in 'Price Schedule' are on FOT/FOR Destination Door Deliver basis as specified in the Bid Document. Also confirm that applicable rates of taxes & duties, freight charges & all other charges for delivery of offered goods have been mentioned, for each item separately & clearly in the bid.	
3.	Indicate Dispatching point	
4.	Confirm that the offer shall remain valid for acceptance upto 3 months from Final Bid Due date as specified & required in the Bid Document..	
5.	Bidder's name and address.	
6.	Manufacture's Name & Address	
7.	Confirm CENVATABLE invoice will be raised (if applicable) to enable purchaser avail CENVAT benefits, if any.	

8.	Confirm acceptance of delivery period as per requirement specified in Bid Document on FOT Dispatch Point / Site Basis, to be reckoned from date of Fax of Intent (FOI)	
9.	Confirm complete technical literatures/catalogues and Users reference list submitted alongwith offer for the quoted items.	
10.	Ensure & confirm that Transit Insurance beyond FOT Dispatch Point is excluded from the quoted prices since the same shall be arranged by GAIL.	
11.	Indicate present rate of CST/LST/VAT, whichever is applicable, as quoted in 'Price Schedule' & payable extra: i) CST without confessional form ----- ii) LST without confessional form ----- iii) VAT -----	_____ _____ _____
12.	a) Furnish present rate of terminal excise duty (ED) applicable on the supplies (on finished product) and as quoted in price schedule. In case Bid Document calls for Spares (2 years O&M ) where generally more than one rate of ED applicable then to be indicated in the item wise Spares Parts list.	
	b) If there is any variation in Excise Duty at the time of supplies for reason, other than statutory, including turnover, confirm the same will be borne by bidder.	
	c) If excise duty is presently not applicable, confirm that the same will be borne by bidder in case it becomes livable later.	
	d) In case (b) or (c) are not applicable advise maximum rate of excise duty chargeable.	
13.	It is noted that Statutory variation in taxes & duties on finished product, within contractual delivery period, shall be to GAIL's account.	
14.	Confirm acceptance of Price Reduction Schedule (PRS) / Liquidated Damages (LD) for delay in completion/delivery beyond contractually agreed delivery schedule as specified in the Bid Document.	

15	Confirm that in case of delay in delivery beyond Contractual Delivery Date (CDD), the invoice shall be submitted for the amount duly reduced to the extent of PRS/LD.	
16.	Confirm in case of delay in delivery beyond CDD any new or additional taxes and duties imposed, on finished products, after contractual delivery shall be to bidder's account.	
17.	<p>Confirm acceptance of Terms of payment as specified in the Bid Document.</p> <p>Payment terms indicated in Bid Document do not provide for any advance payment to be made to the Bidder(s).</p> <p>Pls. note that all payments against an award finalized against the bid shall be released against submission of Unqualified acceptance of Purchase Order.</p>	
18.	i) Confirm quoted price will remain firm and fixed till complete execution of the order. Fax of Intent (FOI)/Purchase Order (PO) shall be placed within offer validity, as Notification of Award of Contract.	
	ii) If variable, confirm price variation formula with base indices and maximum ceiling in terms of percentage of quoted Ex-works / FOT Dispatch Point prices.	
19.	Confirm that the Goods shall be guaranteed against defective materials & workmanship etc. for a period of 24 months from the last dispatch or 12 months from the commissioning date, whichever is earlier, as per Warranty / Guarantee conditions of Bid Document.	
20.	Confirm acceptance to PART ORDER. However full quantity as intended for each item shall be ordered. Please note that the Purchaser intends to evaluate & finalize award on item wise basis, unless specified otherwise in the Bid Document. Incase of part ordering, any charges, if quoted lump sum and applicable to more than one item, shall be prorated on value basis.	

21.	Confirm acceptance of repeat order(s) upto 50% of original ordered quantity within 6 months from the date of basic order as per terms of Bid Document.	
22.	a) Confirm acceptance in toto of the Terms & Conditions contained in : i) Instruction to Bidders (ITB) ii) General Condition of Contract (GCC) iii) Special Conditions of Contract (SCC), if applicable iv) All other commercial documents / attachments of Bid Documents.	
	b) In case of reservations, confirm that clause wise comments deviations sought have been specified as annexure to this format.	
	c) All the terms & conditions have been indicated in this format (including annexure, if any ) and have not been repeated in the bid elsewhere. It is noted that terms & conditions indicated elsewhere including any printed Terms & Conditions, shall not be considered by Purchaser.	
23.	Confirm unqualified acceptance to provisions of Force Majeure & Resolution of Dispute / Arbitration Clauses of Bid Document.	
24.	All correspondence must be in English Language only.	
25.	INSPECTION: Confirmation acceptance to inspection requirement as per Bid Document.	
26.	Indicate Name & Contract Telephone / Fax No. of Person(s) to whom queries, if any, are to be addressed against you bid.	
27.	Pls. Note that Purchaser reserves the right to make any change in the terms & conditions of the Bid Document and to reject any or all bids including those received late or incomplete.	
28.	Confirm that all Bank charges associated with payments shall be to respective account.	
29.	Furnish your CST/LST/VAT Registration Nos. (as applicable)	

30.	Confirm that you are neither on 'HOLIDAY' or 'BLACKLISTED' by GAIL or any other Government Deptt., Central Public Sector Undertakings (CPSUs) or any Government Agency. If, yes, pls. furnish relevant details & documents in this regard.	
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BIDDER CONFIRMS THAT IN CASE OF CONFLICTING VERSION OF VARIOUS TERMS & CONDITIONS AT DIFFERENT PLACES THE CONFIRMATION FURNISHED AS ABOVE SHALL BE CONSIDERED OVERRIDING AND FINAL AND ANY OTHER DEVIATION INDICATED ELSEWHERE SHALL BE TREATED AS REDUNDANT.

Signature \_\_\_\_\_  
Name \_\_\_\_\_  
Designation \_\_\_\_\_  
Office Stamp \_\_\_\_\_  
Tel. No. \_\_\_\_\_  
Fax No. \_\_\_\_\_  
e-mail ID \_\_\_\_\_

## Deviation Form

To,

**M/S GAIL(India) LTD.**

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Name of Bidder :-

Notes :

- 1) BIDDER may give here a consolidated list of deviations/ clarifications/ comments for all sections of the Bid documents which for an appropriate offer are considered unavoidable by him.
- 2) Deviations/ clarifications mentioned elsewhere in the offer shall not be binding on the GAIL and any such deviations if indicated elsewhere other than this form will render the offer non-responsive and shall liable to be rejected.
- 3) BIDDER shall state the reason for the deviations in the Remark column.
- 4) Only the deviations listed herein, in conjunction with the original tender, shall constitute the contract document for the award of the job to the BIDDER

Sec No.	Cls.No./ Page No.	Requirements as per tender	Deviation by Bidder	Clarification by theBidder	Remarks
1	2.	3.	4.	5.	6.

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The Bidder confirms that all clauses of the Bidding document as are not listed above are fully complied by the BIDDER.

(Signature of Bidder)

## **Proforma of Letter of Authority for Negotiations and Signing the Agreement**

No.

Date:

**M/S GAIL(India) LTD.**

\_\_\_\_\_

\_\_\_\_\_

Attn:

Sub: Tender No.

Dear Sirs,

We.....do hereby confirm that Mr./ Ms. (name and address) is/are authorised to represent us for negotiations and to conclude the Agreement on our behalf with you against your above cited tender for.....

We confirm that we shall be bound by all and whatsoever our representatives shall commit.

Yours faithfully

Signature

Name and Designation  
for & on behalf of BIDDER

\_\_\_\_\_  
Note:

This letter of Authority should be on the letterhead of the Bidders and should be signed by a person competent and having the power of attorney (power of attorney shall be annexed) to bind the bidder.



**BID FORM**

To

GAIL (India) Limited,

\_\_\_\_\_

\_\_\_\_\_

Dear Sir,

After examining/reviewing the Bidding Documents for -----, including technical specifications, drawings, General and Special Purchase Conditions and schedule of rates etc. the receipt of which is hereby duly acknowledged, we, the undersigned, pleased to offer to execute the whole of the Job of ..... and in conformity with, the said Bid Documents, including Addenda Nos. \_\_\_\_\_.

We confirm that this bid is valid for a period of 03 (three) months from the date of opening of Techno-Commercial Bid, and it shall remain binding upon us and may be accepted by any time before the expiration of that period.

Until a final Agreement is prepared and executed, the bid together with your written acceptance thereof in your notification of award shall constitute a binding Agreement between us.

We understand that Bid Document is not exhaustive and any action and activity not mentioned in Bid Documents but may be inferred to be included to meet the intend of the Bid Documents shall be deemed to be mentioned in Bid Documents unless otherwise specifically excluded and we confirm to perform for fulfilment of Agreement and completeness of the Work in all respects within the time frame and agreed price.

We understand that you are not bound to accept the lowest priced or any bid that you may receive.

SEAL AND SIGNATURE

DATE:

Duly authorized to sign bid for and on behalf of \_\_\_\_\_

(SIGNATURE OF WITNESS)

WITNESS NAME:

**ADDRESS:**



## 1. Definitions

In this document, General Conditions of Contract (GCC-Goods), the following terms shall have the following respective meanings:

- 1.0 BIDDER : Designates the individual or legal entity which has made a proposal, a tender or a bid with the aim of concluding a Contract with the PURCHASER.
- 1.1 CONSULTANT *[if engaged]* shall mean M/s. ....having its registered office at.....  
The term consultant includes successors, assigns of M/s. ....
- 1.2 CONTRACT shall mean Purchase Order/Contract and all attached exhibits and documents referred to therein and all terms and conditions thereof together with any subsequent modifications thereto.
- 1.3 CONTRACT PRICE shall mean the price payable to the Seller under the Contract for the full and proper performance of his contractual obligations.
- 1.4 COMPLETION DATE shall mean the date on which the goods are successfully commissioned by the Seller and handed over to the PURCHASER.
- 1.5 COMMERCIAL OPERATION shall mean the condition of the operation in which the complete equipment covered under the Contract is officially declared by the PURCHASER to be available for continuous operation at different loads up to and including rated capacity.
- 1.6 DELIVERY terms shall be interpreted as per INCO TERMS 2000 in case of Contract with a foreign Bidder and as the date of LR/GR in the case of a contract with an Indian Bidder.
- 1.7 DRAWINGS shall mean and include Engineering drawings, sketches showing plans, sections and elevations in relation to the Contract together with modifications and/or revisions thereto.
- 1.8 ENGINEER or Engineer-in-Charge of the Project SITE shall mean the person designated from time to time by PURCHASER/CONSULTANT at SITE and shall include those who are expressly authorized by him to act for and on his behalf for operation of this CONTRACT.
- 1.9 FINAL ACCEPTANCE shall mean the PURCHASER's written acceptance of the Works performed under the Contract after successful completion of performance and guarantee test.
- 1.10 GOODS shall mean articles, materials, equipment, design and drawings, data and other property to be supplied by Seller to complete the contract.
- 1.11 INSPECTOR shall mean any person or outside Agency nominated by PURCHASER/CONSULTANT through



CONSULTANT to inspect equipment, stagewise as well as final, before dispatch, at SELLER's works and on receipt at SITE as per terms of the CONTRACT.

- 1.12 INITIAL OPERATION shall mean the first integral operation of the complete equipment covered under the Contract with sub-systems and supporting equipment in service or available for service.
- 1.13 PURCHASER shall mean GAIL (INDIA) LIMITED (GAIL) having its registered office at 16, BHIKAIJI CAMA PLACE, R.K.PURAM, NEW DELHI-110066 (INDIA). The term PURCHASER includes successors, assigns of GAIL.
- 1.14 PERFORMANCE AND GUARANTEE TESTS shall mean all operational checks and tests required to determine and demonstrate capacity, efficiency and operating characteristics as specified in the Contract documents.

PROJECT designates the aggregate of the Goods and/or Services to be provided by one or more Contractors.

Quantities – Bills of quantities

Bills of quantities

Designate the quantity calculations to be taken into account when these calculations are made from detailed or construction drawings, or from work actually performed, and presented according to a jointly agreed breakdown of the Goods and/or Services.

- 1.15 SELLER shall mean the person, firm or company with whom PURCHASE ORDER/CONTRACT is placed/ entered into by PURCHASER for supply of equipment, materials and services. The term Seller includes its successors and assigns.
- 1.16 SERVICE shall mean erection, installation, testing, commissioning, provision of technical assistance, training and other such obligations of the Seller covered under the Contract.
- 1.17 SITE designates the land and/or any other premises on, under, in or across which the Goods and/or Services have to be supplied, erected, assembled, adjusted, arranged and/or commissioned.
- 1.18 SPECIFICATIONS shall mean and include schedules, details, description, statement of technical data, performance characteristics, standards (Indian as well as International) as applicable and specified in the Contract.
- 1.19 SUB-CONTRACT shall mean order placed by the Seller, for any portion of the contracted work, after necessary consent and approval of PURCHASER.



- 1.20 SUB-CONTRACTOR shall mean the person named in the CONTRACT for any part of the work or any person to whom any part of the CONTRACT has been sub-let by the SELLER with the consent in writing of the CONSULTANT/PURCHASER and will include the legal representatives, successors, and permitted assigns of such person.
- 1.21 START-UP shall mean the time period required to bring the equipments covered under the Contract from an inactive condition, when construction is essentially complete to the state of readiness for trial operation. The start-up period shall include preliminary inspection and check out of equipment and supporting subsystems, initial operation of the complete equipments covered under the Contract to obtain necessary pre-trial operation data, perform calibration and corrective action, shutdown inspection and adjustment prior to the trial operation period.
- 1.22 TESTS shall mean such process or processes to be carried out by the Seller as are prescribed in the Contract or considered necessary by PURCHASER or his representative in order to ascertain quality, workmanship, performance and efficiency of equipment or part thereof.
- 1.23 TESTS ON COMPLETION shall mean such tests as prescribed in the Contract to be performed by the Seller before the Works are taken over by the PURCHASER.
- 2. Seller To Inform**
- 2.1 The Seller shall be deemed to have carefully examined all contract documents to his entire satisfaction. Any lack of information shall not in any way relieve the Seller of his responsibility to fulfill his obligation under the Contract.
- 3. Application**
- 3.1 These General Conditions of Contract (GCC-Goods) shall apply to the extent that they are not superseded by provisions of other parts of the Contract.
- 4. Country of Origin**
- 4.1 For purposes of this Clause "origin" means the place where the Goods were mined, grown or produced, or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembling of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
- 5. Scope of Contract**
- 5.1 Scope of the CONTRACT shall be as defined in the PURCHASE ORDER/CONTRACT specifications, drawings and Annexure thereto.
- 5.2 Completeness of the EQUIPMENT shall be the responsibility of the SELLER. Any equipment, fittings and accessories which may not be specifically



mentioned in the specifications or drawings, but which are usual or necessary for the satisfactory functioning of the equipment (successful operation and functioning of the EQUIPMENT being SELLER's responsibility) shall be provided by SELLER without any extra cost.

- 5.3 The SELLER shall follow the best modern practices in the manufacture of high grade EQUIPMENT notwithstanding any omission in the specifications. The true intent and meaning of these documents is that SELLER shall in all respects, design, engineer, manufacture and supply the equipment in a thorough workmanlike manner and supply the same in prescribed time to the entire satisfaction of PURCHASER.
- 5.4 The SELLER shall furnish twelve (12) copies in English language of Technical documents, final drawings, preservation instructions, operation and maintenance manuals, test certificates, spare parts catalogues for all equipments to the PURCHASER.
- 5.5 The documents once submitted by the SELLER shall be firm and final and not subject to subsequent changes. The SELLER shall be responsible for any loss to the PURCHASER/CONSULTANT consequent to furnishing of incorrect data/drawings.
- 5.6 All dimensions and weight should be in metric system.
- 5.7 All equipment to be supplied and work to be carried out under the CONTRACT shall conform to and comply with the provisions of relevant regulations/Acts(State Government or Central Government) as may be applicable to the type of equipment/work carried out and necessary certificates shall be furnished.
- 5.8 The Seller shall provide cross sectional drawings, wherever applicable, to identify the spare part numbers and their location. The size of bearings, their make and number shall be furnished.
- 5.9 Specifications, design and drawings issued to the SELLER alongwith RFQ and CONTRACT are not sold or given but loaned. These remain property of PURCHASER/CONSULTANT or its assigns and are subject to recall by PURCHASER/CONSULTANT. The SELLER and his employees shall not make use of the drawings, specifications and technical information for any purpose at any time except for manufacture against the CONTRACT and shall not disclose the same to any person, firm or corporate body, without written permission of PURCHASER/CONSULTANT. All such details shall be kept confidential.
- 5.10 SELLER shall pack, protect, mark and arrange for despatch of EQUIPMENT as per instructions given in the CONTRACT.



- 6. Standards** 6.1 The GOODS supplied under the CONTRACT shall conform to the standards mentioned in the Technical Specifications, or such other standards which ensure equal or higher quality, and when no applicable standard is mentioned, to the authoritative standard appropriate to the GOODS' country of origin and such standards shall be the latest issued by the concerned institution.
- 7. Instructions, Direction & Correspondence** 7.1 The materials described in the CONTRACT are to be supplied according to the standards, data sheets, tables, specifications and drawings attached thereto and/or enclosed with the CONTRACT, itself and according to all conditions, both general and specific enclosed with the contract, unless any or all of them have been modified or cancelled in writing as a whole or in part.
- a. All instructions and orders to SELLER shall, excepting what is herein provided, be given by PURCHASER/CONSULTANT.
  - b. All the work shall be carried out under the direction of and to the satisfaction of PURCHASER/CONSULTANT.
  - c. All communications including technical/commercial clarifications and/or comments shall be addressed to CONSULTANT in quintuplicate with a copy to PURCHASER and shall always bear reference to the CONTRACT.
  - d. Invoices for payment against CONTRACT shall be addressed to PURCHASER.
  - e. The CONTRACT number shall be shown on all invoices, communications, packing lists, containers and bills of lading, etc.
- 8. Contract Obligations** 8.1 If after award of the contract, the Seller does not acknowledge the receipt of award or fails to furnish the performance guarantee within the prescribed time limit, the PURCHASER reserves the right to cancel the contract and apply all remedies available to him under the terms and conditions of this contract.
- 8.2 Once a contract is confirmed and signed, the terms and conditions contained therein shall take precedence over the Seller's bid and all previous correspondence.
- 9. Modification In Contract** 9.1 All modifications leading to changes in the CONTRACT with respect to technical and/or commercial aspects including terms of delivery, shall be considered valid only when accepted in writing by PURCHASER/CONSULTANT by issuing amendment to the CONTRACT. Issuance of acceptance or otherwise in such cases shall not be any ground for extension of agreed delivery date and also shall not affect the performance of contract in any manner except to the extent mutually agreed through a modification of contract.
- 9.2 PURCHASER/CONSULTANT shall not be bound by any printed conditions or provisions in the SELLER's Bid Forms or acknowledgment of CONTRACT, invoices, packing list and other documents which purport to



- impose any conditions at variance with or supplemental to CONTRACT.
- 10. Use of Contract Documents & Information**
- 10.1 The Seller shall not, without the PURCHASER's/CONSULTANT's prior written consent, disclose the CONTRACT or any provision thereof, or any specification, plan, drawing, pattern, sample or information furnished by or on behalf of the PURCHASER in connection therewith, to any person other than a person employed by the SELLER in the performance of the CONTRACT. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purpose of such performance.
- 10.1 The SELLER shall not, without the PURCHASER's prior written consent, make use of any document or information enumerated in Article 10.1. except for purpose of performing the CONTRACT.
- 11. Patent Rights, Liability & Compliance of Regulations**
- 11.1 SELLER hereby warrants that the use or sale of the materials delivered hereunder will not infringe claims of any patent covering such material and SELLER agrees to be responsible for and to defend at his sole expense all suits and proceedings against PURCHASER based on any such alleged patent infringement and to pay all costs, expenses and damages which PURCHASER and/or CONSULTANT may have to pay or incur by reason of any such suit or proceedings.
- 11.2 The SELLER shall indemnify the PURCHASER against all third party claims of infringement of patent, trade mark or industrial design rights arising from use of the GOODS or any part thereof in the PURCHASER's country.
- 11.3 SELLER shall also protect and fully indemnify the PURCHASER from any claims from SELLER'S workmen/employees or their heirs, dependants, representatives, etc. or from any other person/persons or bodies/companies etc. for any acts of commissions or omission while executing the CONTRACT.
- 11.4 SELLER shall be responsible for compliance with all requirements under the laws and shall protect and indemnify completely the PURCHASER from any claims/penalties arising out of any infringements.
- 12. Performance Guarantee**
- 12.1 Within 15 days after the SELLER's receipt of notification of award of the CONTRACT, the SELLER shall furnish Performance Guarantee in the form of Bank Guarantee/irrevocable Letter of Credit to the PURCHASER, in the form provided in the Bidding Documents, for an amount equivalent to 10% of the total value of the CONTRACT.
- 12.2 The proceeds of Performance Guarantee shall be appropriated by the PURCHASER as compensation for any loss resulting from the SELLER's failure to complete his obligations under the CONTRACT without



prejudice to any of the rights or remedies the PURCHASER may be entitled to as per terms and conditions of CONTRACT. The proceeds of this Performance Guarantee shall also govern the successful performance of Goods and Services during the entire period of Contractual Warrantee/Guarantee.

12.3 The performance guarantee shall be denominated in the currency of the CONTRACT.

12.4 The Performance Guarantee shall be valid for the duration of 90 days beyond the expiry of Warrantee/Guarantee period. The Bank Guarantee will be discharged by PURCHASER not later than 6 months from the date of expiration of the Seller's entire obligations, including any warrantee obligations, under the CONTRACT.

**13. Inspection,  
Testing & Expediting**

13.1 The PURCHASER or its representative shall have the right to inspect and/or to test the GOODS to confirm their conformity to the CONTRACT specifications. The special conditions of CONTRACT and/or the Technical Specifications shall specify what inspections and tests the PURCHASER requires and where they are to be conducted. The PURCHASER shall notify the SELLER in writing the identity of any representative(s) retained for these purposes.

13.2 The inspections and tests may be conducted on the premises of the SELLER or his sub-contractor(s), at point of DELIVERY and/or at the GOODS' final destination, When conducted on the premises of the SELLER or his sub-contractor (s), all reasonable facilities and assistance including access to the drawings and production data shall be furnished to the inspectors at no charge to the PURCHASER.

13.3 Should any inspected or tested GOODS fail to conform to the specifications, the PURCHASER may reject them and the SELLER shall either replace the rejected GOODS or make all alterations necessary to meet Specifications' requirements, free of cost to the PURCHASER.

13.4 The PURCHASER's right to inspect, test and where necessary reject the GOODS after the GOODS' arrival in the PURCHASER's country shall in no way be limited or waived by reason of the GOODS having previously been inspected, tested and passed by the PURCHASER, or their representative prior to the GOODS shipment from the country of origin.

13.5 The INSPECTOR shall follow the progress of the manufacture of the GOODS under the CONTRACT to ensure that the requirements outlined in the CONTRACT are not being deviated with respect to schedule and quality.





- 13.6 SELLER shall allow the INSPECTOR to visit, during working hours, the workshops relevant for execution of the CONTRACT during the entire period of CONTRACT validity.
- 13.7 In order to enable PURCHASER's representatives to obtain entry visas in time, SELLER shall notify PURCHASER two months before assembly, testing and packing of main EQUIPMENT. If requested, SELLER shall assist PURCHASER's representatives in getting visas in the shortest possible time (applicable only in case of foreign order).
- 13.8 SELLER shall place at the disposal of the INSPECTOR, free of charge, all tools, instruments, and other apparatus necessary for the inspection and/or testing of the GOODS. The INSPECTOR is entitled to prohibit the use and dispatch of GOODS and/or materials which have failed to comply with the characteristics required for the GOODS during tests and inspections.
- 13.9 SELLER shall advise in writing of any delay in the inspection program at the earliest, describing in detail the reasons for delay and the proposed corrective action.
- 13.10 ALL TESTS and trials in general, including those to be carried out for materials not manufactured by SELLER shall be witnessed by the INSPECTOR. Therefore, SELLER shall confirm to PURCHASER by fax or e-mail about the exact date of inspection with at least 30 days notice. SELLER shall specify the GOODS and quantities ready for testing and indicate whether a preliminary or final test is to be carried out.
- 13.11 If on receipt of this notice, PURCHASER should waive the right to witness the test, timely information will be given accordingly.
- 13.12 Any and all expenses incurred in connection with tests, preparation of reports and analysis made by qualified laboratories, necessary technical documents, testing documents and drawings shall be at SELLER's cost. The technical documents shall include the reference and numbers of the standards used in the construction and, wherever deemed practical by the INSPECTOR, copy of such standards.
- 13.13 Nothing in Article-13 shall in any way release the SELLER from any warranty or other obligations under this CONTRACT.
- 13.14 Arrangements for all inspections required by Indian Statutory Authorities and as specified in technical specifications shall be made by SELLER.
- 13.15 **Inspection & Rejection of Materials by consignees**  
When materials are rejected by the consignee, the supplier shall be intimated with the details of such



rejected materials, as well as the reasons for their rejection, also giving location where such materials are lying at the risk and cost of the contractor/supplier. The supplier will be called upon either to remove the materials or to give instructions as to their disposal within 14 days and in the case of dangerous, infected and perishable materials within 48 hours, failing which the consignee will either return the materials to the contractor freight to pay or otherwise dispose them off at the contractor's risk and cost. The PURCHASER shall also be entitled to recover handling and storage charges for the period, during which the rejected materials are not removed @ 5% of the value of materials for each month or part of a month till the rejected materials are finally disposed off.

**14. Time Schedule & Progress Reporting**

- 14.1 Time Schedule Network/Bar Chart
  - 14.1.1 Together with the Contract confirmation, SELLER shall submit to PURCHASER, his time schedule regarding the documentation, manufacture, testing, supply, erection and commissioning of the GOODS.
  - 14.1.2 The time schedule will be in the form of a network or a bar chart clearly indicating all main or key events regarding documentation, supply of raw materials, manufacturing, testing, delivery, erection and commissioning.
  - 14.1.3 The original issue and subsequent revisions of SELLER's time schedule shall be sent to PURCHASER.
  - 14.1.4 The time schedule network/bar chart shall be updated at least every second month.
- 14.2 Progress Trend Chart/Monthly Report
  - 14.2.1 SELLER shall report monthly to PURCHASER, on the progress of the execution of CONTRACT and achievement of targets set out in time bar chart.
  - 14.2.2 The progress will be expressed in percentages as shown in the progress trend chart attached to the Time Schedule specification.
  - 14.2.3 The first issue of the Progress Trend Chart will be forwarded together with the time bar chart alongwith CONTRACT confirmation.
- 14.3.1 PURCHASER's/CONSULTANT's representatives shall have the right to inspect SELLER's premises with a view to evaluating the actual progress of work on the basis of SELLER's time schedule documentation.
- 14.3.2 Irrespective of such inspection, SELLER shall advise CONSULTANT, with copy to PURCHASER, at the earliest possible date of any anticipated delay in the progress.



- 14.4 Notwithstanding the above, in case progress on the execution of contract at various stages is not as per phased time schedule and is not satisfactory in the opinion of the PURCHASER/CONSULTANT which shall be conclusive or SELLER shall neglect to execute the CONTRACT with due diligence and expedition or shall contravene the provisions of the CONTRACT, PURCHASER/CONSULTANT may give notice of the same in writing to the SELLER calling upon him to make good the failure, neglect or contravention complained of. Should SELLER fail to comply with such notice within the period considered reasonable by PURCHASER/CONSULTANT, the PURCHASER/CONSULTANT shall have the option and be at liberty to take the CONTRACT wholly or in part out of the SELLER's hand and make alternative arrangements to obtain the requirements and completion of CONTRACT at the SELLER's risk and cost and recover from the SELLER, all extra cost incurred by the PURCHASER on this account. In such event PURCHASER/CONSULTANT shall not be responsible for any loss that the SELLER may incur and SELLER shall not be entitled to any gain. PURCHASER/CONSULTANT shall, in addition, have the right to encash Performance Guarantee in full or part.
- 15. Delivery & Documents**
- 15.1 Delivery of the GOODS shall be made by the SELLER in accordance with terms specified in the CONTRACT, and the goods shall remain at the risk of the SELLER until delivery has been completed.
- 15.2 Delivery shall be deemed to have been made :
- a) In the case of FOB, CFR & CIF Contracts, when the Goods have been put on board the ship, at the specified port of loading and a clean Bill of Lading is obtained. The date of Bill of Lading shall be considered as the delivery date.
  - b) In case of FOT despatch point contract (For Indian bidder), on evidence that the goods have been loaded on the carrier and a negotiable copy of the GOODS receipt obtained. The date of LR/GR shall be considered as the date of delivery.
  - c) In case of FOT site (for Indian bidders) on receipt of goods by PURCHASER/Consultant at the designated site(s).
- 15.3 The delivery terms are binding and essential and consequently, no delay is allowed without the written approval of PURCHASER/CONSULTANT. Any request concerning delay will be void unless accepted by PURCHASER/CONSULTANT through a modification to the CONTRACT.
- 15.4 Delivery time shall include time for submission of drawings for approval, incorporation of comments, if any, and final approval of drawings by PURCHASER/



CONSULTANT.

- 15.5 In the event of delay in delivery, Price Reduction Schedule as stipulated in Article – 26 shall apply.
- 15.6 The documentation, in English Language, shall be delivered in due time, in proper form and in the required number of copies as specified in the contract.
- 15.7 The additional copies of final drawings and instructions will be included in the package of goods, properly enveloped and protected.
- 15.8 The SELLER should comply with the Packing, Marking and Shipping Documentation Specifications enclosed.
- 16. Transit Risk Insurance**
- 16.1 All goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery.
- 16.2 Where delivery is on FOB or CFR basis, marine insurance shall be the responsibility of the Purchaser.  
Insurance Requirements :
- Indigenous Bidders : Transit risk insurance from F.O.T. despatch point onwards shall be arranged and borne by GAIL.
- Foreign Bidders : Marine insurance as well as transit insurance in Purchaser's country shall be arranged and borne by GAIL.
- The SELLER shall ensure that in effecting despatch of materials, the primary responsibility of the carriers for safe movement is always retained so that the PURCHASER's interests are fully safeguarded and are in no way jeopardised. The Seller shall furnish the cost of materials against each equipment.
- 16.2 **PURCHASER's Insurance Agent :**  
*[The name and address-as mentioned under SCC]*
- 17. Transportation**
- 17.1 Where the SELLER is required under the CONTRACT to deliver the GOODS FOB, transport of the GOODS until delivery, that is, upto and including the point of putting the GOODS on board the export conveyance at the specified port of loading, shall be arranged and paid for by the SELLER and the cost thereof shall be included in the Contract price.
- 17.2 Where the SELLER is required under the CONTRACT to deliver the GOODS CFR or CIF, transport of the Goods to the port of discharge or such other point in the country of destination as shall be specified in the CONTRACT shall be arranged and paid for by the



- SELLER and the cost thereof shall be included in the Contract price.
- 18. Incidental Services**
- 18.1 The Seller may be required to provide any or all of the following services:
- 18.1.1 Performance or supervision of onsite assembly and/or start-up of the supplied Goods:
- 18.1.2 Furnishing tools required for assembly and/or maintenance of the supplied Goods:
- 18.1.3 Performance or supervision or maintenance and/or repair of the supplied Goods, for a period of time agreed by the parties, provided that this service shall not relieve the Seller of any warranty/guarantee obligations under the Contract.
- 18.1.4 Training of the Purchaser's personnel at the Seller's plant and/or at Site, in assembly, start-up operation, maintenance and/or repair of the supplied Goods at no extra cost. However, Purchaser will bear boarding, lodging & personal expenses of Trainees.
- 18.2 Prices charged by the Seller for the preceding incidental services, shall not exceed the prevailing rates charged to other parties by the Seller for similar services.
- 18.3 When required, Seller shall depute necessary personnel for supervision and/or erection of the Equipment at site for duration to be specified by Purchaser on mutually agreed terms. Seller's personnel shall be available at Site within seven days for emergency action and twenty-one days for medium and long-term assistance, from the date of notice given by Purchaser.
- 18.4 The cost of incidental services shall not be included in the quoted prices. The cost of applicable incidental services should be shown separately in the price schedules.
- 19. Spare Parts, Maintenance Tools, Lubricants**
- 19.1 Seller may be required to provide any or all of the following materials and notification pertaining to spare parts manufactured or distributed by the Seller.
- 19.1.1 Such spare parts as the Purchaser may opt to purchase from the Seller, provided that his option shall not relieve the Seller of any warranty obligations under the Contract, and
- 19.1.2 In the event of termination of production of the spare parts:
- i) Advance notification to the Purchaser of the pending termination, in sufficient time to permit the Purchaser to procure needed requirements, and
- ii) Following such termination, furnishing at no cost to the Purchaser, the blue prints, drawings and specifications of the spare parts, if any when requested.
- 19.2 Seller shall supply item wise list with value of each item of spare parts and maintenance tools requirements,



along with full details of manufacturers/vendors for such spares/maintenance tools for :

- 19.2.1 The construction, execution and commissioning.
- 19.2.2 Two years operation and maintenance.
- 19.3 Spare parts shall be new and of first class quality as per engineering standards/ codes, free of any defects (even concealed), deficiency in design, materials and workmanship and also shall be completely interchangeable with the corresponding parts.
- 19.4 Type and sizes of bearings shall be clearly indicated.
- 19.5 Spare parts shall be packed for long storage under tropical climatic conditions in suitable cases, clearly marked as to intended purpose.
- 19.6 A list of special tools and gauges required for normal maintenance and special handling and lifting appliances, if any, for the Goods shall be submitted to Purchaser.
- 19.7 Bidders should note that if they do not comply with Clause 19.2 above, their quotation may be rejected.
- 19.8 Lubricants
  - 19.8.1 Whenever lubricants are required, Seller shall indicate the quantity of lubricants required for the first filling, the frequency of changing, the quantity of lubricants required for the one year's continuous operation and the types of recommended lubricants indicating the commercial name (trade-mark), quality and grade.
  - 19.8.2 If Seller is unable to recommend specific oil, basic recommended characteristics of the lubricants shall be given.
  - 19.8.3 Seller shall indicate various equivalent lubricants available in India.

## 20. Guarantee

- 20.1 All Goods or Materials shall be supplied strictly in accordance with the specifications, drawings, data sheets, other attachments and conditions stated in the Contract.

No deviation from such specifications or alterations or of these conditions shall be made without PURCHASER'S /CONSULTANT'S agreement in writing which must be obtained before any work against the order is commenced. All materials supplied by the SELLER pursuant to the Contract (irrespective of whether engineering, design data or other information has been furnished, reviewed or approved by PURCHASER/CONSULTANT) are guaranteed to be of the best quality of their respective kinds (unless otherwise specifically authorised in writing by PURCHASER/CONSULTANT) and shall be free from faulty design, workmanship and materials, and to be of sufficient size and capacity and of proper materials so as to fulfil in all respects all operating conditions, if any, specified in the Contract.



If any trouble or defect, originating with the design, material, workmanship or operating characteristics of any materials, arises at any time prior to twelve(12) months from the date of the first commercial operation of the Plant for which the materials supplied under the Contract form a part thereof, or twenty four (24) months from the date of last shipment whichever period shall first expire, and the SELLER is notified thereof, SELLER shall, at his own expense and as promptly as possible, make such alterations, repairs and replacements as may necessary to permit the materials to function in accordance with the specifications and to fulfil the foregoing guarantees.

PURCHASER/CONSULTANT may, at his option, remove such defective materials, at SELLER'S expense in which event SELLER shall, without cost to PURCHASER/CONSULTANT and as promptly as possible, furnish and install proper materials. Repaired or replaced materials shall be similarly guaranteed by the SELLER for a period of no less than twelve (12) months from the date of replacement/repair.

In the event that the materials supplied do not meet the specifications and/or not in accordance with the drawings data sheets or the terms of the Contract and rectification is required at site, PURCHASER/CONSULTANT shall notify the SELLER giving full details of differences. The SELLER shall attend the site within seven (7) days of receipt of such notice to meet and agree with representatives of PURCHASER/CONSULTANT, the action required to correct the deficiency. Should the SELLER fail to attend meeting at Site within the time specified above, PURCHASER/CONSULTANT shall immediately rectify the work/materials and SELLER shall reimburse PURCHASER all costs and expenses incurred in connection with such trouble or defect.

## 20.2 PERFORMANCE GUARANTEE OF EQUIPMENT

20.2.1 SELLER shall guarantee that the performance of the EQUIPMENT supplied under the CONTRACT shall be strictly in conformity with the specifications and shall perform the duties specified under the CONTRACT.

20.2.2 If the SELLER fails to prove the guaranteed performance of the EQUIPMENT set forth in the specification, the SELLER shall investigate the causes and carry out necessary rectifications/modifications to achieve the guaranteed performance. In case the SELLER fails to do so within a reasonable period, the SELLER shall replace the EQUIPMENT and prove guaranteed performance of the new equipment without any extra cost to PURCHASER.

20.2.3 If the SELLER fails to prove the guarantee within a reasonable period, PURCHASER/CONSULTANT shall



have the option to take over the EQUIPMENT and rectify, if possible, the EQUIPMENT to fulfil the guarantees and/or to make necessary additions to make up the deficiency at Seller's risk and cost. All expenditure incurred by the PURCHASER/CONSULTANT in this regard shall be to SELLER's account.

## 21. Terms of Payment

- 21.1 The method of payment to be made to the SELLER under this CONTRACT shall be specified in the Special Conditions of Contract.
- 21.2 The type(s) of payment to be made to the SELLER under this CONTRACT shall be specified in the Special Conditions of Contract.
- 21.3 The SELLER's request(s) for payment shall be made to the PURCHASER in writing accompanied by an invoice describing, as appropriate, the Goods delivered and services performed, and by shipping documents submitted, and upon fulfillment of other obligations stipulated in the Contract.
- 21.5 Payment will be made in the currency or currencies in which the Contract Price has been stated in the SELLER's bid, as well as in other currencies in which the SELLER had indicated in his bid that he intends to incur expenditure in the performance of the Contract and wishes to be paid. If the requirements are stated as a percentage of the bid price along with exchange rates used in such calculations these exchange rates shall be maintained.

### General Notes:

- i) All foreign currency payments to foreign bidder shall be released through an irrevocable Letter of Credit, which shall be opened through Government of India Nationalised Bank and hence shall not be confirmed. In case any bidder insists on confirmation, charges towards confirmation shall be borne by him. L/C shall be established within 30 days after receipt of unconditional acceptance of Letter/Fax of Intent together with Performance Guarantee for 10% of total order/Contract value.
- ii) For dispatches on FOT dispatch point (in India) basis, the payment shall be through PURCHASER's bank. Payment through Bank, wherever applicable, shall be released as per normal banking procedures.
- iii) Payment shall be released within 30 days after receipt of relevant documents complete in all respects.
- iv) All bank charges incurred in connection with payments shall be to Seller's account in case of





- Indian bidders and to respective accounts in case of Foreign bidder.
- v) Unless otherwise specifically stated in bid document, all payments shall be made in the currency quoted.
  - vi) No interest charges for delay in payments, if any, shall be payable by PURCHASER.
  - vii) In case of Indian bidder, variation, if any, on account of customs duty on their built-in- import content, as per terms of bid document, shall be claimed separately by bidder after receipt of goods at site (s). However, any price benefits to the PURCHASER, on account of such variation as per terms specified in the bid document, shall be passed on to the PURCHASER along with invoicing itself.
  - viii) Agency commission, if any, to Indian agent for Foreign bidders, indicated in prices, shall be paid to the agent in equivalent Indian Rupees on receipt and acceptance of material at site.
- 22. Prices** 22.1 Prices charged by the SELLER for Goods delivered and services performed under the CONTRACT shall not, with the exception of any price adjustments authorized by the Contract vary from the prices quoted by the SELLER in his bid.
- 23. Subletting & Assignment** 23.1 The contractor shall not without previous consent in writing of the PURCHASER authority, 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 contractor from any obligation, duty or responsibility under the contract.
- 24. Time As Essence of Contract** 24.1 The time and date of delivery/completion of the GOODS/SERVICES as stipulated in the Contract shall be deemed to be the essence of the Contract.
- 25. Delays In The Seller's Performance** 25.1 If the specified delivery schedule is not adhered to or the progress of manufacture or supply of the items is not satisfactory or is not in accordance with the progress schedule the PURCHASER has the right to:
- i) hire for period of delay from elsewhere goods which in PURCHASER's opinion will meet the same purpose as the goods which are delayed and SELLER shall be liable without limitation for the hire charges; or
  - ii) cancel the CONTRACT in whole or in part without liability for cancellation charges. In that event, PURCHASER may procure from elsewhere goods which PURCHASER's opinion would meet the same purpose as the goods for which CONTRACT



is cancelled and SELLER shall be liable without limitations for the difference between the cost of such substitution and the price set forth in the CONTRACT for the goods involved; or

- iii) hire the substitute goods vide (i) above and if the ordered goods continue to remain undelivered thereafter, cancel the order in part or in full vide (ii) above.

25.1 Any unexcusable delay by the SELLER or his sub-contractor shall render the SELLER liable, without prejudice to any other terms of the Contract, to any or all of the following sanctions: forfeiture of Contract performance guarantee, imposition of price reduction for delay in delivery and termination of the contract for default.

**26. Price Reduction Schedule For Delayed Delivery**

26.1 Subject to Article -29, if the SELLER fails to deliver any or all of the GOODS or performance the services within the time period (s) specified in the CONTRACT, the PURCHASER shall, without prejudice to his other remedies under the CONTRACT, deduct from the CONTRACT PRICE, a sum calculated on the basis of the CONTRACT PRICE, including subsequent modifications.

26.1.1 Deductions shall apply as per following formula:  
In case of delay in delivery of equipment/materials or delay in completion, total contract price shall be reduced by ½ % (half percent) of the total contract price per complete week of delay or part thereof subject to a maximum of 5% (five percent) of the total contract price.

26.2 In case of delay in delivery on the part of Seller, the invoice/document value shall be reduced proportionately for the delay and payment shall be released accordingly.

26.3 In the event the invoice value is not reduced proportionately for the delay, the PURCHASER may deduct the amount so payable by SELLER, from any amount falling due to the SELLER or by recovery against the Performance Guarantee.  
Both seller and PURCHASER agree that the above percentages of price reduction are genuine pre estimates of the loss/damage which the PURCHASER would have suffered on account of delay/breach on the part of the SELLER and the said amount will be payable on demand without there being any proof of the actual loss/or damage caused by such breach/delay. A decision of the PURCHASER in the matter of applicability of price reduction shall be final and binding.

**27. Rejections, Removal of Rejected Equipment & Replacement**

27.1 Preliminary inspection at SELLER's works by INSPECTOR shall not prejudice PURCHASER's/CONSULTANT's claim for rejection of the EQUIPMENT on final inspection at SITE or claims under warranty provisions.



- 27.2 If the EQUIPMENTS are not of specification or fail to perform specified duties or are otherwise not satisfactory the PURCHASER/CONSULTANT shall be entitled to reject the EQUIPMENT/MATERIAL or part thereof and ask free replacement within reasonable time failing which obtain his requirements from elsewhere at SELLER's cost and risk.
- 27.3 Nothing in this clause shall be deemed to deprive the PURCHASER AND/OR AFFECT ANY rights under the Contract which it may otherwise have in respect of such defects or deficiencies or in any way relieve the SELLER of his obligations under the Contract.
- 27.4 EQUIPMENT rejected by the PURCHASER/CONSULTANT shall be removed by the Seller at his cost within 14 days of notice after repaying the amounts received against the SUPPLY. The PURCHASER shall in no way be responsible for any deterioration or damage to the EQUIPMENT under any circumstances whatsoever.
- 27.5 In case of rejection of EQUIPMENT, PURCHASER shall have the right to recover the amounts, if any, from any of CONTRACTOR'S invoices pending with PURCHASER or by alternative method(s).
- 28. Termination of Contract**
- 28.1 Termination for Default
- 28.1.1 The PURCHASER may, without prejudice to any other remedy for breach of CONTRACT, by written notice of default sent to the SELLER, terminate the CONTRACT in whole or in part:
- A) If the SELLER fails to deliver any or all of the GOODS within the time period(s) specified in the CONTRACT; or
  - B) If the SELLER fails to perform any other obligation(s) under the CONTRACT, and
  - C) If the SELLER, in either of the above circumstances, does not cure his failure within a period of 30 days (or such longer period as the PURCHASER may authorize in writing) after receipt of the default notice from the PURCHASER.
- 28.1.2 In the event the PURCHASER terminates the CONTRACT in whole or in part, pursuant to Article 28.1.1, the PURCHASER may procure, upon such terms and in such manner as it deems appropriate, goods similar to those undelivered and the SELLER shall be liable to the PURCHASER for any excess costs for such similar GOODS. However, the SELLER shall continue performance of the CONTRACT to the extent not terminated.



28.1.3 In case of termination of CONTRACT herein set forth (under clause 28) except under conditions of Force Majeure and termination after expiry of contract, the VENDOR shall be put under holiday [i.e. neither any enquiry will be issued to the party by GAIL (India) Ltd. Against any type of tender nor their offer will be considered by GAIL against any ongoing tender (s) where contract between GAIL and that particular VENDOR (as a bidder) has not been finalized] for three years from the date of termination by GAIL (India) Ltd. to such VENDOR.

28.2 Termination for Insolvency

28.2.1 The PURCHASER, may at any time, terminate the CONTRACT by giving written notice to the SELLER, without compensation to the SELLER, if the SELLER becomes bankrupt or otherwise insolvent, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the PURCHASER.

28.3 Termination for Convenience

28.3.1 The PURCHASER may, by written notice sent to the SELLER, terminate the CONTRACT, in whole or part, at any time for his convenience. The notice of termination shall specify that termination is for the PURCHASER's convenience, the extent to which performance of work under the CONTRACT is terminated and the date upon which such termination becomes effective.

28.3.2 The GOODS that are complete and ready for shipment within 30 days after the SELLER's receipt of notice of termination shall be purchased by the PURCHASER at the CONTRACT terms and prices. For the remaining GOODS, the PURCHASER may opt:

- a) to have any portion completed and delivered at the CONTRACT terms and prices, and /or
- b) to cancel the remainder and pay to the SELLER an agreed amount for partially completed GOODS and for materials and parts previously procured by the SELLER.

**29. Force Majeure**

29.1 Shall mean and be limited to the following:

- a) War/hostilities
- b) Riot or Civil commotion
- c) Earthquake, flood, tempest, lightening or other natural physical disaster.
- d) Restrictions imposed by the Government or other Statutory bodies which prevents or delays the execution of the Contract by the SELLER.

The SELLER shall advise PURCHASER/CONSULTANT by a registered letter duly certified by the local Chamber of Commerce or statutory authorities, the beginning and end of the above causes of delay



within seven (7) days of the occurrence and cessation of such Force Majeure Conditions. In the event of delay lasting over one month, if arising out of causes of Force Majeure, PURCHASER/CONSULTANT reserves the right to cancel the Contract and the provisions governing termination stated under Article 28.0 shall apply.

For delays arising out of Force Majeure, the SELLER shall not claim extension in completion date for a period exceeding the period of delay attributable to the causes of Force Majeure and neither PURCHASER/CONSULTANT nor SELLER shall be liable to pay extra costs provided it is mutually established that Force Majeure Conditions did actually exist.

SELLER shall categorically specify the extent of Force Majeure Conditions prevalent in their works at the time of submitting their bid and whether the same have been taken into consideration or not in their quotations. In the event of any force majeure cause, the SELLER or the PURCHASER shall not be liable for delays in performing their obligations under this order and the delivery dates will be extended to the SELLER without being subject to price reduction for delayed deliveries, as stated elsewhere.

**30. Resolution of Disputes/ Arbitration**

30.1 The PURCHASER and the SELLER shall make every effort to resolve amicably by direct informal negotiations any disagreement or dispute arising between them under or in connection with the contract.

30.2 If, after thirty days from the commencement of such informal negotiations, the PURCHASER and the SELLER have been unable to resolve amicably a Contract dispute, either party may require that the dispute be referred for resolution to the formal mechanism as specified hereunder.

30.3 Legal Construction

The Contract shall be, in all respects be construed and operated as an Indian Contract and in accordance with Indian Laws as in force for the time being and is subject to and referred to the Court of Law situated within Union Territory of New Delhi.

30.4 Arbitration

All disputes, controversies, or claims between the parties (except in matters where the decision of the Engineer-in-Charge is deemed to be final and binding) which cannot be mutually resolved within a reasonable time shall be referred to Arbitration by a sole arbitrator. The PURCHASER (GAIL (India) Limited) shall suggest a panel of three independent and distinguished persons to the Seller to select any one among them to act as the sole Arbitrator.



In the event of failure of the Seller to select the Sole Arbitrator within 30 days from the receipt of the communication suggesting the panel of arbitrators, the right of selection of Sole Arbitrator by the other party shall stand forfeited and the PURCHASER shall have discretion to proceed with the appointment of the Sole Arbitrator. The decision of the PURCHASER on the appointment of Sole Arbitrator shall be final and binding on the parties.

The award of the 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 proceeding shall be in English language and the venue shall be at New Delhi, India.

Subject to the above, the provisions of (Indian) Arbitration & Conciliation Act, 1996 and the rules framed thereunder shall be applicable. All matters relating to this contract are subject to the exclusive jurisdiction of the Courts situated in the State of Delhi (India).

Seller 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 1996.

The WORK under the CONTRACT shall, however, continue during the Arbitration proceedings and no payment due or payable to the Seller shall be withheld on account of such proceedings.

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| <b>31. Governing Language</b> | 31.1 | The Contract shall be written in English language as specified by the PURCHASER/CONSULTANT in the Instruction to Bidders. All literature, correspondence and other documents pertaining to the Contract which are exchanged by the parties shall be written in English language. Printed literature in other language shall only be considered, if it is accompanied by an English translation. For the purposes of interpretation, English translation shall govern and be binding on all parties. |
| <b>32. Notices</b>            | 32.1 | Any notice given by one party to the other pursuant to the Contract shall be sent in writing or by telegram or fax, telex/cable confirmed in writing.   |
|                               | 32.2 | A notice shall be effective when delivered or on the notice's effective date, whichever is later.   |



- 33. Taxes & Duties**
- 33.1 A foreign Seller shall be entirely responsible for all taxes, stamp duties, licence fees, and other such levies imposed outside the PURCHASER's country.
- 33.2 A domestic Seller shall be entirely responsible for all taxes, duties, licence fees etc. incurred until the delivery of the contracted goods to the PURCHASER. However, Sales Tax and Excise duty on finished products shall be reimbursed by PURCHASER.
- 33.3 Customs duty payable in India for imported goods ordered by PURCHASER on foreign Seller shall be borne and paid by PURCHASER.
- 33.4 Any income tax payable in respect of supervisory services rendered by foreign Seller under the Contract shall be as per the Indian Income Tax Act and shall be borne by SELLER. It is upto the bidder/seller to ascertain the amount of these taxes and to include them in his bid price.
- 34. Books & Records**
- 34.1 SELLER shall maintain adequate books and records in connection with Contract and shall make them available for inspection and audit by PURCHASER/CONSULTANT or their authorized agents or representatives during the terms of Contract until expiry of the performance guarantee. Fixed price (lumpsum or unit price) Contract will not be subject to audit as to cost except for cost reimbursable items, such as escalation and termination claims, transportation and comparable requirements.
- 35. Permits & Certificates**
- 35.1 SELLER shall procure, at his expense, all necessary permits, certificates and licences required by virtue of all applicable laws, regulations, ordinances and other rules in effect at the place where any of the work is to be performed, and SELLER further agrees to hold PURCHASER and/or CONSULTANT harmless from liability or penalty which might be imposed by reason of any asserted or established violation of such laws, regulations, ordinances or other rules. PURCHASER will provide necessary permits for SELLER's personnel to undertake any work in India in connection with Contract.
- 36. General**
- 36.1 In the event that terms and conditions stipulated in the General Conditions of Contract should deviate from terms and conditions stipulated in the Contract, the latter shall prevail.
- 36.2 Losses due to non-compliance of Instructions
- Losses or damages occurring to the PURCHASER owing to the SELLER's failure to adhere to any of the instructions given by the PURCHASER/CONSULTANT in connection with the contract execution shall be recoverable from the SELLER.



- 36.3 Recovery of sums due
- All costs, damages or expenses which the PURCHASER/CONSULTANT may have paid, for which under the CONTRACT SELLER is liable, may be recovered by the PURCHASER (he is hereby irrevocably authorized to do so) from any money due to or becoming due to the SELLER under this Contract or other Contracts and/or may be recovered by action at law or otherwise. If the same due to the SELLER be not sufficient to recover the recoverable amount, the SELLER shall pay to the PURCHASER, on demand, the balance amount.
- 36.4 Payments, etc. not to affect rights of the PURCHASER
- No sum paid on account by the PURCHASER nor any extension of the date for completion granted by the PURCHASER/CONSULTANT shall affect or prejudice the rights of the PURCHASER against the SELLER or relieve the SELLER of his obligation for the due fulfillment of the CONTRACT.
- 36.4 Cut-off Dates
- No claims or correspondence on this Contract shall be entertained by the PURCHASER/Consultant after 90 days after expiry of the performance guarantee (from the date of final extension, if any).
- 36.6 Paragraph heading
- The paragraph heading in these conditions shall not affect the construction thereof.
- 37. Import License**
- 37.1 No import license is required for the imports covered under this document.
- 38. Fall Clause**
- 38.1 The price charged for the materials supplied under the order by the supplier shall in no event exceed the lowest price at which the supplier or his agent/principal/dealer, as the case may be, sells the materials of identical description to any Persons/Organizations including the Purchaser or any Department of the Central Govt. or any Department of a State Govt. or any Statutory Undertaking of the Central or State Govt. as the case may be, during the currency of the order.
- 38.2 If at any time during the said period, the supplier or his agent/principal/dealer, as the case may be, reduces the sale price, sells or offers to sell such materials to any persons/organizations including the Purchaser or any Deptt. Of Central Govt. or State Govt. as the case may be, at a price lower than the price chargeable under the order, he shall forthwith notify such reduction or sale or offer of sale to the Purchase Authority who has issued this order and the price payable under the order for the materials supplied after the date of coming into force of such reduction or sale or offer of sale shall stand





correspondingly reduced.

The above stipulation will, however, not apply to:

- a) Exports by the Contractor/Supplier or
- b) Sale of goods as original equipment at prices lower than the prices charged for normal replacement
- c) Sale of goods such as drugs which have expiry dates.

38.3 The supplier shall furnish the following certificate to the concerned Paying Authority along with each bill for payment for supplies made against this order:-

"I/We certify that there has been no reduction in sale price of the items/goods/materials of description identical to those supplied to the GAIL under the order herein and such items/goods/materials have not been offered/sold by me/us to any person/organizations including the Purchaser or any Deptt. of Central Govt. or any Deptt. of State Govt. or any Statutory Undertaking of the Central or State Govt. as the case may be upto the date of bill/during the currency of the order whichever is later, at a price lower than the price charged to the GAIL under the order".

Such a certificate shall be obtained, except for quantity of items/goods/materials categories under sub-clause (a), (b) & (c) of sub-para 38.2 above, of which details shall be furnished by the supplier.

**39. Publicity & Advertising**

39.1 Seller shall not without the written permission of PURCHASER/CONSULTANT make a reference to PURCHASER/CONSULTANT or any Company affiliated with PURCHASER/CONSULTANT or to the destination or the description of goods or services supplied under the contract in any publication, publicity or advertising media.

**40. Repeat Order**

40.1 PURCHASER reserves the right, within 6 months of order to place repeat order upto 50% of the total order value without any change in unit price or other terms and conditions.

**41. Limitation of Liability**

41.1 Notwithstanding anything contrary contained herein, the aggregate total liability of Seller under the Agreement or otherwise shall be limited to 100% of Agreement / Order price. However, neither party shall be liable to the other party for any indirect and consequential damages, loss of profits or loss of production.

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

**RFQ NO. : GAIL/FL-047/NBD/3200052073/JP/C&P/08-09**

**ITEM : SUPPLY OF HSD AT GAIL, NASIRABAD, AJMER (RAJASTHAN)**

**DUE DATE & TIME : 08.04.2009 - 1400 HRS. (IST)**

**FROM:**

**TO:**

	<b>HOD (C&amp;P) GAIL (INDIA) LIMITED, GAIL - BHAWAN, SECTOR-6, VIDHYADHAR NAGAR, JAIPUR-302023, RAJASTHAN</b>
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**(To be pasted on the outer envelope containing offer)**