



## PROFORMA OF BANK GUARANTEE FOR EARNEST MONEY DEPOSIT

(TO BE SUBMITTED IN Rs. 100/- STAMP PAPER)

In consideration of the Bharat Petroleum Corporation Ltd., (hereinafter called "the Corporation") having agreed to exempt M/s. \_\_\_\_\_ (hereinafter called "the said contractor(s)") from payment of Earnest Money against Tender No. \_\_\_\_\_ Dated \_\_\_\_\_ issued by the Corporation on production of a Bank Guarantee for Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only), we \_\_\_\_\_ Bank do hereby undertake to indemnify and keep indemnified the Corporation to the extent of Rs. \_\_\_\_\_ against any loss or damage caused to or suffered by the Corporation by reason of any breach by the said Contractor(s) of any of the terms and conditions contained in the Tender Notice / Documents.

We, \_\_\_\_\_ Bank further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the finalisation of the said Tender and that it shall continue to be enforceable till the Tender is finally decided and order placed on the successful Tenderer.

We, \_\_\_\_\_ Bank further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the finalisation of the said Tender and that it shall continue to be enforceable till the Tender is finally decided and order placed on the successful Tenderer.

We, \_\_\_\_\_ Bank Ltd. further agree that the Corporation shall be the sole judge of and as to whether the said contractor has committed any breach or breached of any of the terms & conditions of the tender/or the contract and the extent of loss, damage, costs, charges and expenses caused to or suffered by or that may be caused to or suffered by the Corporation on account thereof to the extent of the earnest money required to be deposited by the Contractor in respect of the said tender or the contract and the decision of the Corporation that the said contractor has committed such breach or breaches and as to the amount or amounts of loss, damage, costs, charges and expenses caused to or suffered by or that may be caused to or suffered by the Corporation from time to time shall be final and binding on us.

Notwithstanding anything contained in foregoing our liability under this guarantee is restricted to Rs. \_\_\_\_\_. The guarantee shall remain in force till \_\_\_\_\_. Unless a claim under this guarantee is made within six months from the date herein before mentioned the Corporation shall have no rights under these presents. We \_\_\_\_\_ Bank lastly undertake not to revoke this guarantee during its currency except with the previous consent of the Corporation in writing.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 19

for \_\_\_\_\_ Bank.

## **INTEGRITY PACT**

### **Between**

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

### **And**

..... hereinafter referred to as "The Bidder/Contractor/Supplier"

### **Preamble**

The Principal intends to award, under laid down organization procedures, contract/s for ..... The Principal values full compliance with all relevant laws and regulations, and the principles of economic use of resources, and of fairness and transparency in its relations with its Bidder/s, Contractor/s and Supplier/s.

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

### **Section 1 - Commitments of the Principal**

- (1) The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:
  - a) No employee of the Principal, personally or through family members, will in connection with the tender, or the execution of the contract, demand, take a promise for or accept, for himself/herself or third person, any material or immaterial benefit which he/she is not legally entitled to.
  - b) The Principal will, during the tender process, treat all Bidders with equity and reason. The Principal will, in particular, before and during the tender process, provide to all Bidders the same information and will not provide to any Bidder confidential / additional information through which the Bidder could obtain an advantage in relation to the tender process or the contract execution.
  - c) The Principal will exclude from the process all known prejudiced persons.
- (2) If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the relevant Anti-Corruption Laws of India, or if there be a substantive suspicion in this regard, the Principal will inform its Vigilance Office and in addition can initiate disciplinary actions.

### **Section 2 - Commitments of the Bidder / Contractor/Supplier**

- (1) The Bidder / Contractor/Supplier commits itself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.
  - a) The Bidder / Contractor/Supplier will not, directly or through any other person or firm, offer, promise or give to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person, any material or immaterial benefit which he/she is not legally entitled to, in order to

obtain in exchange, any advantage of any kind whatsoever during the tender process or during the execution of the contract.

- b) The Bidder / Contractor/Supplier will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelisation in the bidding process.
  - c) The Bidder / Contractor/Supplier will not commit any offence under the relevant Anti-Corruption Laws of India; further the Bidder / Contractor/Supplier will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
  - d) The Bidder / Contractor/Supplier will, when presenting his bid, disclose any and all payments he has made, is committed to, or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.
- (2) The Bidder / Contractor/Supplier will not instigate third persons to commit offences outlined above or be an accessory to such offences.

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

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

- (1) If the Bidder/Contractor/Supplier has committed a transgression through a violation of Section 2 such as to put his reliability or credibility into question, the Principal is also entitled to exclude the Bidder / Contractor/Supplier from future contract award processes. The imposition and duration of the exclusion will be determined by the severity of the transgression. The severity will be determined by the circumstances of the case, in particular the number of transgressions, the position of the transgressors within the company hierarchy of the Bidder and the amount of the damage. The exclusion will be imposed for a minimum of 6 months and maximum of 3 years.
- (2) A transgression is considered to have occurred if the Principal after due consideration of the available evidences, concludes that no reasonable doubt is possible.
- (3) The Bidder accepts and undertakes to respect and uphold the Principal's absolute right to resort to and impose such exclusion and further accepts and undertakes not to challenge or question such exclusion on any ground, including the lack of any hearing before the decision to resort to such exclusion is taken. This undertaking is given freely and after obtaining independent legal advice.
- (4) If the Bidder / Contractor/Supplier can prove that he has restored / recouped the damage caused by him and has installed a suitable corruption prevention system, the Principal may revoke the exclusion prematurely.

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

- (1) If the Principal has disqualified the Bidder from the tender process prior to the award according to Section 3, the Principal is entitled to demand and recover from the Bidder liquidated damages equivalent to Earnest Money Deposit/Bid Security.

- (2) If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to Section 3, the Principal shall be entitled to demand and recover from the Contractor/Supplier liquidated damages equivalent to Security Deposit / Performance Bank Guarantee.
- (3) The Bidder agrees and undertakes to pay the said amounts without protest or demur subject only to condition that if the Bidder / Contractor/Supplier can prove and establish that the exclusion of the Bidder from the tender process or the termination of the contract after the contract award has caused no damage or less damage than the amount of the liquidated damages, the Bidder / Contractor/Supplier shall compensate the Principal only to the extent of the damage in the amount proved.

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

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

#### **Section 6 - Equal treatment of all Bidders / Contractors /Suppliers/ Subcontractors**

- (1) The Bidder/Contractor/Supplier undertakes to demand from all subcontractors a commitment in conformity with this Integrity Pact, and to submit it to the Principal before contract signing.
- (2) The Principal will enter into agreements with identical conditions as this one with all Bidders, Contractors/Suppliers and Subcontractors.
- (3) The Principal will disqualify from the tender process all Bidders who do not sign this Pact or violate its provisions.

#### **Section 7 – Punitive Action against violating Bidders / Contractors / Suppliers/Subcontractors**

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

#### **Section 8 - Independent External Monitors**

- (1) The Principal has appointed competent and credible Independent External Monitors for this Pact. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.
- (2) The Monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. He reports to the Chairperson of the Board of the Principal.
- (3) The Bidder/Contractor/Supplier accepts that the Monitor has the right to access without restriction to all Project documentation of the Principal including that provided by the Bidder/Contractor/Supplier. The Bidder/Contractor/Supplier will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional

access to this project documentation. The same is applicable to Subcontractors. The Monitor is under contractual obligation to treat the information and documents of the Bidder/Contractor/Supplier/ Subcontractor with confidentiality.

- (4) The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the Principal and the Bidder/Contractor/Supplier. The parties offer to the Monitor the option to participate in such meetings.
- (5) As soon as the Monitor notices, or believes to notice, a violation of this agreement, he will so inform the Management of the Principal and request the Management to discontinue or heal the violation, or to take other relevant action. The Monitor can in this regard submit non-binding recommendation. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action. However, the Independent External Monitor shall give an opportunity to the Bidder/Contractor/Supplier to present its case before making its recommendations to the Principal.
- (6) The Monitor will submit a written report to the Chairperson of the Board of the Principal within 8 to 10 weeks from the date of reference or intimation to him by the 'Principal' and, should the occasion arise, submit proposals for correcting problematic situations.
- (7) If the Monitor has reported to the Chairperson of the Board a substantiated suspicion of an offence under relevant Anti-Corruption Laws of India, and the Chairperson has not, within reasonable time, taken visible action to proceed against such offence or reported it to the Vigilance Office, the Monitor may also transmit this information directly to the Central Vigilance Commissioner, Government of India.
- (8) The word 'Monitor' would include both singular and plural.

#### **Section 9 - Pact Duration**

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

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

**Section 10 - Other provisions**

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

.....  
.....

For the Principal  
Bidder/Contractor/

For the

Supplier

Place .....

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

Date .....

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

**BHARAT PETROLEUM CORPORATION LIMITED (BPCL), REFINERY**

**FINANCIAL DETERRENT FOR VIOLATION OF HSE NORMS BY CONTRACTORS**  
**(APPLICABLE TO ALL WORKS CARRIED OUT IN THE REFINERY BY CONTRACTORS)**

All Contractors working inside Refinery have to strictly follow HSE norms as per BPCL rules and regulations. Contractors who are violating HSE norms while executing the job will be penalised financially. Penalty amount and Reporting Authority for violation / non adherence of various HSE norms are given below:

S. No.	Violation of HSE norms	Penalty Amount	Reporting Authority
1.	For not using Personal Protective Equipment (Helmet, goggles, gloves, safety belts, Boiler suit etc.)	Rs. 250/- per day/ item / person	Engineer -in-charge, Head of Dept. F&S, Head of Dept. (Process / PD/ Maint./ MMPL/ Tech./CS&S), Section Head Estates
2.	Working without Permit / Clearance (Cold work)	Rs. 5000/- per occasion	Engineer -in-charge, Head of Dept. (F&S), Head of Dept. (Process / PD/Maint./ MMPL/ Tech/CS&S),Section Head Estates
3.	Hot work without proper permit / clearance	Rs. 10000/- per occasion and delisting /holiday listing for 3 years	Engineer -in-charge, Head of Dept. (F&S), Head of Dept. (Process /PD/Maint./MMPL / Tech/ CS&S), Section Head Estates
4.	Non-use of safe electricity at work site (not installing ELCB, using poor joints of cables, using naked wire without top plug into socket, laying wire / cables on the roads, electrical jobs by incompetent person)	Rs. 3000/- per item per day	Chief Maint Manager (Elect), Engineer -in-charge, Head of Dept. (F&S), Head of Dept. (Process / PD/Maint./ MMPL/ Tech/ CS&S), Section Head Estates
5.	Working at height without safety belt, using non-standard scaffolding and not arranging fall protection arrangement as required	Rs. 1000/- per case per day	Engineer -in-charge, Head of Dept. F&S, Head of Dept. (Process / PD/ Maint. / MMPL / Tech / CS&S), Section Head Estates
6.	Unsafe handling of compressed gas cylinders (No trolley, jubilee clips, double gauge regulator, improper storage / handling)	Rs. 100/- per item per day	Engineer -in-charge, Head of Dept. (F&S), Head of Dept. (Process / PD/Maint./MMPL/Tech/CS&S), Section Head Estates
7.	Non-fencing / barricading of excavated areas	Rs. 1000/- per occasion	Engineer -in-charge, Head of Dept. (F&S), Head of Dept. (Process / PD/Maint. / MMPL/Tech/ CS&S), Section Head Estates
8.	Use of domestic LPG for cutting purpose	Rs. 1000/- per occasion	Engineer -in-charge, Head of Dept. (F&S), Head of Dept. (Process / PD/Maint. / MMPL/Tech/ CS&S), Section Head Estates
9.	Non-display of name board, permit etc at site	Rs. 500/- per occasion	Engineer -in-charge, Head of Dept. (F&S), Head of Dept. (Process / PD/Maint./MMPL/Tech/CS&S), Section Head Estates
10.	For not providing shoring / strutting / proper slope and not keeping the excavated earth atleast 1.5 M away from excavated area	Rs. 5000/- per occasion	Engineer -in-charge, Head of Dept. (F&S), Head of Dept. (Process / PD/Maint./ MMPL/Tech/CS&S) Section Head Estates
11.	Overspeeding of jeeps / buses, rash driving, wrong parking	Rs. 1000/- per occasion	Any employee through Head of Dept. (F&S)
12.	Absence of contractor representative in BPCL's safety meetings whenever called	Rs. 1000/- per meeting	Head of the department organizing safety meeting
13.	Non-deployment of safety supervisor / supervisor responsible for safety at work site required as per Special Safety Conditions	Rs. 7500/- per week	Engineer -in-charge, Head of Dept. (F&S), Head of Dept. (Process / PD/Maint./ MMPL/Tech/ CS&S), Section Head Estates

S. No.	VIOLATION OF HSE NORMS	Penalty Amount	Reporting Authority
14.	Failure to maintain safety register and record by Contractor Safety Supervisor or Supervisor responsible for safety.	Rs. 1000/- per month	Engineer -in-charge, Head of Dept. (F&S), Head of Dept. (Process / PD/Maint. / MMPL / Tech / CS&S), Section Head Estates
15.	Failure to have weekly safety site inspection/audit and monthly safety meeting and maintain record (by contractors themselves)	Rs. 1000/- per week or month	Engineer-in-charge, Head of Dept. (F&S)
16.	Failure to submit the monthly HSE report by 5th of next month to Engineer-in-charge	Rs. 1000/- per month and Rs. 100/- per day for further delay	Engineer -in-charge
17.	Poor House-keeping	Rs. 1000/- per site /per day	Engineer-in-charge, Head of Dept. (F&S), Head of Dept. (Process / PD/Maint./ MMPL / Tech / CS&S), Section Head Estates
18.	Failure to follow injury reporting system	Rs. 10000/- per occasion	Engineer-in-charge, Head of Dept. (F&S), Head of Dept. (Process / PD/Maint. / MMPL / Tech / CS&S), Section Head Estates
19.	No supervision at worksite	Rs. 1000/- per day for each site	Engineer-in-charge, Head of Dept. (F&S), Head of Dept. (Process / PD/Maint. / MMPL / Tech / CS&S), Section Head Estates
20.	Working beyond 16 hours continuously by any employee	Rs. 1000/- per employee per day	Engineer-in-charge, Head of Dept. (F&S), Head of Dept. (Process / PD/Maint. / MMPL / Tech / CS&S), Section Head Estates
21.	Violation of any other safety condition as per job safety plan, work permit and safety conditions of contract such as using crowbar on cable trenches, improper welding booth, not keeping fire hose / extinguisher ready at hot work site, unsafe rigging etc.	Rs. 1000/- per occasion	Engineer-in-charge, Head of Dept. (F&S), Head of Dept. (Process / PD/Maint. / MMPL / Tech / CS&S), Section Head Estates

**Please note that:**

1. The above penalties will be applicable for all the contracts jobs carried out inside Refinery and covered by BPCL HSE norms / work permit system.
2. Site Engineers, Operations Officers, Safety Officers will report such violations through their Department Head/Engineer-in-charge (Reporting Authority) to the respective contracting department (P&CS/RMP) for necessary action. Reporting Authority has been indicated against each violation.
3. On advice from Reporting Authority, respective contracting departments shall make the deductions from the next payment due to the contractor.
4. The above penalties shall be double in case of violations more than 3 times during the contract period for a particular contract. For annual and other rate contracts POs awarded as part of rate contract shall be considered for this.
5. In case of frequent penalties for a particular contractor, necessary action such as holiday listing /delisting will be taken.
6. In addition to the safety conditions mentioned in Special Safety Conditions attached, contractors are required to adhere to the following additional safety requirements for which penalties are applicable as above for violation of these conditions:
  - a. All contractors shall themselves arrange weekly safety site inspection / audit and monthly safety meeting and record should be maintained.
  - b. All contractors shall submit monthly HSE report to respective Engineer-in-Charges by 5th of next month. Report should carry details of precautions against accident and injury to any of the workers or to any person or persons or of weekly safety site inspection / audit, monthly safety meeting, details about records maintained by Safety Supervisor and any other information felt necessary by Engineer-in-Charge for safe execution of job.
7. Implementation of above financial penalties for violation of HSE norms does not absolve contractors from their responsibilities to take at all times due and proper precautions to avoid injuries and accidents.
8. Contractors shall own the full responsibility for any accident and injury to any of the workers or to any person or persons or property arising due to violation of HSE norms by contractors even though financial penalty is not applied for such-violation. Implementation of these financial penalties does not absolve Contractors from any of the responsibility as per General Contract Conditions (Latest Revision), General Terms and Conditions and Special Safety Conditions.
9. All such financial penalties imposed on contractors shall be displayed / publicised appropriately by the respective Contracting department.

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# BHARAT PETROLEUM CORPORATION LIMITED (BPCL), REFINERY

## GENERAL TERMS & CONDITIONS

### ALL THE CONTRACTORS ARE REQUIRED TO :

1. Enter into an agreement with BPCL as per the 'Memorandum of Agreement' attached with the tender document, in case of the award of the contract.
2. Abide by the Safety Regulations of our Refinery and in particular as mentioned in the booklet, General Fire and Safety Regulations - Part II (Latest Revision) as well as to ensure that safety equipment as stipulated in the Factories Act (Latest Revision) are used by their employees during the execution of the work. Failure to use safety equipment as required by our site supervisor will be a sufficient reason for cancellation of the contract. Also all site work may be suspended if it is found that the workmen are employing unsafe working practice and all the costs / losses incurred due to suspension of work shall be borne by the contractor.
3. Hold BPCL harmless and indemnified from and against all claims, cost and charges under Workmen's Compensation Act, 1923 and 1933 and any amendment thereof and the contractor shall be solely responsible for the same.
4. Take at all times due and proper precautions against accident and injury to any of the workers or to any person or persons or property whether arising from or occasioned by your operations or otherwise and shall forthwith repair, make good and defray any damage, loss, cost or charge which may have been occasioned to the works or to the Company or to any person or persons or property injuriously affected thereby and shall be indemnified and save harmless and keep indemnified the company from and against all actions, suits, proceedings, claim and demands whatsoever by reason or on account thereof.
5. Abide by the 'Procedure governing entry / exit of contractor's personnel within Refinery premises. All the contractor's employees shall be permitted to enter only on displaying of authorised photopasses issued by BPCL against requests made by the contractor.
6. Observe the timings of work as advised by BPCL Engineer-In-Charge for carrying out the contract work.
7. Remove grass / shrubs wherever required to carry out the work in a safe manner.
8. Clear the site on daily basis and cart away all debris / rubbish generated from the work, outside the Refinery and dispose it off without giving any impact to environment & rise to any complaints from local, Municipal or Government Authorities. The final bill will be passed for payment only after submission of Gate Pass for debris removed outside the Refinery for disposal.
9. Submit material incoming challans duly stamped by BPCL Security Staff at Main Gate to the concerned Dept. for material procured and brought inside by the contractors.
10. Prepare a sign board giving the following information and display it near the work site :
  - a. Name of Contractor
  - b. Job Description in short
  - c. Date of start of job
  - d. Date of expected completion
  - e. Name of BPCL Supervisor
11. Return all the fire / safety and any other equipment taken on loan for executing the work to respective department, immediately, on completion of work.

12. Note that the entire contract work must be completed within the stipulated completion period as specified in the tender / contract documents. In case of failure, the liquidated damages clause as per the Memorandum of Agreement shall be applicable as specified in the contract documents.
13. Not to engage sub-contractor or sublet any part of the contract work without specific approval from BPCL.
14. Note that in case of failure of the contractor to carry out the work as per the terms and conditions of the contract, BPCL reserves the right to terminate the contract and / or get the work completed by engaging another agency at the risk and cost of the original contractor.
15. Vacate the space / shed allotted for the purpose of carrying out work as per the contract, immediately after completion of work and hand over the same to BPCL Engineer-In-Charge in clean condition.
16. Remove all the construction equipment / materials brought inside Refinery for carrying out the contract work immediately after completion of the work, outside Refinery premises as no storage of such item is allowed inside the Refinery.
17. Note that all the rates / prices as agreed at the time of award of contract shall remain firm during the entire period of contract and till all the contract work, is completed and no escalation in prices shall be granted on account of any reason. Also the quoted item rates shall be inclusive of all applicable taxes and duties at prevailing rates.
18. Confirm the rates of recovery for all the materials issued from BPCL Warehouse on chargeable basis before submitting Material Issue Voucher, specially if the same is not indicated in the contract document.
19. Note that BPCL reserves the right to split the contract between two or more parties fully or partly in the interest of the job.
20. Supply the material as per the tender / contract documents and keep account of all the materials issued by BPCL as per contract to carry out final material reconciliation after completion of work. Any shortages / wastages shall be charged to the contractor if they fail to reconcile all the material issued by BPCL.
21. Note that bills will be paid on the basis of actual executed quantities of work items after due certification of BPCL Engineer-In-Charge. The quantities indicated in the tender / contract documents are only estimated and shall not form basis for payment.
22. Obtain advance permission from the Engineer-In-Charge in writing for carrying out work on Sundays, holidays or working late hours beyond normal working time.
23. Be fully responsible for the identity, conduct and integrity of the personnel / workers engaged by you for carrying out the contract work and ensure that none of them are ever engaged in any anti-national activity.
24. Understand the job fully by visiting the site, if necessary, and discussing with the concerned BPCL Engineer regarding details of the job, before submitting the offers.
25. Abide by the rules and regulations existing during the contract period as applicable for the contractors at BPCL Refinery.
26. Have valid PUC Certificate for all vehicles used inside the refinery premises by the Contractor for execution of the contract work.

No. \_\_\_\_\_



**BHARAT PETROLEUM CORPORATION LTD.**  
(INCORPORATED IN INDIA)  
MUMBAI REFINERY

**MEMORANDUM OF AGREEMENT**

An Agreement made this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

between **BHARAT PETROLEUM CORPORATION LIMITED**, a company incorporated in India and having its registered office at Ballard Estate, Mumbai (hereinafter referred to as the "Company" which expression shall mean the said **BHARAT PETROLEUM CORPORATION LIMITED** its successors and assigns) of the one part and \_\_\_\_\_

of \_\_\_\_\_

( hereinafter referred to as " The Contractor" which expression shall mean the said \_\_\_\_\_

and its heirs, legal representatives successors and assigns of the other part, whereby it is agreed :-

1. The Contractor shall carry out and complete the work as mentioned in Purchase order (hereinafter referred to as "the work") for the Company at its Mumbai Refinery site to its complete satisfaction in accordance with the specifications, Schedule of rates and plans attached as per Purchase Order and with the instructions given, from time to time by the company's authorised Engineer, under whose supervision the work shall be executed.

2. **Inspection of Site.** The Contractor has been given an opportunity before or at the time of entrusting of the work to him of making an inspection of the site to set at rest any doubts he may have had about the difficulties attending his offer, and any difficulties which may be met with by him in the course of the execution of the work, shall neither relieve him from fulfilling the terms of this Agreement nor entitle him to claim extra payment or an extension of the period stipulated for the completion of the work, except where it will be agreed by the Company's authorised Engineer that such difficulties could not have been foreseen.

3. **Supply of Labour and Materials.** The Contractor shall furnish all labour, materials, equipment or tools necessary for the construction of the work, except such materials equipment & tools as will be supplied by the Company and are detailed in Purchase Order. The contractor will assume full responsibility for the protection and safety of the work during its construction. The details and dimensions shown on the said plans attached hereto shall be strictly adhered to by the Contractor and no alterations shall be made therein unless previous sanction thereto has been given in writing by the Company.

- a) The contractor shall prepare detailed and shop drawings and any other data required.
- b) All material supplied by the contractor shall be of the best quality. The Contractor shall at his own cost arrange for and / or carry out any test of materials which the Company's authorised Engineer may require.
- c) The Contractor at the request of the Company's authorised Engineer immediately dismiss from the work any person employed thereon who in the opinion of the company's authorised Engineer, is unsuitable or incompetent or who had been guilty of misconduct, and such person shall not again be employed or allowed on the works without the permission of the Company in writing.

4. **E. & O.E.** No advantage is to be taken either by the Company or the Contractor of any clerical error or mistake which may occur in the specification, schedule of rates, plans, tender or any other papers supplied to or by the contractor in connection with the work.

5. **Damages on account of incomplete work.** The Contractor shall commence the work and shall complete the work as mentioned in Purchase Order failing which the Contractor shall pay or allow to the Company to recover as liquidated damages at the rate of ½% per week of delay or part thereof up to a maximum 5% of the total contract value. Such damages may be deducted by the Company from any moneys due to contractor, otherwise they shall be recoverable by lawful means.

6. **Determination of the Agreement.** In the event of the Contractor failing to complete the work within the time stipulated for completion, the Company may determine this Agreement forthwith and employ another Contractor or its own workmen to complete the work, but in that event the stipulation Clause 5 regarding payment of damages, shall not apply. The determination of this Agreement shall not in other respects prejudice any rights, duties or obligations which may have accrued hereunder to the parties before such determination or which may accrue in respect of anything done or omitted to be done hereunder before such determination or / and remedies in respect of such rights, duties or obligations.

7. **Defective Work / Materials.** If the work done by the Contractor or any part thereof shall be found defective in workmanship or by reason of bad or inferior materials used, then in such case he shall at his own risk and cost without delay, demolish all such defective work and rebuild or replace the same in a satisfactory manner. The Company may, if necessary, at the cost and risk of the Contractor, temporarily stop all other activities by the Contractor in connection with the work until such time as the defective work has been rebuilt or replaced at the Contractor's cost in case of default on the part of the Contractor to remove defective work and rebuild or replace the same without delay and in manner satisfactory to the Company, the Company shall be entitled to employ another Contractor or its own workman to carry out the removal and rebuilding or replacing.

8. **Substitution of Contractor.** If the Company finds it necessary to employ a person or persons for the purposes provided in Clauses 6 and 7 above, then the Company may deduct and retain from out of the sums due to the Contractor all such amounts as they may require to pay or to reimburse themselves therefrom in respect of the costs and expenses which they have incurred in completing the work and / or in removing defective work and rebuilding or replacing the same in a manner satisfactory to the Company and if such amounts be more than the sums due or thereafter becoming due to the Contractor, than the balance, shall be debt recoverable from the Contractor by the Company. The Contractor shall not in any manner do or cause to be done any act matter or thing whatsoever to prevent the person placing the same in a manner satisfactory to the Company and / or from completing the work in the manner aforesaid.

9. **Removal of Material.** On the Determination of the Agreement as referred to in Clause 6, the Contractor shall at his own risk and cost remove from site within seven days all his materials, equipment and tools. It is agreed that in case of such determination, the Company shall be entitled to purchase from the Contractor such materials as will be approved by the Authorised Engineer of the Company at the prices then current. If the Contractor does not remove the other materials, equipment and tools which he has been asked to remove within the time prescribed as aforesaid, the Company may remove and sell the same holding the proceeds less the cost of storage, removal and sale to the credit of the Contractor. Should Company incur any loss in respect of the sale, it shall be entitled to recover same from the Contractor.

**10. Inspection of work.** Inspection will be made periodically during the progress of the work by the authorised Engineer of the Company and all work performed must be of acceptable quality of which the said Engineer will be the sole judge.

**11. Supervision.** The Contractor shall during the whole time the work is in progress, employ one or more competent and technical English speaking Supervisors acceptable to the Company's authorised Engineer, one of whom at least shall be in constant attendance at the site while persons are at work there. Any directions, explanations, instructions or notices in connection with the work given by the Company's authorised Engineer to these Supervisors shall be deemed to have been given to the Contractor.

**12. Payment.** The Company in consideration of the Contractor carrying out and completing the said work at the Company's said refinery site, to the satisfaction of the Company, shall pay the contractor as per the said Schedule of Rates, subject to deductions, retentions and abatements, if any, to be made therefrom in accordance with the provisions of the Agreement. During the progress of the work and provided the work is progressing according to the time-table laid down to the contractor, the contractor shall be entitled once a month to receive advance payment on the above mentioned sum proportionate to such part of the work as shall have been executed during the preceding month but only after such part of the work as shall have been executed has been inspected and approved by the Company's authorised Engineer. From such interim payment each time 10 percent will be withheld and this 10 percent will be paid to the Contractor Six Months / Twelve Months after the date of Virtual completion in accordance with Clause 13. "Virtual completion" shall mean that the subject matter of the work is in the opinion of the Company's authorised Engineer, fit to be used for the purpose for which it was meant.

OR

100% payment will be made on the basis of actual executed quantities after satisfactory completion and due certification by BPCL Engineer - in - charge.

In lieu of 10% Retention Money, contractor shall submit bank guarantee of equivalent amount of retention money (10% of contract value) before submission of 1st R.A. bill valid for defects liability period of six months / twelve months. Further, the Bank Guarantee shall have a claim period of 3 months beyond the date of expiry & the same shall be mentioned clearly in the Bank Guarantee.

**13. Defects after completion.** Any defects which may appear within the period of Six months / Twelve months mentioned in Clause 12 shall, upon the directions in writing of the Company and within such reasonable time as shall be specified therein be amended and made good by the Contractor, at his own cost unless the Company shall decide that the Contractor will be paid for such amending and making good, and in case of default on the Contractor's part, the Company may amend and make good or have amended and made good such defects and all damages, losses and expenses consequent thereon, incidental to those shall be borne by the Contractor and such damages, losses and expenses shall be recoverable from him by the company or may be deducted by the Company from any moneys due to or thereafter becoming due to the Contractor. Alternatively, the Company may, in lieu of such amending and making good by the Contractor elect to deduct from any money's due or thereafter becoming due to the Contractor a sum to be determined by the Company sufficient to cover the cost of amending and making good such defects, and in the event of the amount withheld in accordance with Clause 12 being insufficient, recover the balance from the Contractor together with any expenses the Company may have incurred in connection with such recovery should any defective work have been done or bad inferior materials supplied by any Sub-contractor employed on the work, has been approved by the Company as provided in Clause 15, the contractor shall be liable to amend and make good in the same manner as if such liable under the Clause notwithstanding the signing by the Company's authorised Engineer of any certificate or passing of any account.

**14. Alterations.** The Company reserves the right at any time to alter any quantities of any item indicated in the schedule of rates attached to this agreement, in which case the total amount payable to the Contractor shall be less or higher, proportionate with the reduction or increase in quantity of such item, allowance for which will be made at the contractor's quoted rates.

**15. Subletting Agreement.** The Contractor shall not sublet or assign the work or any part thereof to another party without the written consent of the Company and no such subletting or assignment shall relieve the Contractor from the full and entire responsibility of his obligation under this Agreement.

**16. Cancellation.** The Company shall at any and at all times during the period stipulated for the work, has the right forthwith to cancel this agreement by giving written notice thereof to the Contractor and in such case the Contractor shall be paid for such part of the work as has been executed by him upto the date of cancellation, on the basis of the schedule of rates attached, and shall be reimbursed by the Company for the costs and expenses incurred by him but which would not be wasted as a direct consequence of the cancellation of the Agreement.

**17. Workmen's Compensation Liability.** The Contractor shall hold the company harmless and indemnified from and against all claims, costs and charges for which the Company shall be liable under the Workmen's Compensation Act, 1923 & 1933 & any amendments thereof and the expenses to which it shall be put thereunder, both in respect of personal injuries (within the meaning of the said Act) to the employees during the currency of this agreement through the acts or omissions, whether due to negligence or not of the Contractor, Sub-contractors and/or the Company and / or their meaning of the said Act) to the servants and employees of the Company arising out of or occasioned through the acts and omissions whether due to negligence or not of the Contractor, Sub-Contractor and / or their servants and employees in carrying out any of the provisions of this Agreement. This indemnity shall be in addition to and not in lieu of any indemnity to which the Company shall be entitled in law. The Contractor shall at his own expense effect and maintain, until the completion of the work, with an approved office a Policy of insurance in the joint names of the Company and the contractor, against such risks and deposit such policy or policies with the Company from time to time during the currency of this Agreement. The contractor shall be responsible for anything not included in the Insurance Policies above referred to and also for all other damages to person or property arising out of or incidental to the negligent or defective carrying out of this Agreement and shall keep the Company harmless and indemnified.

**18. Safety Regulations.** The Contractor shall ensure that he / his Sub-Contractor and his, or their personnel or representative shall comply with all safety regulations issued from time to time by the Company or otherwise howsoever and should any injury resulting in death or not or damage to any property occur as a result of failure to comply with such regulations, the Contractor shall be held responsible for the consequences thereof, shall keep the Company harmless and indemnified.

**19. Arbitration.**

a) Any dispute or difference of any nature whatsoever, any claim, cross-claim, counter-claim or set off of the Corporation against the Contractor or regarding any right, liability, act, omission or account of any of the parties hereto arising out of or in relation to this agreement shall be referred to the Sole Arbitration of the Director (Refineries) of the Corporation or of some officer of the Corporation who may be nominated by the Director (Refineries). The Contractor will not be entitled to raise any objection to any such arbitrator on the ground that the arbitrator is an Officer of the Corporation i.e had

expressed views on all or any other matters in dispute or difference. In the event of the arbitrator to whom the matter is originally referred being transferred or vacating his office or being unable to act for any reason, the Director (Refineries) as aforesaid at the time of such transfer, vacation of office or inability to act may in the discretion of the Director (Refineries) designate another person to act as arbitrator in accordance with the terms of the agreement to the end and intent that the original Arbitrator shall be entitled to continue the arbitration proceedings notwithstanding his transfer or vacation of office as an Officer of the Corporation if the Director (Refineries) does not designate another person to act as arbitrator on such transfer, vacation of office or inability of original arbitrator. Such persons shall be entitled to proceed with the reference from the point at which it was left by his predecessor. It is also a term of this contract that no person other than the Director (Refineries) or a person nominated by such Director (Refineries) of the Corporation as aforesaid, shall act as arbitrator hereunder. The award of the arbitrator so appointed shall be final, conclusive and binding on all parties to the agreement subject to the provisions of the Arbitration Act 1996 or any statutory modification or re-enactment thereof and the rules made thereunder for the time being in force, shall apply to the arbitration proceedings under this clause.

b) The arbitrator shall have power to order and direct either of the parties to abide by, observe and perform all such directions as the arbitrator may think fit, having regard to the matters in difference i.e. dispute before him. The arbitrator shall have all summary powers and may take such evidence oral and /or documentary, as the arbitrator in his absolute discretion thinks fit and shall be entitled to exercise all powers under the Arbitration Act, 1996 including admission of any affidavit as evidence concerning the matter in difference i.e. dispute before him.

c) The parties against whom the arbitration proceedings have been initiated that is to say, the Respondents in the proceedings, shall be entitled to prefer a cross-claim, counter-claim or set off before the Arbitrator, in respect of any matter, an issue arising out of or in relation to the Agreement without seeking a formal reference of arbitration to the Director (Refineries) for such counter-claim, cross-claim or set off and the Arbitrator shall be entitled to consider and deal with the same as if the matters arising therefrom has been referred to him originally and deal with the same as if the matter arising therefrom has been referred to him originally and deemed to form part of the reference made by the Director (Refineries).

d) The arbitrator shall be at liberty to appoint, if necessary, any accountant or engineer or other technical person, to assist him and to act by the opinion so taken.

e) The arbitrator shall have power to make one or more awards whether interim or otherwise, in respect of the dispute and difference and in particular will be entitled to make separate awards in respect of claims or cross-claim of the parties.

f) The arbitrator shall be entitled to direct any one of the parties to pay the costs of the other party in such manner and to such extent as the arbitrator may in his discretion determine and shall also be entitled to, require one or both the parties to deposit funds in such proportion to meet the arbitrator's expenses whenever called upon to do so.

g) The parties hereby agree that the courts in the city of Mumbai alone shall have jurisdiction to entertain any application or other proceedings in respect of anything arising under this agreement and any award or awards made by the Sole Arbitrator hereunder shall be filed in the concerned courts in the city of Mumbai only.

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**20. Jurisdiction.** This Agreement shall be deemed to have been made in Mumbai and shall be construed according to the laws of India and the performance by the Contractor of any contract on his part herein contained, shall be considered due in Mumbai for the purpose of jurisdiction.

**21. Minimum Wages.** The Contractor, his executors and administrators (and in the case of a Limited Company, its successors and assigns ) shall hold the Company harmless and indemnified from and against all claims, costs and charges, for which the Company shall be liable under the Minimum Wages Act, 1948, the Contract Labour (Regulation & Abolition) Act, 1970, and any amendments or modifications thereof, and all expenses it shall be put thereunder through the acts or omissions whether wilful or not on the part of the Contractor. This indemnity shall be in addition to and not in lieu of, any indemnity to which the Company shall be entitled in law.

**22. Employees State Insurance.** The Contractor hereby admits that he is fully aware of his responsibilities under the Employees State Insurance Act, 1948, as an immediate employer of the employees engaged by him for the execution of this contract which he agrees to discharge. The contractor acknowledges the statutory right of the Company (as a Principal Employer) to recover the amount of contributions paid by it in the first instance in respect of the employees employed by or through him ( the Contractor), as well as the employees' contribution, if any, either by deduction from any amount payable to him by the Company under any contract or as debt payable by him to the Company.

\_\_\_\_\_  
In witness whereof the said contracting parties have set their hands.

Witness \_\_\_\_\_

\_\_\_\_\_  
For **Bharat Petroleum Corporation Ltd.**

Witness \_\_\_\_\_

\_\_\_\_\_  
Contractor's Signature

Date \_\_\_\_\_

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