



VADODARA GAS LIMITED



**Vadodara Gas Limited
Pre Qualification Bid**

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**Name of Work : For Supply of Pressure
Regulating Box with complete
assembly.**

Tender Fee : Rs. 1000/-

Last date of hard copy submission : 26/09/2016



VADODARA GAS LIMITED

TECHNICAL SPECIFICATION OF PRESSURE REGULATING BOX

For Ratri Bazar :

Specification of Pressure Regulator :

- A. Valve Description : Filter
- B. Fluid / Gas : F0106
- C. Working pressure : 1-19 Kg/CM²
- D. Test Pressure : 25 Kg/CM²
- E. Flow : 700 N₃/ Hr.
- F. End connection : 4" NB flanged and as per ANSI 150
- G. Material of construction : 01. Body : S.G.C.I.
02. Mesh : S.S.316

For Sangam :

Specification of Pressure Regulator :

- A. Fluid / Gas : Natural
- B. Inlet Pressure : 1-19 BAR
- C. Outlet Pressure : 0.5-4 Kg/CM²
- D. Flow : 700 N₃/ Hr.
- E. End connection : 4" NB flanged and as per ANSI 150
- F. Material of construction : 01. Body : S.G.C.I.
02. Bonnet : Aluminium
03. Trim Parts : Brass

Material Specification of PRV installation		
Sr. No.	Material	Description of Material
01	MS Pipe	MS ERW pipe 2" "C" Class IS -1239 with yellow Paint
02	Ball Valve	Audco / L&T make Ball Valve As per Standard Gas ASTM 150#
03	Transition Fitting	4" Steel to PE – 100 /125mm As per Standard GAS
04	Box	100X50 C Channal with 18 Guage MS Sheet Up to 1500 mm (H) X 400 mm (W) X1500mm (L) with Fabricated with Facing work, Yellow Paint & Construction of Platform.

ENGINEER IN CHARGE



VADODARA GAS LIMITED

BIDDER'S ELIGIBILITY CRITERIA

The Tenderer must provide the following information and documents with their tenders.

1. Bidder shall be the original equipment manufacturer (OEM) of the Pressure Regulating Box with complete assembly or authorized distributor/ Dealer of OEM of the offered Pressure Regulating Box in India.
2. In case the bidder is an OEM, a copy of certificate of manufacturing license or user certificate showing the bidder is the manufacturer of the offered Pressure Regulating Box needs to be submitted.
3. In case the bidder is an authorized distributor/ Dealer of OEM in India, a copy certificate bidder needs to be submitted.
4. Solvency certificate from bankers of Nationalized/Scheduled bank for the 25% of Tender Amount. Consider 01 year validity from the date of issue. Tenderer has to submit higher Amount of bank Solvency if so desired by Commissioner.
5. Experience of successfully completed similar works with Central Government/State Government/Semi Government or reputed organization during last 7-years should be either of the following. (Submit attested copies of certificates from head of the office, concerned for completion of works.)
 - Two similar completed works costing not less than the amount equal to 50% of the estimate cost for.

Definition of similar Work: - Similar work means supply of Pressure Regulating Box with complete assembly to Gas distribution entities in India.



VADODARA GAS LIMITED

- 6) Average Annual financial turnover during the last 3 years, ending 31st March of the previous financial year, should be at least 50% of the estimated cost.
(Attached C.A. Certified Copy)

- 7) The Tenderer shall have to attach following documents along with tender.
 - a. Organization set up and Technical Staff details
 - b. Copy of Certificate of Principle place
 - c. Copy of power of Attorney/signatory Authority (which ever applicable)
 - d. Copy of sales tax/VAT registration certificate
 - e. Current details of work in hand
 - f. Certificate of “NOT BLACK LISTED” in any Govt. /Semi Govt. VGL.
 - g. Attested Copy of Income Tax Clearance certificate of last years.
 - h. In case of partnership firm, authenticated copy of the partnership deed.

NOTE: (1) VGL will not be open price bid of disqualified tenderer in PQ criteria.

(2) Price bid of qualified Tenderer will be open after approval of competent authority.

ENGINEER IN CHARGE



VADODARA GAS LIMITED



VADODARA GAS LIMITED

SECTION-I: INSTRUCTIONS TO BIDDER (ITB)

FOR

BID FOR SUPPLY OF PRESUURE REGULATING BOX WITH COMPLETE ASSEMBLY

BID NO: VGL/PNG/PRB/2016-17



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1. SALIENT FEATURES OF BID DOCUMENT

M/s VADODARA GAS LIMITED invites competitive sealed bids from eligible and competent contractors as per below details.

<i>Bid reference number</i>	
<i>Scope of supply</i>	Supply of PRESSURE REGULATING BOX With complete assembly.
<i>Quantity</i>	02 nos.
<i>Location</i>	Nr. Ratri Bazar, kareli baug & Sangam Char Rasta
<i>Estimated amount</i>	Rs.9,48,000/-
<i>Earnest Money Deposit (EMD) - Refer Tender Fees - Refer section 10 of ITB</i>	Rs. 18,960/- Rs. 1000/- (Rupees One Thousand only)
Delivery	5-6 weeks from the receipt of PO.
PBG / Security Deposit	@ 10% of the total order value at the time of agreement.
<i>Last date of tender submission (submission deadline)</i>	26th September 2016, by 16:00
<i>Last date of Hard copy submission</i>	
<i>Validity of bid – Refer section 11 of ITB Bids to be addressed to</i>	120 days from bid submission end date ENGINEER IN CHARGE, Vadodara Gas Limited 3 rd floor, GAIL building, Nr. Manisha Circle, O P Road, Vadodara.
<i>Contact person for techno-commercial matters</i>	ENGINEER IN CHARGE, VGL



2. GENERAL

- 2.1. Throughout this bidding documents, the term “bid” and “tender” and their derivatives (“bidder/tenderer”, “Bid/tendered”, “bidding/tendering”, etc.) are synonymous, and day means calendar day. Singular also means plural.
- 2.2. This Instructions To Bidders (ITB) document is an integral and inseparable part of the Invitation to Tender (ITT) documentation, also called as Bid document.
- 2.3. Failure to furnish all information required by the ITT documents or submission of a bid not substantially responsive to the requirements in ITT in every respect will be at Bidder’s risk and may result in the rejection of the Bid.
- 2.4. This ITT does not in any manner impose any legal obligations on Owner or confer any rights on any other party in respect of the contents herein. Any contractual obligations or rights shall always be subject to a final and binding written contract executed between Owner and the party claiming such contractual obligations or rights.

3. COST OF BIDDING

- 3.1. The Bidder shall bear all costs associated with the preparation and submission of the bid, and Owner will in no case be responsible or liable for this cost, regardless of the conduct or outcome of the bidding process.

4. ELIGIBILITY OF BIDDERS

As per BEC

7. LANGUAGE OF BID

- 7.1. The bid prepared by the Bidder and all correspondence and documents relating to the Bid exchanged by the Bidder and Owner shall be in English language.
- 7.2. If any printed literature furnished by the bidder is in another language, it should be accompanied by an English translation of its pertinent pages. In such cases, for purposes of the interpretation of the Bid, the English translation shall prevail.

8. ZERO DEVIATION ACCEPTANCE

- 8.1. This is a Zero Deviation Bidding process. Bidders shall ensure compliance of all provisions of the ITT documents and submit their bids accordingly. Bids with any deviation to the bid conditions shall be liable for rejection.
- 8.2. Bidders shall furnish a declaration for **Zero Deviation Acceptance on letter heads** as per the format given in Annexure-A.
- 8.3. Bidder may note that no technical and commercial clarifications will be sought for after the submission of the bid.
- 8.4. Conditional bids will not be acceptable.



9. EARNEST MONEY DEPOSIT (EMD)

- 9.1. The Bidder shall submit Earnest Money Deposit along with the bid, as Bid security for amount specified in Section 1 above, failing which the bid is liable to be rejected. Earnest Money can be paid via Demand Draft or Banker's Cheque in favour of "**VADODARA GAS LIMITED**", payable at Vadodara, issued by any Indian Nationalized / Scheduled bank or first class international bank.
- 9.2. Owner shall not be liable to pay any bank charges, commission or interest on the amount of bid security.
- 9.3. The EMD of the unsuccessful Bidders will be returned by Owner, without any interest whatsoever, directly to the Bidder (s) after conclusion of bidding process.
- 9.4. The EMD of the successful bidder will be returned, without any interest whatsoever, only after receipt of performance bank guarantee after contract award, for the amount specified in the ITT & contract.
- 9.5. The EMD amount may be forfeited:
 - 9.5.1. If a Bidder withdraws its bid or impairs or derogates from the bid in any respect during the period of bid validity specified in the bid
 - 9.5.2. In case of successful bidder, if the bidder fails or declines to accept and/or sign the awarded contract or purchase order
 - 9.5.3. In case of successful bidder, if the bidder fails to submit required performance security in accordance with the provisions of the ITT & contract.

10. TENDER FEES

- 10.1. Tender fees (non-refundable) shall be charged from each interested bidder equal to amount mentioned in section 1 above.
- 10.2. Tender fees can be paid via Demand Draft or Banker's Cheque in favour of "**VADODARA GAS LTD.**", payable at Vadodara, issued by any Indian Nationalized / Scheduled bank or first class international bank.
- 10.3. Owner shall not be liable to pay any bank charges, commission or interest on the amount of bid security.

11. BID VALIDITY PERIOD

- 11.1. The bid shall remain valid for acceptance for four (4) months from the bid due date. A bid valid for a shorter period shall be rejected by Owner as non-responsive.
- 11.2. In exceptional circumstances, Owner may solicit the bidder's consent to an extension of the period of validity. A bidder granting the request will neither be required nor permitted to modify its Bid.
- 11.3. A Bidder may refuse the request without forfeiture of its EMD. A Bidder agreeing to the request will not be required or permitted to modify his bid, but will be required to formally extend the validity of its bid security for the period of the extension.



11.4. The Bidder shall not be entitled during the said period of 4 months, without the consent in writing of the Owner, to revoke or cancel his tender, or to vary the tender given, or any term thereof.

11.5. In case a bid is revoked, withdrawn or cancelled by a Bidder; or any term in the submitted Bid is sought to be varied by a Bidder, without the consent of Owner in writing, the Owner shall forfeit Earnest Money Deposit paid by the Bidder along with tender. The Owner also reserves the right to temporarily or permanently blacklist the Bidder in such cases.

12. BID PREPARATION – The Bidder shall prepare the Bid under Two Bid System.

12.1. The detailed requirements, specifications and scope for items/ services required are prescribed in the ITT documents. The bidder is expected to examine all instructions, forms, terms and specifications in the ITT.

12.2. The Bidder is expected to thoroughly examine and understand the ITB and all bid documents including all exhibits, annexure, Forms, Formats, drawings etc., enclosed in the ITT documents, before submitting the bids.

12.3. The successful Bidder will be expected to complete the Scope of Bid within the period stated in the ITT documents.

12.4. Failure to furnish all information required by the ITT or submission of a Bid not substantially responsive to the Bid Document in every respect will be at the Bidder's risk and responsibility and may result in rejection of its Bid.

12.5. The Bidder shall quote prices for all the line items strictly as per format for "Schedule of Rates" (SOR) enclosed as part of the ITT. The bid is liable to be rejected if there is any deviation from the SOR format, item/ service description, unit of measurement, quantities or any other format or content prescribed in the ITT. The bid shall be rejected if bidder does not quote for any line item in the SOR.

12.6. Bidder shall quote for all the items of Schedule of Rates (SOR) after careful analysis of cost involved for the performance of the completed item considering all provisions and terms & conditions of the ITT. In case of any activity, though specifically not covered in description of item under 'Schedule of Rates', required to complete the works as per Scope of Work, Scope of supply, Specifications, Standards, Drawings, or any other part of ITT documents, the prices quoted shall be deemed to be inclusive of cost incurred for such activity.

12.7. Unless specified otherwise by Owner, the Bidder may request to, and after due permission from the Owner's authorized representative, visit and examine the site or locations and its surroundings and obtain for itself, at its own responsibility, all the information that may be necessary for preparing the bid.

12.8. Non familiarity with the site condition will not be considered a reason either for withdrawal of bid after submission date or for extra claims. The cost of visiting the site shall be at the Bidder's own expense.



- 12.9. The Bidder or any of its personnel or agents will be granted permission by the Owner to enter its premises and land for the purpose of such visits, but only upon the express condition that the Bidder, its personnel, and agents will indemnify the Owner and its personnel and agents from and against all liabilities in respect thereof, and will be responsible for death or personal injury, loss of or damage to property, and any other loss, damage, costs, and expenses incurred as a result of the inspection.
- 12.10. Covering letter along with its enclosures accompanying the Bid document and all further correspondence shall be submitted in original.
- 12.11. All signatures in Tender Documents shall be dated, as well as, all the pages of all sections of Tender Documents shall be signed at the lower right hand corner and signed wherever required in the tender papers by the Bidder or by a person holding 'power of attorney' authorizing him/her to sign on behalf of the Bidder before submission of bid.
- 12.12. All correction(s) and alteration(s) in the entries of Bid shall be signed in full by the Bidder with date. No erasure or over writing is permissible.
- 12.13. If the bid documents are submitted in company's name, a 'Power of Attorney', in favour of the person who is authorized to sign the pre-qualification documents on behalf of the company, must accompany the bid documents.

13. SUBMISSION OF BIDS

1. Hard copy of PQ documents would be kept for the verification purpose.
 2. Hard Copy of online submitted documents, D.D. of EMD and Tender Fee must be submitted by Speed Post/RPAD address to Vadodara Gas Ltd, Vadodara in form of demand draft of local Nationalize bank to office of Vadodara Gas Ltd., GAIL House, O.P. Road, Vadodara
14. All documents and other related documents of this tender, tenderer must submit it without tenderer is liable to be rejected.

15. EXAMINATION OF BIDS

- 15.1. The Owner will examine the bids to determine whether they are complete and responsive, whether any computational errors have been made, whether required securities have been furnished, whether the documents have been properly signed, and whether the bids are generally in order.
- 15.2. Bidder is required to furnish the complete and correct information / documents required for evaluation of their bids. If the information / documents forming basis of evaluation is found to be false / forged, the same shall be considered adequate ground for rejection of the Bids and/or



forfeiture of Earnest Money Deposit and/or temporary or permanent blacklisting of Bidder by Owner for future business.

- 15.3. In case, the information / document furnished by the Bidder forming basis of evaluation of his bid is found to be false / forged after the award of the contract, Owner shall have full right to terminate the contract and get the remaining job executed at the risk & cost of such Bidder without any prejudice to the other rights available to Owner under the contract such as forfeiture of Performance Bank Guarantee/ Security Deposit, withholding of payment etc.
- 15.4. In case this issue of submission of false document comes to the notice after execution of work, Owner shall have full right to forfeit any amount due to the Bidder along with forfeiture of Bank Guarantee/ Security Deposit furnished by the Bidder, along with temporary or permanent blacklisting of Bidder for future business with Owner.
- 15.5. 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 shall be corrected. If there is a discrepancy between words and figures, the amount in words shall prevail.
- 15.6. Owner may waive any minor informality, non-conformity or irregularity in a Bid which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any Bidder.

16. ABNORMAL RATES

The Seller is expected to quote rate for each item after careful analysis of costs involved for the performance considering all specifications and conditions of order. This will avoid loss of profit or gain in case of curtailment or change of specification of any item. In case it is noticed that the rates quoted by the Seller for any item are unusually high or unusually low, it will be sufficient cause for the rejection of the bid. Unless the Buyer is convinced about the reasonableness, after scrutiny of the analysis for such rate(s) to be furnished by the Seller (on demand).

17. BID EVALUATION CRITERIA (BEC)

17.1. The Bidder who intends to participate shall submit all the necessary supporting documentary evidence mentioned below for evaluation of bids & to establish the Bidder's claim of meeting Bid Evaluation Criteria.

Sr.No. Criteria

- 1 VGL Technical Specification Compliance(Signed & stamped copy) Agreement for supplying the material as per the Specifications mentioned in the bid and not seeking deviations against the bid requirements
- 2 Previous performance of the vendor for quality of the product and meeting schedule of supplies as per VGL's requirement. (Only in case of vendors who have supplied material to VGL in past)

17.2. The job executed by a Bidder for its own concern cannot be considered as experience for Bid evaluation.



17.3. To assist in the examination, evaluation and comparison of Bids, Company may, at its discretion, ask the bidder for a clarification of its Bid. The request for clarification and the response shall be in writing and no changes in the price or substance of the Bid shall be sought, offered or permitted.

18. RIGHT OF OWNER

18.1. The Owner reserves the right to award the entire volume to a single Bidder, or to split the volume between two or more Bidders, in which case the award will be made for only that part of the work, in respect of which the bid has been accepted. The quoted rates should hold good for such eventualities.

18.2. Tenders in which any of the particulars and prescribed information are missing or are incomplete in any respect and/or the prescribed conditions are not fulfilled are liable to be rejected. The Tender containing uncalled for remarks or any additional conditions are liable to be rejected.

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

18.4. The Owner reserves the right at the time of awarding the contract to increase or decrease up to any extent, the quantity of goods and services specified in the schedule or requirements without any change in the unit price or other terms and conditions.

18.5. Owner reserves the right to accept or reject all Bids and to annul the bidding process and reject all Bids, at any time prior to award of contract, without thereby incurring any liability to the affected bidder, or bidders, or any obligation to inform the affected bidder or bidders of the grounds for Owner's action.

18.6. Owner reserves the right to reject any or all the bids received at its discretion without assigning any reason whatsoever. Responses submitted through Agents / Intermediaries will not be considered.

19. CONFIDENTIALITY

19.1. Information relating to the examination, clarifications, evaluation and comparison of bids, and recommendations for the award of a Contract shall not be disclosed to Bidder or any other person officially concerned with such process. Any effort by a Bidder to influence the Owner in any manner in respect of bid evaluation or award will result in the rejection of that bid.

19.2. Bidders shall not disclose the Bid document or any contents thereof, or any specification, plan drawing, pattern, information furnished by or on behalf of Owner in connection therewith, to any person other than a person employed by Bidder without prior permission of the Owner. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary.



20. AGENTS AND INTERMEDIARIES

- 20.1. Note that Bidder (and its Representatives) shall not use any agent or intermediary to secure, or to influence, the award of the Contract to the Bidder. OWNER may cancel, without compensation, the evaluation of the Tender and/or award of any Contract where the Bidder uses an agent or intermediary in connection with its Tender and/or award of the Contract.
- 20.2. "Representatives" means, owners, shareholders, officers, directors, employees or any other person acting on behalf of (as applicable) Bidder or Bidder's Affiliate.
- 20.3. Where in any country, a Bidder is required by law to use an agent or intermediary, this must be clearly identified in the Tender together with details of the law, the agent or intermediary and the arrangements with the agent or intermediary so that Owner may determine whether to proceed with the evaluation of the Tender.

21. JOINT VENTURE/ CONSORTIUM BIDDING

- 21.1. In the event that the Bidder is a joint venture (JV)/ Consortium formed of two or more entities, Owner will consider the same subject to compliance with the following criteria to the satisfaction of Owner:
- 21.1.1. The parties to this joint venture/ Consortium shall accept joint and several liabilities for discharging all the obligations.
- 21.1.2. Bidder shall include relevant documentation to demonstrate that the consortium/ JV is established either as a legal entity or is unincorporated. Such documentation shall establish that the consortium/ JV arrangement is based on legal principles and is legally enforceable.
- 21.1.3. The Consortium/JV must submit the Tender signed by all members of un-incorporated Consortium/JV's so that each member is legally bound by having each signature duly attested by a Notary Public to confirm signatures therein.
- 21.1.4. Bidder shall include a power of attorney for the authorized manager (leader).
- 21.1.5. The members of an unincorporated Consortium/JV shall sign a statement giving a due diligence declaration and all the information required as per the ITT.
- 21.2. Bidders to note Owner's requirement that, notwithstanding when Bidder establishes an unincorporated Consortium/JV for executing the Work, all invoices shall be submitted by and in the name of, and all payments under the Contract will be made to, the lead member and Manager of the Consortium/JV. In the event that the Consortium/JV is a separately incorporated legal entity acceptable to Owner, then payment shall be made to such legal entity.
- 21.3. If during evaluation of a Consortium/JV Tender:
- 21.3.1. Bidder makes any alterations/ changes in the constitution of Consortium/JV or replacements or inclusions or expulsion of any partner(s), member(s), of the Consortium/JV which



had originally submitted the Tender, to derive some advantages/benefits based on any development(s) having come to his knowledge at any time, or

21.3.2. Bidder makes any change in responsibilities or allocated work within the Consortium/JV,

The Tender of such Consortium/JV shall be liable for rejection unless such a change is proposed in writing and agreed to by the Owner in writing.

- 21.4. Bidder must submit a Memorandum of Understanding (MOU) between the members duly signed by authorized members. This MOU should clearly define the role/ scope of work of each partner/ member and should clearly define the leader of the Consortium/JV. MOU must also state that all the members of the Consortium/ JV shall be jointly and severally responsible and liable for discharging all obligations under the Contract.
- 21.5. Signing of Contract: In the event the work is awarded to the Consortium/JV, the Contract may be signed by the leader of the Consortium/JV and the responsibility of each Consortium/JV member shall be joint and several.
- 21.6. The leader on behalf of the Consortium/ JV shall undertake full responsibility for timely completion of work and shall also be responsible for resolving disputes/ misunderstanding/ undefined activities if any amongst all the Consortium/ JV members.
- 21.7. Bidder to note that the tender submitted by Consortium/ JV shall be the only tender either directly or as sub-contractor of any tier by any of the members of the Consortium/ JV for this ITT. Non-compliance of this provision may result in rejection of the Tender.

ENGINEER IN CHARGE



VADODARA GAS LIMITED

SECTION-II: GENERAL CONDITIONS FOR THE SUPPLY OF GOODS

FOR

BID FOR SUPPLY OF PRESSURE REGULATING BOX WITH COMPLETE ASSEMBLY

BID NO: VGL/PNG/PRB/2016-17



GENERAL TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS

- 1. COMMENCEMENT AND DURATION
- 2. ENTIRE CONTRACT
- 3. INTERPRETATION
- 4. DEFINITIONS
- 5. ASSIGNMENT
- 6. STATUS OF THE BUYER AND THE SELLER
- 7. THE SELLER'S REPRESENTATIVES
- 8. THE SELLER'S PERFORMANCE
- 9. ORDER AMENDMENT
- 10. INSPECTION, MONITORING, TESTING AND EXPEDITING
- 11. MARKING OF THE GOODS
- 12. FREE ISSUE MATERIALS
- 13. PACKAGING AND CARRIAGE
- 14. PROPERTY AND RISK
- 15. DELIVERY
- 16. REJECTION
- 17. TIME OF PERFORMANCE AND EXTENSION OF TIME
- 18. SPARES AND MAINTENANCE
- 19. WARRANTY
- 20. SERVICES
- 21. PRICE VARIATION
- 22. INVOICING INSTRUCTIONS
- 23. TERMS OF PAYMENT



24. ACCESS AND AUDIT

25. SAFETY, HEALTH AND ENVIRONMENTAL

26. CONFIDENTIALITY

27. TAXATION

28. TRANSIT INSURANCE

29. CHANGE IN CONSTITUTION:

30. CLAIMS AND LIENS

31. INTELLECTUAL PROPERTY

32. DRAWINGS AND DATA

33. FORCE MAJEURE

34. TERMINATION.....

35. INDEMNITY

36. PERFORMANCE GUARANTEES

37. SURVIVORSHIP

38. PERMITS, LICENCES, STATUTORY AND OTHER REQUIREMENTS

39. PUBLICITY AND PRESS ANNOUNCEMENTS

40. NOTICES

41. GOVERNING LAW

42. LANGUAGE

43. CONFLICT OF INTEREST, ETHICAL STANDARDS AND BUSINESS PRINCIPLES

44. ANTI CORRUPTION OBLIGATIONS

45. AGENTS AND INTERMEDIARIES

46. ETHICAL BEHAVIOUR

APPENDIX A SPECIAL TERMS AND CONDITIONS FOR THE SUPPLY OF THE GOODS

APPENDIX B - SPECIFICATION OF THE GOODS/BOM.....



APPENDIX C - PAYMENT SCHEDULE

APPENDIX D - SERVICE CONDITIONS - NA.....

APPENDIX E - OPTIONAL CLAUSES - NA.....

APPENDIX F – PERFORMA OF PERFORMANCE BANK GUARANTEE

APPENDIX G: PARENT COMPANY GUARANTEE - NA.....

APPENDIX H: SUPPLIER QUALITY MANUAL.....



The Seller shall supply the Goods to the Buyer in accordance with the following terms and conditions:

1. Commencement and Duration

The Seller shall deliver the Goods in accordance with the delivery dates set out in this Contract. The duration of this Contract (subject to Clause 37) shall be for the period specified in the Order or the Form Of Agreement unless terminated earlier in accordance with the provisions hereof.

2. Entire Contract

2.1 The several documents listed below (where applicable) form this Contract and are to be taken as mutually explanatory. In the event of any conflict or ambiguity, the following order of precedence shall apply:

- a) The Form of Agreement / Order as the case may be;
- b) The Special Conditions (Appendix A) (if any);
- c) These General Conditions;
- d) The Specification (Appendix B)
- e) The Schedule of Rates (Appendix C)
- f) The Service Conditions (Appendix D) (if applicable)
- g) Optional Clauses (Appendix E)
- h) Performance Bank Guarantee (Appendix F)
- i) Parent Company Guarantee (Appendix G)
- j) Buyer's Business Principles (Appendix H)
- k) Buyer's HSSE Norms (Appendix I)

2.2 This Contract constitutes the entire agreement between the Buyer and the Seller relating to the transactions contemplated by this Contract and there are no terms, conditions or provisions, either oral or written, between the parties other than those herein contained. This Contract supersedes any and all oral or written agreements, representations, (innocent or negligent) inducements or understandings of any kind or nature between the parties relating to the Goods. No amendment to this Contract shall be valid unless made and agreed to in writing by an authorized representative of the Parties.

3. Interpretation

3.1 Failure of the Buyer to exercise any option, right or privilege under this Contract, or to demand compliance as to any obligation or covenant of the Seller, shall not constitute a waiver of any such option, right or privilege, or performance thereof, unless a waiver is expressly given and is evidenced by a properly executed instrument.

3.2 Words in this Contract importing the singular only shall also include the plural, words importing the masculine gender shall include feminine and neuter and references to person shall include firm, corporation or partnership where the context requires.

3.3 Any provision herein which is, or becomes, illegal or unenforceable shall be severed from this Contract and shall not affect the validity of the remaining provisions hereof.

3.4 Reference in this Contract to any statutory provision shall be to the Laws in India unless specifically stated to the contrary and shall include a reference to that provision as amended, extended or re-enacted or to any statutory replacement thereof (either before or after the date hereof) and to any former statutory provision replaced (with or without modification) by the provision referred to and shall also include reference to all statutory instruments and orders made pursuant to any such statutory provision.

3.5 The headings contained in this Contract are for the purpose of convenience only and shall not affect the construction of this Contract.



4. Definitions

4.1 In this Contract the following words and expressions shall have the meaning hereby assigned to them except where the context otherwise requires:-

"Advantage"	means any financial or other advantage, payment, gift, promise or transfer of anything of value.
"Affiliate"	shall mean in relation to a Party, any Person that, directly or indirectly, through one or more intermediaries, controls or is controlled by that Party, or is under common control along with that Party. It being understood that the term "control" used herein means ownership by one Person of more than fifty percent (50%) of the voting securities of the other company, or such a Person having the power to direct, administer and dictate the policies of the other company or where such Person has the ability or entitlement to appoint a majority of the Board of Directors of the other Person even where the voting securities held by such a Person exercising such effective control in that other company is less than fifty percent (50%) and the term "controlled" shall be construed accordingly.
"Amendment"	means the addition to, the deduction from, or any other way of varying the Goods, the Seller's performance of the work associated with the Goods or any other matter under this Contract.
"Applicable Corruption Law"	means all of the Laws, rules, regulations and other legally binding measures relating to bribery, corruption, money laundering, fraud or similar activities: (i) of India including the Prevention of Corruption Act, []; (ii) of the country of incorporation of the Seller and Seller's ultimate parent company and of the principal place of business of such ultimate parent company];
"Bid"	mean the Bid submitted by the Seller for acceptance by the Buyer
"Books And Records"	comprise a Party's books and records in relation to the Matters including, without limitation, its corporate books, bank statements, books of account and supporting documentation (including, without limitation, invoices), whether in paper or other form.
"Buyer"	is as defined in the Order or the Form of Agreement.
"Buyer Group"	means the Buyer and its Affiliates, Co-Venturers, co-licensees and their contractors other than the Seller or Subcontract ORS and agents and its or their employees, directors and / or officers.



- "Buyer Representative"** means the person appointed from time to time by the Buyer and notified in writing to the Seller to act as the Buyer's Representative for the purpose of this Contract or, in absence of such notification, the Buyer.
- "Certificate Of Compliance"** means a written certificate substantially in the form set out in Appendix H, signed on behalf of the Seller by a duly authorised director or officer who has had direct involvement with or oversight of the performance of the Seller's obligations under the Contract confirming compliance by the Seller, throughout the preceding calendar year with the representations, warranties and covenants as set out in the Contract.
- "Claims"** means claims, liens, judgments, penalties, awards, remedies, debts, liabilities, damages, demands, costs, losses, expenses or causes of action, of whatever nature, including without limitation, those made or enjoyed by dependents, heirs, claimants, executors, administrators, successors, survivors or assigns.
- "Contract"** means these General Conditions, together with the Form of Agreement or the Order (if applicable), the Order Amendment and all appendices attached hereto or incorporated by reference, as originally executed or as may from time to time be supplemented or amended in accordance with the applicable provisions hereof.
- "Contract Price"** means the sum(s) payable to the Seller by the Buyer in accordance with this Contract.
- "Connected Person"** means, in relation to a person, that person's husband or wife and any other member of that person's immediate family, including (without limitation) his or her mother, father, child, brother, sister, grandparent or grandchild and the husband or wife of any such immediate family member.
- "Delivery Point"** means the delivery point for the Goods designated by the Buyer and more particularly stated in Clause [] of the Order or the Form of Agreement. In case there is no specific mention of the delivery point in the clauses as referred herein above the delivery point shall be deemed to be the Buyer's site situated at []
- "Dispute"** shall mean any dispute, disagreement, controversy, or claim of any kind or type, whether based on contract, tort, statute, regulation, or otherwise, arising out of, relating to, or connected with this Contract, or the operations carried out under this Contract, including any dispute concerning the existence, validity, interpretation, implementation, performance, breach, or termination of this Contract or any provision hereof.



"Form of Agreement"	means the Form of Agreement attached hereto, if applicable.
"General Conditions"	means these General Terms and Conditions for the Supply of Goods.
"Goods"	means the goods specified in this Contract to be supplied by the Seller pursuant to and in accordance with the terms of this Contract.
"Government"	means the Government of India.
Law	
"HSSE Norms"	shall mean the health, safety, security and environmental norms of the Buyer which are to be followed by the Seller to ensure safety in the Buyer's business and which are based on internationally accepted standards, procedures and practices in the natural gas industry. The Seller shall obtain a copy of the HSSE Norms from the Buyer at the time of execution of this Contract and shall thereafter obtain updates on the same from the Buyer from time to time during the term of the Contract.
"Intellectual Property Rights (IPR)"	shall mean and include any patent, copyright including the copyright in the signage, registered design, trademark (whether or not registered), know-how, Confidential Information or other industrial or intellectual property right presently held or expected to be held by the Buyer under the Law or under Law in any part of the world, including a right to apply for such intellectual property protection/registration.
"Law/Legislation"	means the substantive Laws of India (whether in force at the date of signing the Order or enacted subsequently and as amended, extended or re-enacted) and shall include any Central, State or other statute, enactment, ordinance, code, directive, notice, decree, order, regulation, rule, Law, or other applicable legislative or administrative action of a Governmental Authority or a final decree, judgment or an order of a court of India or any other public instrument-giving rise to rights and/or obligations which are enforceable before the courts in India.
"Matters"	means those matters which are the subject of this Contract and matters arising out of or in connection with this Contract / Order.
"Offer"	means to offer, promise or give, whether directly or indirectly, to another person (or to agree to do so) and "Offered" will be construed accordingly.
"Subcontractor"	means the subcontractors, consultants, suppliers, intermediaries and any other person providing services to or acting on behalf of Seller who are involved in Matters.



"Order"	means the Purchase Order / Call-off Order attached hereto, if applicable.
"Order Amendment"	means a written notice by the Buyer to the Seller modifying the Goods (or part thereof), the Seller's performance of the work associated with the Goods (or part thereof) or any other matter under this Contract. Such Amendments shall be communicated by means of the Buyer's numbered Order Amendment.
"Party or Parties"	means the Buyer and the Seller together or individually as the context requires.
"Payment Schedule"	means the Buyer's payment procedures and the rates as set out in Appendix C (Payment Schedule) and/or in the Order as the case may be for the supply of the Goods and the performance by the Seller of its other obligations under this Contract.
"Public Official"	means: <ul style="list-style-type: none">(i) any officer, employee, director, principal, consultant, agent, or representative, whether appointed or elected, of any government (whether Central, Federal, State or Provincial), ministry, body, department, agency, instrumentality or part thereof, of any public international organisation, or any state owned or state controlled entity, agency or enterprise or joint venture/partnership (including a partner or shareholder of such an enterprise)(ii) any person acting in an official capacity for or on behalf of (a) any government, ministry, body, department, agency, instrumentality or part thereof, or (b) any public international organisation, or (c) any political party or political party official or candidate for office and for the purposes of this definition, references to the term "public international organisation" includes (without limitation) organisations such as the World Bank, the International Finance Corporation, the International Monetary Fund and the Inter-American Development Bank.
"Representatives"	means the Seller's Affiliates and its and its Affiliates' respective owners, shareholders, officers, directors, employees and agents, and any Subcontractors or other person(s) acting on the Seller's behalf.
"Request"	means to request, to agree to receive or to accept.
"Seller"	means the person, firm or corporation specified in the Order or the Form of Agreement with whom this Contract is made and its or their legal personal representatives, successors and permitted assigns.



"Seller's Equipment"	means any item supplied or used by the Seller and/or its Subcontractors pursuant to this Contract.
"Seller Group"	means the Seller and its Affiliates, agents and its or their employees, directors and / or officers.
"Seller's Personnel"	mean the employees, directors and / or officers of the Seller Group employed, engaged or provided under this Contract.
"Seller's Representative"	means the person appointed from time to time by the Seller and notified in writing to the Buyer to act as its representative for the purposes of this Contract or, in default of such notification, the Seller
"Service Conditions"	means the Buyer's General Terms and Conditions for the Provision of Services as set out in Appendix D.
"Special Conditions"	means the special terms and conditions set out in Appendix A if any.
"Specification"	means the description of the Goods set out in Appendix B.

5. Assignment

- 5.1 The Buyer shall be permitted to assign and re-assign (whether on one or several occasions) all or any of the provisions of this Contract to any of its Affiliates or any other person without the agreement of the Seller.
- 5.2 The Seller shall not assign this Contract in whole or in part or any benefit of any legal or equitable interest herein without the prior written consent of the Buyer.
- 5.3 The Seller shall be responsible for acts, omissions and defaults of any of its representatives including its agents as fully as if they were the acts, omissions and defaults of the Seller and any assignment shall not relieve the Seller of any of its responsibilities under this Contract or at Law.

6. Status of the Buyer and the Seller

In performing its obligations under this Contract the Seller shall maintain complete employer control over the Seller's Personnel. This Contract constitutes a principal to principal relationship between the Seller and the Buyer and does not and shall in no manner create or be construed to create any employment, agency, partnership, joint venture or any other relationship between the Parties hereto. The Seller shall, as between the Seller and the Buyer, be responsible for and shall be liable for, indemnify, defend and hold harmless the Buyer against all wages, fees, contributions, insurances, charges and taxes required by LAW to be paid by an employer in respect of the Seller's Personnel and/or the supply of the Goods and shall procure that all appropriate deductions are made in respect of all applicable taxes and other contributions.

7. The Seller's Representatives

- 7.1 The Seller may by written notice to the Buyer, appoint and nominate a Seller representative and such Seller representative to be appointed by the Seller shall be subject to the prior consent and approval of the Buyer.



7.2 The Seller through the Seller Representative may exercise such rights and shall carry out such duties as are specified in this Contract.

8. The Seller's Performance

8.1 It is a condition of this Contract that the Goods shall (unless otherwise agreed in writing):

- a) Be of good and sound design, materials and workmanship;
- b) Be of merchantable quality and fit for the purpose for which they are supplied under this Contract;
- c) Conform as to quantity and description with the particulars stated in this Contract;
- d) Correspond with samples or patterns, if any, referred to in this Contract;
- e) Comply with the Specification and the appropriate international standards or equivalent specifications relevant to the Goods;
- f) Comply with all Law/Legislation applicable to the Goods including (but not limited to) the Acts and rules as stated in Annexure- A; and
- g) Be free from any defect in title.

8.2 The Seller is expert in the provision of the Goods and the Buyer is at all times relying on the skill, knowledge and workmanship of the Seller. The provisions of sub-clause 8.1 hereof shall apply notwithstanding that the Buyer may have included in this Contract certain specifications as to, for example, the materials from which or the manner in which the Goods are to be constructed.

8.3 The Seller shall perform its obligations under this Contract with all due diligence, in good and workmanlike manner to the highest standard and in accordance with the provisions of this Contract and to the satisfaction of the Buyer.

8.4 The Seller shall have informed itself fully and studied carefully the specifications, drawings and all other data relating to and necessary for the performance of this Contract and shall have obtained for itself a full understanding and knowledge of the nature and scope of this Contract and of the prevailing conditions relevant thereto, under which the Goods will operate. Any information which the Buyer may give to the Seller shall be the best information available to the Buyer but the Buyer shall not be responsible for the exactness and sufficiency of the information provided.

8.5 The Seller confirms that it is familiar with all conditions, risks, contingencies and other circumstances which may impact on this Contract and that it has taken them into account in determining the Contract Price, the timetable for delivery of the Goods and all other factors affecting its performance of this Contract.

8.6 The Seller shall check each Order or Order Amendment with care for any error, omission or ambiguity and if any be discovered shall immediately inform the Buyer thereof (and if such information is in the first instance given verbally Seller shall confirm in writing within two working days). Any work associated with the Goods affected by such discovery which is thereafter performed is at the Seller's risk and expense.

9. Order Amendment

9.1 The Buyer has the right at any time to require the Seller to perform an Order Amendment as directed.

9.2 The Seller may submit to the Buyer for approval a request for an Order Amendment which shall (so far as practicable):

- a) Describe the proposed Amendment;
- b) Quote in a firm lump sum amount (in terms of rates set out in the Payment Schedule) an increase or decrease in the price that would result from carrying out the Amendment requested;



- c) Indicate the date when the Seller would begin the Amendment and the date when it would be completed; and
- d) If the Seller believes that the request would involve a change in the time taken for delivery/completion of the Goods, give an indication of the extent of such change.

9.3 The Seller shall provide the Buyer with whatever supporting evidence the Buyer may reasonably require to enable the Buyer to value or assess any request for an Order Amendment.

9.4 The Seller shall not commence to carry out any Amendment nor shall any claim be valid in respect thereof until the Seller has received from the Buyer the signed Order Amendment setting out the agreed basis for carrying out such Amendment.

9.5 The Buyer shall have the right to require by notice in writing that the Seller carries out an Amendment prior to agreement being reached on any appropriate adjustment to the payment schedule, provided that such Amendment is to the satisfaction of and agreed by the Buyer. Failure by the Seller to promptly carry out an Amendment as required by the Buyer shall constitute a material breach of this Contract.

9.6 Requests by the Seller for an Order Amendment shall be valid only if confirmed by the relevant Order Amendment, a countersigned copy of which shall accompany the invoice relating to the Amendment in question.

10. Inspection, Monitoring, Testing and Expediting

10.1 The Buyer, by its authorized officers and agents, shall at all times be granted access to the Seller's premises to enable the Buyer to ensure that the Goods will comply with and be supplied in accordance with this Contract and as per the Quality Manual, more particularly described and annexed hereto as Appendix -H. This may include expediting, inspecting, monitoring and testing of the Goods during and on completion of manufacture prior to delivery. Such expediting, inspecting, monitoring and testing shall not be interpreted as acceptance of the Goods, or relieve the Seller of any obligations under this Contract.

10.2 Before delivering the Goods the Seller shall, at no extra cost to the Buyer, inspect and test the Goods for compliance with this Contract and supply to the Buyer certificates of the results of such inspection and testing as may be reasonably required by the Buyer or required by Legislation.

10.3 For the purposes of Sub-Clause 10.1 hereof the Seller shall make available such of Seller's Personnel and such tools, instruments, apparatus, equipment, facilities, services and materials for carrying out such tests (or on demand, confirmatory retests), at no extra cost to the Buyer, as the Buyer may reasonably request.

10.4 Any expediting, monitoring, review, approval, acknowledgement, test or acceptance or waiver thereof by the Buyer shall not relieve the Seller from any of its obligations under this Contract in respect of any subsequent defects in the design, quality, materials, workmanship or fitness for purpose of the Goods.

10.5 The Seller shall supply, at no extra cost to the Buyer, such originals or legible certified copies of certificates of analysis, test, inspection or origin as may be required by the Buyer or by Legislation.

10.6 VGL reserves right to test the material supplied by supplier as & when require and during testing if the material is found not to the specification, VGL will proceed as per rules and testing fees shall be recovered from the supplier. TERMS AND CONDITIONS FOR INSPECTION OF quality assurance wing of ERDA or other inspecting agency shall be applicable in fully and completely.



11. Marking of the Goods

11.1 The Seller shall ensure that the Goods and, where the components of the Goods are manufactured by different persons, those components are clearly and permanently marked with the manufacturer's name, trademark or distinguishing mark which clearly identifies the manufacturer. In addition, where

the Seller is not the manufacturer, the Seller shall ensure that the Goods are, without infringing third parties' rights including IPR, clearly and permanently marked as having been supplied by the Seller to the Buyer.

11.2 The Seller shall ensure that prior to delivery; the Goods and all components are marked in accordance with the provisions of this Contract. Where this Contract makes no such provision, the Goods or any components shall not (without the prior written consent of the Buyer) be marked with the name, badge or any other mark used exclusively by the Buyer. Any Goods or components so marked shall not be disposed of to any third party without the prior written consent of the Buyer unless such markings are first erased to the satisfaction of the Buyer.

12. Free Issue Materials

12.1 If, for the purposes of this Contract, materials are to be supplied by or on behalf of the Buyer for incorporation into the Goods (hereafter referred to as "Free Issue Materials") they shall be and remain the property of the Buyer, but upon delivery to the Seller become and remain thereafter at the sole risk of the Seller until the delivery of the Goods and the return of any surplus Free Issue Materials to the Buyer.

12.2 The Seller shall clearly identify and mark as "the property of VGL", separately store, safeguard, maintain in good order and condition and keep such records as the Buyer may require of all Free Issue Materials.

12.3 The Seller shall use all Free Issue Materials economically and solely in connection with this Contract. Damage to or loss or waste of any Free Issue Materials arising from bad workmanship, carelessness or the Seller's failure to comply with the provisions of sub-clause 12.2 shall be made good at the expense of the Seller either by the Seller or as the Buyer otherwise instructs, by replacement materials of at least the equivalent quality.

12.4 All scrap and surplus Free Issue Materials are to be marked as "the property of VGL", kept separately and reported for disposal instruction at regular intervals to the Buyer.

13. Packaging and Carriage

13.1 If necessary, the Goods shall be packed, crated or palletted in such a manner as to reach the Delivery Point undamaged and in good condition.

13.2 Unless otherwise stated in this Contract, all packaging and carriage shall be included in the Contract Price. Returnable cases, packages and other containers shall be supplied by the Seller free of charge unless previously agreed in writing. Where previously requested in writing, such cases, packages and other containers will be returned to the Seller but, whilst reasonable care shall be taken to ensure that they are received back by the Seller in good condition, such return shall be at the Seller's risk and expense.

13.3 The Seller shall send with each consignment of the Goods:

- a) A packing note (together with a copy of material test certificate(s) where applicable) with the Goods, detailing the number of this Contract, description, code number (if any) and the quantity of Goods consigned;



- b) An advice note or notes, as instructed on the Order or Order Amendment including details as for sub-clause 13.3(a) above;
 - c) Additional documentation as detailed in the Specification or Order Amendment;
 - d) The Seller's clear and full instructions with regard to all hazards affecting the Goods; and
- e) Documentation to prove the Goods supplied have been inspected and, if applicable, are properly completed and therefore fit for purpose.

14. Property and Risk

- 14.1 Without prejudice to the rights and obligations of the Parties under this Contract and unless otherwise agreed in writing, the property in the Goods or any part thereof shall pass to the Buyer on delivery or on payment by the Buyer (whichever is earlier). In the event of part payments prior to delivery, property in the Goods shall pass in proportion to payments made. Notwithstanding passing of property to the Buyer risk shall not pass to the Buyer until all of the Goods have been delivered in accordance with this Contract at the Delivery Point.
- 14.2 Where the property in any of the Goods passes to the Buyer before delivery, such Goods shall be stored separately, clearly identified and marked as "the property of "VGL" or in such other manner as the Buyer may require.
- 14.3 Unless otherwise agreed in writing, all tools, patterns, drawings, designs, other documents, equipment or materials supplied by or on behalf of the Buyer shall be stored separately, marked as "the property of VGL" and remain the property of the Buyer and the Seller shall be responsible for their safe custody and return. They shall not, without the prior written consent of the Buyer, be disposed of by the Seller to any third party nor used except for the purpose of carrying out this Contract.

15. Delivery

- 15.1 The Seller shall deliver the Goods to the Delivery Point at the time(s) specified in this Contract.
- 15.2 Delivery shall be deemed to have been made on acknowledgement of receipt of the Goods by the Buyer. Delivery of the Goods to a carrier (whether named by the Buyer or not) for the purpose of transmission to the Buyer is not deemed to be and shall not constitute delivery of the Goods to the Buyer.
- 15.3 The Buyer, acting reasonably, may alter the dates or place of delivery upon giving the Seller reasonable notice in writing of such alterations.
- 15.4 If the Seller fails to deliver any Goods in accordance with this Contract then, subject to the provisions of Clause 17 (Time of Performance and Extension of Time) hereof, the Buyer may terminate this Contract or any part of it and reserves all rights in damages and otherwise arising.
- 15.5 If the Goods are incorrectly delivered the Seller shall be responsible for any additional expense incurred in redelivering such Goods in the correct manner/to the correct destination and/or at the correct time.
- 15.6 The quantity of Goods delivered must not exceed the quantity specified in the Form of Agreement or Order. Goods in excess of the quantity specified shall at the Buyer's option be returned to the Seller at the Seller's expense.
- 15.7 Acceptance of the Goods by the Buyer shall not relieve Seller of any of its obligations under this Contract.
- 15.8 The seller shall have to deliver material within 5-6 weeks from the date of Order / part Order.



16. Rejection

16.1 Without prejudice to the Buyer's other rights under this Contract or at Law, if any part of the Goods delivered by the Seller is not in accordance with this Contract, the Buyer may reject such Goods. As

soon as practicable as and not later than 20 days after such rejection, the Buyer shall give the Seller written notice of such rejection, specifying the reason therefore.

16.2 The Buyer shall have the right to require the Seller at the Seller's own risk and expense, expeditiously to collect and replace any rejected Goods. Should the nature or size of the rejected Goods or other circumstances make it impracticable for the rejected Goods or part thereof to be removed prior to delivery of the replacement Goods, the Buyer may require the Seller to carry out the necessary replacement at site at the Seller's expense.

16.3 If the Seller fails to fulfil its obligations under this clause the Buyer may:

- a) Terminate this Contract or any part thereof without prejudice to its existing rights and remedies; and/or
- b) Recover as a debt due from the Seller all extra costs and expenses arising from or in connection with any Goods being found to be defective, including but not limited to those of employing others, repairing, modifying or testing defective Goods, purchasing alternative Goods elsewhere and storage, as appropriate.

16.4 Where the Seller replaces any Goods in accordance with this Clause, the provisions of this Contract shall apply to the replacement Goods.

17. Time of Performance and Extension of Time

17.1 The Seller acknowledges the importance to the Buyer of receiving the Goods at the times specified in this Contract and undertakes to take all steps necessary to achieve the delivery dates so specified. In this respect, time shall be of the essence. No other activity of the Seller shall take precedence over the supply of the Goods.

17.2 Without prejudice to the Buyers other rights available under the Contract and/or Law in case the Seller fails to deliver the material (s) / execute the Order within the date specified or agreed as in the inquiry or order, the Buyer shall be entitled to charge liquidity damages (LD) @ 0.5% of the basic cost or part thereof limited per week to maximum of 5% of undelivered portions. In addition to this the Buyer may decide to levy an additional penalty up to 5% of the total order value on case-to-case basis which will be purely on the discretion of the Buyer.

17.3 The Seller shall within ten working days of the receipt of this Contract or the Order or the Order Amendment, as applicable, provide the Buyer with a detailed production schedule to meet the delivery date specified in this Contract.

17.4 The production schedule shall be in a format approved by the Buyer and shall include:

- a) The number of weeks required to prepare and submit drawings to the Buyer;
- b) The number of weeks required for purchase of all materials and dates by/periods within which the Seller requires such materials to be available to it; and



- c) A fabrication schedule, showing the number of weeks required for each of the various operations to complete the Goods (including testing / packing / protection) At weekly intervals during the performance of this Contract or as may otherwise be required by the Buyer, the production schedule will be brought up to date and will show the proportion of completion in each of the above sections a), b) and c).

17.5 The Seller shall immediately notify the Buyer of any event or circumstance that may give rise to any delay in the delivery of the Goods other than arising from reasons covered by the provisions of Clause 33 (Force Majeure) hereof (in respect of which notice shall be given in accordance with Clause 33.4). The Seller shall immediately give details to the Buyer Representative of the effect or anticipated effect on the performance of its obligations under this Contract and such action as it intends to take to mitigate the same.

17.6 Should it become reasonably apparent that delivery of the Goods or part thereof will or may be delayed, the Seller shall forthwith

- a) Give notice to the Buyer of the cause of the delay together with details of all factors affecting such delay and an estimate of the length of the delay; and
- b) Provide to the Buyer for investigation, detailed particulars of any change to this Contract which Seller may consider necessary for extending the time for performance of this Contract.

17.7 If the Buyer agrees that delivery of the Goods or part thereof is likely to or has been delayed beyond the date or dates stated in this Contract or beyond any extended time previously agreed and that such delay is by reason of:

- a) Any suspension requested by the Buyer, except in cases of breach on the part of the Seller;
 - b) Force Majeure in accordance with Clause 33 hereof;
 - c) any delay by the Buyer in supplying materials, plant, equipment, drawings, information, approvals, or any other matter specified in this Contract; or
- Any other act of prevention directly attributable to the Buyer;

17.8 Then the Buyer shall grant such extension or extensions of time to this Contract as the Buyer considers reasonable in all the circumstances.

17.9 The Seller shall at all times prevent, avoid, overcome or minimize any delay and shall take all measures as may be required at no expense to the Buyer (except in cases of breach on the part of the Buyer) to proceed with this Contract. If the Buyer considers in its discretion that such measures are unlikely to be effective then the Buyer shall have the right, at its sole discretion, to terminate this Contract or any part of it in accordance with clause 34 (Termination) and reserves all rights in damages and otherwise arising.

17.10 The Buyer shall not grant an extension of time for the delivery of the Goods or part thereof unless the Seller has complied with its obligations under Sub-Clauses 17.3 and 17.6 hereof.

17.11 The Buyer may at any time by written notice require the Seller to suspend or postpone completion and/or delivery of the Goods or any part thereof. The Seller shall take all measures necessary to protect and secure the part or parts of the Goods which has already been delivered or completed or partially completed up to the date of suspension. If the completion and/or delivery of the Goods is suspended or postponed by the Buyer, the date for delivery may be extended to such later date as the Buyer and Seller may agree, satisfaction of the Buyer, providing that no such cost shall be payable by the Buyer if the suspension arises as a result of any act, default or neglect on the part of the Seller or in respect of any of the circumstances referred to in Clause 33 (Force Majeure) hereof.



18. Spares and Maintenance

- 18.1 The Seller shall provide for the Goods, either in stock or to the order of the Buyer, a supply of spares or replacement parts at reasonable prices for a period of two years at the discretion of the Buyer from the date on which the Goods are put into operational service. The range of spares shall be sufficient to keep the Goods in full operational service and shall be fully compatible with, but not necessarily identical to, similar items previously supplied.
- 18.2 In addition, the Seller undertakes that it shall, if so requested by the Buyer, enter into a separate contract with the Buyer to provide maintenance services at reasonable prices or rates on terms and conditions specified in this Contract, or if none are specified, on terms and conditions to be agreed between the Buyer and the Seller.
- 18.3 If required by the Buyer, the Seller shall provide in respect of the period of two years at the discretion of the Buyer from when the Goods are put into operational service:
- a) A firm quotation for the supply of spares or replacement parts;
 - b) A firm quotation for the supply of maintenance services; and
 - c) An outline maintenance programme.

19. Warranty

- 19.1 Without prejudice to the rights of the Buyer under this Contract the Seller guarantees the Goods against the Seller's faulty design, workmanship or materials arising or becoming apparent within a period of 24 months from the date when the Goods have been put into operational use either following delivery or following the repair, modification or replacement of the Goods or any part thereof.
- 19.2 The Seller hereby warrants Spare parts for normal operation of the Goods against any defects or failure as provided in Clause 19.1 hereof for a period of 24 months from the date when they have been put into service except for those parts whose normal working life as stated in this Contract is less than 24 months. The Seller hereby warrants that all spare parts repaired or replaced for a period of 24 months or such shorter period as stated in this Contract from the date of such repair or replacement.
- 19.3 The Buyer may at its sole discretion require the Seller or others at the Seller's own risk and expense, expeditiously to repair, modify or replace defective Goods. Should the nature or size of the defective Goods or other circumstances make it impracticable for the defective Goods or part thereof to be removed, the Buyer may require the Seller or others to carry out the work necessary for repair, modification, or replacement of the Goods on site at the Seller's expense.
- 19.4 If the Seller fails to fulfil its obligations under this Clause, the Buyer may:
- a) Terminate this Contract or any part thereof in accordance with clause 34 (Termination) without prejudice to its existing rights and remedies; and/or
 - b) Recover as a debt due from the Seller all extra costs and expenses arising from or in connection with any Goods being found to be defective, including but not limited to those of employing others, repairing, modifying or testing defective Goods, purchasing alternative Goods elsewhere and storage.
- 19.5 Where the Seller repairs, modifies or replaces any Goods in accordance with this Clause the provisions of this Contract shall apply to the repaired, modified or replacement Goods.
- 19.6 Where applicable, the Buyer shall have the right to assign the benefit of this guarantee to the Buyer's successors and/or assignees. When requested by the Buyer, the Seller shall assign to the Buyer the full benefits of any Subcontractor's guarantees obtained by the Seller.



19.7 All other guarantees, warranties, conditions or terms relating to fitness for purpose, merchantability or condition of the Goods whether implied by statute, common Law or otherwise (other than those contained in this Contract) are excluded.

20. Services

20.1 The Seller acknowledges and agrees that it is a fundamental term of this Contract that any installation, service, maintenance, repair, modification or replacement or similar service which Seller is required to carry out shall be carried out under the terms and provisions of the Service Conditions.

20.2 For the avoidance of doubt, none of the provisions of the Service Conditions shall serve to reduce or eliminate the obligations of Seller and the rights of Buyer (including without limitation guarantees or warranties given or made by the Seller to the Buyer in respect of the Goods) set forth within this Contract with respect to the supply of the Goods or the installation, service, maintenance, repair, modification or replacement of the Goods supplied by the Seller at any time whatsoever and/or claims by the Buyer Group against the Seller arising directly or indirectly in connection with the Goods or this Contract including, without limitation, in respect of:-

- a) loss, damage, loss of use or recover of physical property owned, supplied, hired, chartered or borrowed by the Buyer Group or any other right of Buyer; and
- b) Injury to or sickness, disease or death of any person employed by or engaged on behalf of the Buyer Group.

21. Price Variation

Unless otherwise agreed this Contract shall be on a fixed price/rates basis, and the rates and prices set out in this Contract shall not be varied for any reason whatsoever.

22. Invoicing Instructions

Invoices shall be submitted to the address designated on the Payment Schedule along with the list of documents to be stated by the Buyer from time to time following receipt of the Goods by the Buyer unless otherwise specified in the Payment Schedule and shall detail, or have attached schedules detailing, all the work carried out under this Contract for which payment is claimed.

Each invoice shall clearly show:-

- a) This Contract number and Order number (if any);
- b) The Delivery Point; and
- c) The total additional valuation of any Order Amendments.

Failure to include the required information on the Seller's invoices shall entitle the Buyer to return such invoices unpaid to the Seller for correction.

23. Terms of Payment

23.1 Subject to the completion of the Seller's obligation in a manner satisfactory to the Buyer in all respects and strictly in accordance with the terms of this Contract, the Buyer shall pay to the Seller the amounts ascertained in accordance with the Payment Schedule.



- 23.2 The Seller is deemed to have satisfied itself as to the circumstances (including risks and contingencies) affecting the price for the provision of the Goods and/or the cost to the Seller of supplying the Goods and to the correctness and the sufficiency of the rates, lump sum prices and charges specified in this Contract for the Goods which shall, except insofar as it is otherwise provided in this Contract, cover all its obligations under this Contract and all matters and things necessary for the proper supply of the Goods, whether specifically stated by reference to this Contract.
- 23.3 The Buyer shall make payment in the currency stated in this Contract.
- 23.4 The Buyer shall pay or cause to be paid the due amount within 42 days after the date of receipt of the Buyer's correctly submitted invoice in accordance with the requirements of this Contract.
- 23.5 If the Buyer disputes any item in any invoice, in whole or in part, then the Buyer shall be liable to pay only the undisputed portion of such invoice until such time as the Buyer and the Seller have reached agreement as to what payment, if any, is due or what other action will be taken by the Buyer in respect of the disputed amount. The Buyer shall promptly notify the Seller of any such disputed amount.
- 23.6 The Buyer and the Seller shall endeavour to settle expeditiously and in good faith, at the earliest possible date, any such dispute and any agreed adjustment and subsequent payment shall be made promptly following the date of such settlement.
- 23.7 The Buyer shall be entitled to set-off against the amounts payable to the Seller under this Contract any sums owed to the Buyer by the Seller Group on any account and howsoever arising.

24. Access and Audit

- 24.1 The Seller shall keep full and complete accounts and records. Such accounts and records shall be prepared in accordance with Legislation and generally accepted accounting principles.
- 24.2 The Buyer shall have the right, upon giving reasonable written notice, to audit the Seller's accounts and returns. The Buyer reserves the right to have any audit carried out by an independent auditing firm appointed by it.
- 24.3 For the purpose of audit, the Buyer shall have the right to examine, in the offices of the Seller, during business hours and for a reasonable length of time, books, records, accounts, correspondence, instructions, specifications, plans, drawings, receipts and memoranda insofar as they are pertinent to this Contract or for verifying invoices and adjustment rates or as required in establishing Order Amendments and shall be entitled to copies (free of charge) of all such data, documentation and supporting information.
- 24.4 The above audit rights of the Buyer shall continue for a period of seven [7] years after the completion of final supply of the Goods under this Contract or termination, whichever is earlier and the Seller shall preserve and shall procure any Subcontractor to preserve all of the aforesaid documents for the same period.

25. Safety, Health and Environmental

- 25.1 The Seller shall comply with and shall undertake that all Seller's Personnel are aware of and comply with all Law/Legislation and the Buyer's HSSE Norms / Buyer's Life sever, policy and procedures as amended from time to time affecting the safety, health, security and environmental aspects associated with the manufacture, completion, supply and delivery of the Goods. In situations where no applicable Law/Legislation exists, then the Buyer shall require the Seller to adopt good practices with the aim of improving on performance standards where it is reasonably practicable and economic to do so. It is the Seller's



responsibility to satisfy himself that he is aware of and has allowed for all such policies and procedures and practices when submitting his tender.

25.2 If the Seller shall consider it necessary to suspend the work on the Goods at any time for safety reasons, the Seller shall immediately inform the Buyer Representative and advise of the circumstances and the reasons therefore.

25.3 The Seller shall at all times be aware of, and comply with, the Buyer's express desire to preserve the environment in all its shapes and forms from any adverse effects arising from the supply of the Goods and to minimize the effect of such supply.

26. Confidentiality

26.1 The Seller shall not and shall procure that the Seller's Personnel shall not, during the continuance of this Contract, or at any time thereafter, publish or disclose to any third party, except with the written consent of the Buyer or by requirement of the Legislation, any information, data or process which is confidential or of a commercially sensitive nature connected with the business or affairs of the Buyer which shall come or have come to its or their knowledge in or by reason of the engagement by the Buyer of the Seller under this Contract, provided that this restriction shall not apply to any information which is at the time of disclosure in the public domain or thereafter becomes part of the public domain otherwise than in consequence of a breach by the Seller of its obligations under this Clause. The Seller's Personnel and Subcontractors shall, if required by the Buyer, sign a similar form of secrecy undertaking.

26.2 The Seller shall, throughout the performance of this Contract, protect the image of the Buyer and its good standing and reputation.

27. Taxation

27.1 The Seller shall pay and shall ensure that any of its Subcontractors shall pay, all income, corporation or similar taxes howsoever described, and all penalties and interest thereon assessed on the income, profits and gains accruing to the Seller or any of its Subcontractors from the operation of this Contract. The Seller shall be responsible for, indemnify, defend and hold harmless the Buyer against any Claims whatsoever arising in connection with the liability of the Seller or any of its Subcontractors for any such taxes, penalties and interest. Further the Seller shall be responsible for, indemnify, defend and hold harmless the Buyer against any Claims whatsoever arising in connection with all taxes assessed or levied against or on account of wages, salaries, benefits, or deemed benefits paid to the Seller's Personnel.

27.2 The Seller shall be required to furnish the Buyer with such particulars as are known to the Seller in relation to its or any of its Subcontractors activities under this Contract as may be required by the Buyer to fulfil information requests received from any competent taxing authority. Where requested information is not known to the Seller, it shall take reasonable steps to obtain the information necessary to enable it to comply with the request.

27.3 The Buyer may, without liability to the Seller, withhold sums in respect of any payments which would otherwise be made by the Buyer to the Seller or to any of its Subcontractors to the extent that such withholding may be required by Legislation or orders, rules or directions of any competent taxing authority. Where the requirement for any withholding is avoided by the Seller or any Subcontractors holding an appropriate exemption certificate, it is the duty of the Seller to inform the Buyer that such a certificate is held and to inform the Buyer of any change to or cancellation of the certificate and to provide copies of the certificate or any further information that may be required by the Buyer to satisfy itself that it can make payment without any withholding. The Seller shall be responsible for, indemnify, defend and hold harmless



the Buyer against any Claims whatsoever arising in connection with such withholding or failure to withhold as may arise due to the Seller's failure to inform the Buyer of any relevant matter in a timely fashion.

- 27.4 The Buyer shall pay to the Seller, in addition to and together with, the consideration due to the Seller under this Contract, any other Tax including Value Added Tax or similar tax howsoever described levied by any competent Governmental authority, chargeable in respect of Goods or services properly supplied by the Seller under this Contract provided that the Seller provides the Buyer with a valid tax invoice, as required under the applicable Legislation to enable a tax credit to be obtained by the Buyer. The Buyer shall have no liability to pay the Seller for any amount to the extent such amount is eligible for relief, reduction, exemption or recovery by the actions of the Seller or any Subcontractor.
- 27.5 The Seller shall indemnify, defend and hold harmless the Buyer from and against any taxes levied against it on account of any property or equipment (including the Seller's Equipment) of the Seller or any Subcontractors including but not limited to customs duties, excise duties, occupation and other like taxes and imposts.
- 27.6 The Seller shall (if applicable) ensure that all imported goods/materials intended to be rented, hired or purchased by the Buyer in fulfilment of this Contract are imported/exported and documented to enable maximum advantage to be taken of such reliefs as offered by the government ruling the country where the Goods are to be operated. The Buyer may assist the Seller with the importation/exportation of goods/materials using the Buyer's permits, licences and facilities. The Seller shall be responsible for obeying all local rules and regulations in importing/exporting the goods/materials and shall be responsible for and indemnify, defend and hold harmless the Buyer against any Claims arising as a result of the Seller's breach of these requirements.

28. Transit Insurance

Transit Insurance for the material shall be borne by the Seller.

29. Change in Constitution:

Where the Seller is a partnership firm, the prior approval of the Buyer shall be obtained in writing, before any change is made in the constitution of the firm. Where the Seller is an individual or a Hindu undivided family business concern, such approval as aforesaid shall, likewise be obtained before such Seller enters into any agreement with other parties, where under the reconstituted firm would have the right to carry out the work hereby undertaken by the Seller. In either case if prior approval as aforesaid is not obtained; the Contract shall be avoidable at the option of the Buyer. The Buyer shall be entitled to terminate the Contract and forfeit the deposit.

30. Claims and Liens

- 30.1 The Seller shall protect and hold the Goods and all property of the Buyer Group free from all liens, charges and other encumbrances.
- 30.2 Upon receipt of a notice from the Buyer, the Seller shall discharge or cause to be discharged all liens, charges or other encumbrances attaching to or upon any materials, goods, equipment, plant or other items provided by the Seller Group for use for or in connection with the completion of the work associated with the Goods which in the opinion of the Buyer may adversely affect the performance of the Seller's obligations under the Contract.
- 30.3 The Seller shall be responsible for, indemnify, defend and hold harmless the Buyer Group against any and all Claims in respect of liens, charges or other encumbrances irrespective of negligence and/or breach of duty (statutory or otherwise) of the Buyer Group.



30.4 The Buyer may discharge any lien, charge or other encumbrance and may deduct from payment due to the Seller or recover by other means as a debt due from the Seller all costs and expenses reasonably incurred in so doing.

31. Intellectual Property Rights

31.1 All intellectual property rights or IPR in all documents including (without limitation) drawings, transparencies, prints, photographs, negatives, computer files, working notes and books created, supplied or developed by the Buyer and appertaining to the Goods shall remain in the Buyer and the originals and all copies of them shall be delivered to the Buyer on completion of the work associated with the Goods and the Seller and any Subcontractors shall, if required, certify that none have been retained.

31.2 All documents, drawings, technical know-how, calculations, computer print-outs, computer files, computer software designs and inventions created, supplied or developed by the Seller pursuant to or in the performance of this Contract whether fully or partially completed and relating to the Goods shall be the property of the Buyer and the copyright for the same shall be vested in the Buyer.

31.3 Subject to the Buyer's rights pursuant to this Contract, the Seller shall retain all intellectual property in all documents including (without limitation) drawings, transparencies, prints, photographs, negatives, computer files, working notes and books and inventions created by the Seller prior to this Contract and which shall not have been prepared by the Seller at the request of the Buyer or pursuant to a previous contract or arrangement with the Buyer.

31.4 The Seller shall be responsible for, indemnify, defend and hold harmless the Buyer from and against any and all Claims which arise out of, or in any way relate to, any patent, registered design, copyright, trademark or trade name or any patent application or other proprietary right asserted by the Seller and Subcontractor, any employee of either of the foregoing or any third party in respect of any device, apparatus, process or method used by the Seller in performing its obligations under the Contract.

31.5 Should the Seller or any Subcontractor infringe, or allegedly infringe, any patent, registered design, copyright, trademark or trade name which delays or prevents the Seller from carrying out its obligations under this Contract, the Buyer may treat such cessation or delay to the completion of the work associated with the Goods arising there from as a fundamental breach of this Contract by the Seller. The Seller shall be liable for all additional costs incurred by the Buyer pursuant to its mitigation of the effects of such cessation or delay.

31.6 The Seller shall promptly disclose to the Buyer all inventions which it or any Subcontractor may make which are wholly or in part based on or derived from information arising from the completion of the Goods. All rights, titles and interest in and to such inventions shall belong to the Buyer. The Seller shall execute or have executed all documents and shall perform or have performed all such acts as the Buyer may deem desirable or necessary to protect the Buyer's title to such inventions and to obtain and maintain patent coverage therein throughout the world.

32. Drawings and Data

32.1 The Seller shall prepare at its own expense and submit to the Buyer such drawings and data as are necessary for the performance of this Contract. The Buyer or its authorized representatives shall have the right to generally approve all drawings and/or data but such approval or acceptance shall not relieve the Seller of any of its responsibilities under this Contract. The Seller shall supply at no extra cost legible copies of such drawings and data.

33. Force Majeure

33.1 Neither Party shall be responsible for any loss or damage of any kind caused by a failure or delay in performance of any obligation hereunder if such failure or delay is attributable to facts beyond the control of such Party including without limitation, wars, hostilities, tribal disputes, boycotts, embargoes, public



disorders, acts of enemies, sabotage, strikes, lockouts, fires, acts of God or floods. The Seller shall not under any circumstances be relieved or excused from its obligation to perform to the extent that the cause of such failure or delay in performance is caused by weather or mechanical breakdown.

33.2 Neither Party shall be responsible to the other for any loss or damage of any kind caused by a failure or delay in performance of any obligation in this Contract if such failure or delay is attributable to timely and due compliance with any unforeseeable order or control of any government authority.

33.3 The non performing Party shall be excused and relieved from liability to perform only to the extent and for the time that such delay or failure to perform:

- a) Is caused by an event of Force Majeure as described above in Sub-Clauses 33.1 or 33.2;
- b) Could not reasonably be anticipated or protected against; and
- c) Is not a risk expressly assumed elsewhere in this Contract by the non performing Party.

33.4 Neither Party shall be entitled to compensation by reason of the other Party having been delayed in the performance of its obligations due to the foregoing causes.

33.5 Should either Party be delayed in the prosecution of the obligations under this Contract by a Force Majeure occurrence as described above in Sub-Clause 33.5, said Party shall give written notice to the other Party within 48 hours from the date of such occurrence and take appropriate measures to minimize the consequences thereof (provided that such Party shall not be obliged to settle any labour dispute except in such manner as it shall in its absolute discretion think fit). If a Force Majeure occurrence impedes the due performance of this Contract and may reasonably be anticipated to continue for a period of 15 days or more, the Buyer may terminate this Contract or any part thereof in accordance with the provisions of Sub-Clause 34.4 (Termination).

34. Termination

34.1 If the Seller contravenes the provisions of this Contract, the Buyer may (without prejudice to its right to terminate this Contract immediately) give Notice to the Seller of such breach specifying the remedy required and giving the Seller 7 (seven) days (or such other period as the Buyer at its sole discretion determines as being reasonable) within which to remedy the breach complained of. Should the Seller fail to comply with such notice, the Buyer shall have the right to terminate this Contract at any time thereafter by giving the Seller a notice of termination, the effective date being the date specified in the notice of termination.

34.2 Notwithstanding clause 34.1, the Buyer shall also have the right to terminate this Contract forthwith by giving the Seller a notice of termination in the event of the Seller becoming bankrupt or committing an act of bankruptcy, or being a Buyer, entering into receivership, administrative receivership, administration or liquidation (or any equivalent thereof) whether compulsory or voluntary, except liquidation for the purpose of reconstruction or amalgamation while solvent.

34.3 Without prejudice to, and in addition to, the Buyer's other rights under this Contract; the Buyer shall have the right to terminate this Contract or any part thereof for any reason at any time by written notice to the Seller.

34.4 If this Contract is terminated by the Buyer under sub-clause, 34.1, 34.2 or 34.3, the Buyer shall, subject to Clause 23 (Terms of Payment), pay the Seller compensation earned up to the time of notice of termination.

34.5 For the avoidance of any doubt the Seller shall not be entitled to claim any sum hereunder, in excess of the compensation specified in the Payment Schedule for all work associated with the completion of that part of the Goods which has been properly completed and invoiced in accordance with this Contract and taking account of sums previously paid to the Seller.



- 34.6 If the Buyer exercises its rights to terminate pursuant to sub-clauses 34.1, 34.2 and/or 34.3, the Seller shall:
- a) Immediately discontinue performance of its obligations under this Contract and shall give to the Buyer all drawings, reports and other documents (whether or not they are completed) relating to this Contract;
 - b) Return all of the Buyer's materials, goods, plant and equipment;
 - c) Take such action as necessary to protect any of the Goods that the Buyer shall have paid for at the date of termination but which have not been delivered;
 - d) Permit or procure permission for the Buyer to enter the Seller's / Subcontractor's or any other premises where such Goods may be located at the date of termination and permit or procure permission for the Buyer to collect the same;
 - e) place no further orders or subcontracts for services or materials or otherwise, except as may be necessary to preserve and protect the Goods already in progress or materials, plant and equipment allocated to this Contract wheresoever's located;
 - f) Assign to the Buyer the benefit of such orders or subcontracts as instructed by the Buyer; and
 - g) Provide to the Buyer an inventory showing the ownership of all materials, plant and equipment allocated to this Contract including items already delivered in transit or on order from suppliers.
- 34.7 If the Buyer exercises its rights to terminate pursuant to sub-clause 34.1 and/or 34.2 the Seller shall be responsible for, indemnify, defend and hold harmless the Buyer against any costs incurred by the Buyer in completing the Goods, which costs are in addition to that sum the Buyer would have been obliged to pay the Seller had the work associated with the completion of the Goods been carried out by the Seller and the Buyer shall have the right to deduct such additional costs from such amounts, if any, as are due to the Seller under this Contract or otherwise, or otherwise to recover such costs by way of a debt.
- 34.8 Without prejudice to any other express remedies referred to elsewhere in this Contract or any rights or remedies available at Law or in equity, in the event the Seller commits a breach of Clauses 43, 44, 45 and 46 of the Contract, the Buyer has the right to take whatever action it deems appropriate including the right to terminate this Contract with immediate effect and will not be liable to pay any compensation to the Seller for loss of profits or loss of goodwill or for any other loss or damage howsoever arising as a result of a termination under this Clause .
- 34.9 Where this Contract is terminated in accordance with Clause 34.8 the Seller will cease to be entitled to receive any payments which are due or may otherwise be due under the terms of this Contract where to do so would violate any Law or regulation to which the Buyer is subject.
- 34.10 Seller indemnifies and holds Buyer and its Affiliates harmless from and against any and all claims, damages, liabilities, losses, penalties, fees, costs and expenses arising from or related to, any breach of Clause 44 .
- 34.11 If this Contract is terminated by the Buyer under Sub-Clause 34.3 then the Buyer shall, subject to Clause 23 (Terms of Payment), in addition to the payment set out in Sub-Clause 34.4, pay to the Seller:
- a) Any reasonable and justifiable costs agreed to by the Buyer before they are incurred and which arise from and relate to the termination of this Contract and shall not have been assigned to the Buyer in accordance with Clause 34.6; and
 - b) Any reasonable and justifiable costs agreed to by the Buyer before they are incurred and which would not have been incurred had this Contract not been terminated.

35. Indemnity

To the fullest extent permitted by Law, Seller shall indemnify, defend, and hold harmless Buyer, its affiliates, and subsidiary companies or entities, and its and their respective officers, directors, agents, and employees from and against all claims, liabilities, damages, losses, costs, and expenses including, but not limited to, attorneys' fees and costs of court (collectively, the "Claims"), arising out of, connected with, or alleged to arise from or be connected with any event or circumstance which occurs or exists, or is alleged to have occurred or existed, in any way related to the manufacture, delivery, or installation of the Goods, either directly or indirectly, including (without limiting



the generality of the foregoing) all Claims on account of personal injury, death, or property loss to Seller, Buyer, or any other party, including any Claims based upon or arising out of its Seller's sole, joint, or contributory negligence or strict liability, except to the extent that any such Claim arises out of or is attributable to Buyer's gross negligence or wilful misconduct.

36. Performance Guarantees

36.1 It is a condition of this Contract that the Seller shall, within 10 days from the date of this Contract, obtain at the seller's sole cost and expense and provide to the buyer:-

a) an unconditional and irrevocable performance bank guarantee for an amount equal to 10% of this Contract value and issued by a nationalized Indian bank acceptable to the Buyer and in terms similar to APPENDIX F; and/or

36.2 If the provisions of this clause are not strictly adhered to, the Buyer reserves the right to withhold any and all payments in whole or in part otherwise due to the Seller, or terminate this Contract in accordance with Sub-Clause 34.3 (in which case, for the avoidance of doubt, Sub-Clause 34.8 shall not apply), or both.

37. Survivorship

Notwithstanding any other provision of this Contract, the obligations of the Parties set out in clauses:-

- a) Order Amendment
- b) Spares and Maintenance
- c) Guarantee
- d) Services
- e) Terms of Payment
- f) Access and Audit
- g) Confidentiality
- h) Taxation
- i) Insurance
- j) Loss of Profit, Production or Revenue
- k) Claims and Liens
- l) Intellectual Property
- m) Termination
- n) Third Party Rights
- o) Performance Guarantees
- p) Survivorship
- q) Publicity and Press Announcements
- r) Governing Law
- s) Representative Capacity
- t) Anti Corruption Obligations.
- u) Governing Law and Dispute Resolution

shall survive the expiry or earlier termination of all or any part of this Contract.

38. Permits, Licences, Statutory and Other Requirements

38.1 The Seller shall obtain at its own risk and expense, all permits, licenses, registrations, certificates or other administrative authorisations as may be required by any governmental authority from time to time or may be necessary or incident to the Seller's business in the jurisdictions where this Contract is to be performed. The Buyer shall use all reasonable endeavours to assist the Seller in obtaining such administrative authorisations.

38.2 The Seller shall comply with the Legislation and other requirements affecting the completion of the work associated with the Goods and the supply and delivery of the Goods. The Seller shall ensure that a similar provision (binding on the Subcontractor) is contained in any subcontract entered into by it.



38.3 The Seller shall observe and conform to all Legislation applicable to the location where the Goods are to be commissioned and operated.

38.4 The Seller shall not under any circumstances apply to, or enter into negotiations with, or agree with any governmental authority or agency for acceptance of variations from or revisions to Legislation without the Buyer's prior written consent except to the extent such matters pertain only to the Seller's Equipment and the Seller's Personnel which do not and cannot directly or indirectly affect the Buyer's legal obligations, equipment, sites or personnel.

39. Publicity and Press Announcements

39.1 The Seller shall obtain written consent from the Buyer prior to making press releases or announcements regarding either this Contract or the activities of the Seller related to its participation in this Contract and shall ensure that any Subcontractor also complies with this requirement.

40. Notices

40.1 Any notice or other communication to a party required or permitted under the Purchase Order shall be made in writing and may be sent by facsimile and confirmed by registered mail, return receipt requested, or by reputable courier, addressed to the address as such party shall have communicated to the other party. Such notice or other communication shall be effective at the time of actual receipt by the party addressed.

41. Governing Law and Dispute Resolution

41.1 This Contract is governed and construed by the Laws of India and the competent Courts at Vadodara shall have exclusive jurisdiction to settle any dispute arising out of or in connection with this Contract.

41.2 Arbitration

a) Any Dispute whatsoever arising out of this Contract which is not resolved by mutual agreement through negotiations between the Parties within thirty (30) days of the notice of the Dispute, shall be referred to and shall be finally settled by binding arbitration conducted in accordance with the provisions of the Arbitration and Conciliation Act, 1996, and the rules made there under from time to time, and any statutory modifications thereof.

b) The arbitration shall be conducted by a sole arbitrator who shall be appointed by the Buyer.

c) The Parties shall bear all the costs and expenses related to the arbitration including the fees of the sole arbitrator in equal proportion. The Parties hereby waive their rights to claim or recover, and the sole arbitrator shall not award, any damages for Consequential Loss or any punitive, multiple, or other exemplary damages.

d) Any Party may at any time apply to the sole arbitrator or any court of Law for interim measures, including injunctions, and attachment orders. The sole arbitrator may grant interim measures including injunctions and attachment orders in appropriate circumstances, which measures may be immediately enforced by a court order. The sole arbitrator may require any Party to provide appropriate security in connection with such measures.

e) The final award passed by the sole arbitrator may include interest, as determined by the sole arbitrator, from the date of any default, breach, or other accrual of a claim until the arbitral award is paid in full. The arbitral award shall be made and payable in Indian Rupees, free of any tax or other deduction.

f) The sole arbitrator shall be authorized to award costs, attorneys' fees, and expert witness fees and to allocate them among the Parties.

g) The language of the arbitration shall be English and the place and venue of the arbitration shall be Vadodara..

h) All the decisions and the final award of the sole arbitrator shall be final and binding on both Parties. Judgment on the final award passed by the sole arbitrator may be entered and enforced by any court of competent jurisdiction at Vadodara.

i) All negotiations and arbitration relating to a Dispute (including a settlement resulting from such negotiation an arbitral award, documents exchanged or produced during arbitration proceedings, and memorials, briefs or other documents prepared for the arbitration) are Confidential Information and may not be disclosed by the Parties, their employees, officers, directors, counsel, consultants, and expert witnesses, except to the extent necessary to enforce any settlement agreement or arbitration award to enforce other rights of a Party, as required



by Law, or for a bona fide business purpose, such as disclosure to accountants, shareholders, or third-party purchasers; provided that any breach of this confidentiality provision shall not void any settlement, or arbitration award.

j) While any Dispute under this Contract is pending, including the reference of any Dispute to arbitration and commencement of the arbitration proceedings, the Parties shall continue to perform all of their respective obligations under this Contract without prejudice to the final determination in accordance with the provisions under this Clause.

41.3 Jurisdiction

All matters arising out of this Contract shall be subject to the exclusive jurisdiction of the courts at Vadodara and the Parties hereby irrevocably attorn and submit to the jurisdiction of these courts. The Parties irrevocably waive any objection to venue in these courts and any objection based on the doctrine of forum non convenienc or similar grounds that these courts are inconvenient for determination of a Dispute.

42. Language

The English language shall govern this Contract. No translation shall change the meaning of the rights and obligations hereunder. The Seller hereby confirms that it is knowledgeable and proficient in the English language so that the Seller has a complete comprehension of all parts of this Contract. All communications, both written and oral, shall be in English. All documents forwarded or sent to the Buyer, if not in comprehensible English, shall be accompanied by an excellent quality translation in English of the whole document. The Buyer shall have the right to require the Seller to submit independent and reliable certification of any such translation.

43. Conflict of Interest, Ethical Standards And Business Principles

43.1 The Seller shall not, without the prior approval of Buyer, participate in any business entity where use could be made of, or divulge to any third party, any information, knowledge or a relationship arising out of the Contract or where such participation or action could conflict with the interests of Buyer.

43.2 No director, officer, employee, consultant or servant of the Seller or its Subcontractor shall enter into any business arrangement with any director, officer, employee, consultant or servant of Buyer without full written and timely disclosure to Buyer.

43.3 The Seller shall not accept any commission or any other payment from tenderers, contractors, vendors or any third party concerned with the work.

43.4 Each Party represents and warrants that it has conducted and shall conduct its business in accordance with the highest ethical standards and it shall comply with all applicable Laws in the performance of its obligations under the Contract including but not limited to Laws dealing with ethical business practices. If at any time during the term of the Contract a party hereto is informed or information comes to such Party's attention that it is or may be in violation of any applicable Law (or if it is so determined by any court, tribunal or other governmental authority), such Party shall immediately take all appropriate steps to remedy such violation and comply with such Law in all respects. Further, each Party hereto shall establish and maintain all proper records (including accounting records) required by applicable Law.

43.5 The Seller shall comply, and shall procure that Seller and its Subcontractors and its and their shareholders, officers, directors, employees and agents shall comply, with the Business Principles attached hereto as Appendix H. Seller confirms that it shall perform the work in all respects in accordance with such Business Principles, and such other Buyer business principles, policies and procedures which may become applicable to the Buyer and Seller personnel as notified in writing by the Buyer to Seller from time to time and comply with the provisions in Appendix H.



44. ANTI CORRUPTION OBLIGATIONS

44.1 Compliance with Corruption Law

44.1.1 The Seller represents, warrants and covenants that it and its Representatives:

comply with Applicable Corruption Law with respect to all Matters even if the provisions of Applicable Corruption Law do not strictly apply to Seller or its Representatives because of their jurisdictional status and references in this Clause 44 to Applicable Corruption Law shall be interpreted accordingly. The remaining provisions of this Clause 44 are without prejudice to the generality of the foregoing.

44.2 Certificate of Compliance

Seller represents warrants and covenants that it will provide Buyer with a Certificate of Compliance in the format set forth in Appendix H no later than 31st December of each calendar year during the term of this Contract.

44.3 Audit Rights

44.3.1 Seller represents, warrants and covenants that it and its Affiliates:

44.3.1.1 maintains accurate and complete Books and Records and internal controls sufficient and of such quality, consistent with accounting principles and practices contained in International Financial Reporting Standards so as to permit an audit of its Books and Records by an internationally recognised firm of public or chartered accountants or their equivalent, and which would, following that audit, result in an unqualified audit opinion and will not maintain any off the book accounts or record any non existent expenditure nor enter liabilities with incorrect identification of their object or use false documents;

44.3.1.2 will provide all reasonable assistance to permit Buyer's accountant or internationally recognised firm of public or chartered accountants or other advisors ('Auditor') to conduct an audit of its Books and Records (including without limitation providing copies of documentation when requested) during normal business hours at Seller's principal place of business for the purpose of confirming compliance with this Clause;

44.3.1.3 will permit the Auditor reasonable access to its properties, officers, representatives, agents and employees in order to make reasonable inspection and examination of the business operations and affairs of Seller; and

44.3.1.4 without prejudice to the generality of the foregoing, use its reasonable endeavours to procure for Auditor access to any third party, or any third party's properties, employees and Books and Records, where such access is reasonably necessary for the purposes of the audit. For the avoidance of doubt, access includes providing copies of relevant third party documentation where requested.

44.4 Connected Persons

44.4.1 The Seller represents, warrants and covenants that it and its Representatives have been given adequate training and informed of their obligations in relation to Applicable Corruption Law and have in place adequate policies and procedures in relation to business ethics and conduct and the reporting, investigating and acting upon of suspected violations of Applicable Corruption Law.

44.4.2 The Seller represents, warrants and covenants that where there exists a relationship between, on the one hand, (i) it or any of its Representatives, or any person who is a Connected Person of any of its Representatives, and (ii) any Public Official on the other, and such relationship may or may reasonably be considered to have an



influence on the Seller's performance of its obligations hereunder or the performance by the Public Official of his duties, that the fact and nature of such relationship has been notified to the Buyer in writing prior to this Contract being entered into.

44.4.3 Seller represents, warrants and covenants that it will promptly take all such steps as may be necessary and/or reasonably requested by Buyer which are designed to ensure that such relationship does not give rise to any conflict of interest or any breach of Applicable Corruption Law.

44.5 UN Sanctions and Breach

44.5.1 Seller represents, warrants and covenants that to the best of its knowledge and belief neither it nor any of its Representatives or Subcontractors :

44.5.1.1 appears on any list of entities or individuals debarred from tendering or participating in any project funded by the World Bank, EBRD or any other multi-lateral or bi-lateral aid agency;

44.5.1.2 has at any time been found by a court in any jurisdiction to have breached Applicable Corruption Law;

44.5.1.3 has at any time been investigated or is being investigated or is involved in an investigation (as a witness or possible suspect) or been suspected in any jurisdiction of having engaged in any conduct with respect to Matters which would constitute a breach of Applicable Corruption Law

44.6 Notification

44.6.1 Seller represents, warrants and covenants that if at any time it becomes aware that any of the circumstances set out in Clauses 44.4 and 44.5 are not as it has confirmed it will notify Buyer immediately in writing and will promptly take all such steps as may be necessary and/or requested by the Buyer to ensure minimum adverse effect on the Buyer's reputation or on this Contract.

44.7 Provision of Information

44.7.1 Seller represents, warrants and covenants that it will, if requested in writing by Buyer, promptly:

44.7.2 provide any information which Buyer may reasonably require in order to monitor its compliance with the warranties, covenants and/or representations contained in this Clause 44 ;

44.7.3 provide, where available, documentation evidencing such compliance; and

44.7.4 co-operate with any audit, inspection or investigation undertaken of, or by or on behalf of, Buyer and require the same obligation of the Subcontractors including (without limitation) any audit, inspection or investigation conducted by or on behalf of any statutory, governmental or similar agency.

44.8 Subcontractors

44.8.1 Seller shall require its Subcontractors to act in accordance with the requirements of this Clause 44 and Applicable Corruption Law.

44.8.2 Seller will operate a programme of regular assessments of its Subcontractors to verify that they are complying with their obligations as set out in Clause 44.8.1 above and retain the right to have an independent auditor review and verify their compliance.



44.8.3 Seller will procure that provisions no less onerous than those set out in this Clause 44 are incorporated in all tender documentation issued to, and contracts entered into, with their Subcontractors.

45. AGENTS AND INTERMEDIARIES

45.1 Seller represents warrants and undertakes to Buyer that it and each of its Affiliates and Subcontractors and their respective officers, directors, employees or other representatives have not:

- (i) used, and will not use, the services of an agent or intermediary; or
- (ii) made or offered to make, and will not make any payment or transfer of anything of value directly or indirectly to any agent or intermediary or to any Buyer personnel,

in connection with Seller's prequalification/short listing for, or the award of, the Contract or in connection with any variation subsequently agreed under the Contract.

Any breach of this provision shall be a material breach of the Contract entitling Buyer to terminate the Contract in accordance with Clause 34 .

46. ETHICAL BEHAVIOUR

46.1 Seller represents and warrants that it has conducted and shall conduct its business in accordance with the highest ethical standards and it shall comply with all applicable Laws in the performance of its obligations under the Contract, including, but not limited to, Laws dealing with ethical business practices.

46.2 If, at any time during the term of the Contract, Seller is informed or information comes to its attention that it or any of its Affiliates is or may be in violation of any applicable Law (or if it is so determined by any court, tribunal or governmental agency or authority), Seller shall immediately take all appropriate steps (including any reasonable requests by Buyer) to remedy such violation and comply with such Law in all respects. Where such violation occurs and/or is not remedied, Buyer may terminate the Contract with immediate effect and without the payment of compensation.

46.3 Seller shall establish and maintain all proper records (including accounting records) required by applicable Law and shall make such records available to Buyer if requested to do so.



APPENDIX A
Special Terms and Conditions for the supply of the Goods

1. Documents to be submitted

Seller shall submit the following documents along with the bid.

- Inspection & Test Plan
- Material Test Certificates

2. Delivery Terminal (in case of Indigenous Purchase only)

Delivery Terminal of all the material shall be communicated by VGL

3. Delivery of the Goods

Seller hereby undertakes to deliver the goods within the delivery date as stipulated in this Contract such date that shall not be beyond a period of sixty (60) days from the delivery date, at the sole discretion of the Buyer and with no costs to the Buyer.

4. Quantity of Goods:

The quantity mentioned herein is purely tentative for release of Annual Rate Contract for One Year. BUYER does not guarantee on fixed commitment on quantity. The separate confirm order shall be released during the year based on requirement. Buyer reserves the right to negotiate and award the annual rate contract to **ONE** or **MORE THAN ONE** Seller at its sole discretion

5. HSE Requirement during Transportation:

- Seller shall ensure all statutory & legal requirement as per government laws are being followed.
- Transporters shall carry driving license & shows the appropriate authority of BUYER at entry level at BUYER's premises.
- Transporters shall carry RTO / Insurance copy / Vehicle fitness certificate / PUC documents and shows the appropriate authority of BUYER at entry level at BUYER's premises.
- Documentary evidence like Photo ID / Driving License to enter in BUYER's premises
- Seller shall ensure environment friendly packaging (avoid of use of plastics)
- Seller shall ensure material shall reach to BUYER'S designated site without any transit damage, and in case of any transit damage rejected material shall be collected within 7 days from the date of intimation received from BUYER's representative and replacement of material shall be given to BUYER within 15 days. Failure to same will be liable for applicable penalties as decided by BUYER.
- Seller shall ensure to load the material in the Vehicle as per the rated capacity of the vehicle. Overloading of the materials in the vehicle shall not be allowed. Condition of the Vehicle shall be good and roadworthy.

6. Post order co-ordination

a) Seller shall give 7 days advance intimation be email before dispatch of material to the following:

In event of material being sent without prior intimation to VGL, the material shall be unloaded as per VGL's convenience & VGL shall not be liable to pay any waiting charges to the transporter.

b) Seller shall ensure that the dispatch documents like LR Copy, Invoice, DC etc are clearly marked with Order No., Material Code, Unit of Measurement, Quantity etc as per order.



c) Technical matters: ENGINEER IN CHARGE

d) Commercial matters: ACCOUNT OFFICER.

e) Seller shall email the scanned Copy of test certificates, inspection reports and other relevant documents to ENGINEER IN CHARGE immediately after dispatch of material.

f) Seller shall submit original commercial invoice and other original documents to:

VADODARA GAS LIMITED
GAS STORE,
92 – SHASHTRI BRIDGE,
ALEMBIC ROAD,
NR.ALKA MOTTION SHOP
VADODARA



APPENDIX B
SPECIFICATION OF THE GOODS/ BOM

Seller shall ensure that the goods are supplied in accordance to the specification and scope mentioned in the technical documents and enclosed with the tender document.

Document No. :

Material Data Sheet – Pressure Reducing Box with Complete Assembly



APPENDIX C -PAYMENT SCHEDULE

As per Attached Section III_SOR for Pressure Reducing Box with Complete Assembly

The payment schedule submitted by the Seller should be with a detailed breakup of cost and all levies or additional costs to be submitted separately:

The pricing shall be all inclusive in Seller's scope as **DDP basis (Delivery Duty Paid) and shall** include the following –

- Basic Cost
- All Applicable Taxes & levies
- P & F costs
- Transportation Cost
- Transit Insurance
- Documentation as per bid

Seller shall strictly mention Taxation Structure in offer with Percentage (%) along with separate break-up sheet otherwise will consider as all prices inclusive of all taxes at **DDP basis at Buyer's designated Site/Store.**



APPENDIX F –

**PROFORMA FOR CONTRACT PERFORMANCE BANK GUARANTEE
(To be stamped in accordance with Stamp Act)**

Ref: Bank Guarantee No

Date:

To,

Vadodara Gas Limited

3rd Floor, GAIL Building,

Manisha Circle, Old Padra Road,

Vadodara - 390 015 (Guj.)

Sub.: Contract Performance Bank Guarantee against Purchase Order. No. _____15.16 dated .03.2016.

Dear Sir,

In consideration of the VADODARA GAS LIMITED, Vadodara (hereinafter referred to as the Vadodara Gas Limited which expression shall unless repugnant to the context or meaning thereof include its successors, administrators, subsidiary and assigns) having awarded to M/s Kriti Industries (India) Limited having Registered office at “_____” and Corporate Office at “_____”. (hereinafter referred to as the "CONTRACTOR" which expression shall unless repugnant to the context or meaning thereof include their respective successors, administrators, executors and assigns) the CONTRACT by issue of OWNER'S Work Order ____/16.17 dated _____2015 and the same having been accepted by the CONTRACTOR resulting into CONTRACT for CONTRACTOR services as per above work order and the CONTRACTOR having agreed to provide a Contract Performance and Warranty/ Guarantee for the faithful performance of the aforesaid contract and warranty to quality of the services executed / performed to OWNER.

We (Bank) **State Bank NAME** ____, having its Head Office at **Commercial Branch**, _____ (hereinafter referred to as the 'Bank', which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns) do hereby



guarantee and undertake to pay the OWNER, on demand any and all moneys payable by the CONTRACTOR to the extent of Rs. _____.00 (Rupees _____ Only) as aforesaid at any time up to _____.00 (Rupees _____ Only) without reference to the CONTRACTOR. Any such demand made by OWNER on the Bank shall be conclusive and binding notwithstanding any difference between OWNER and CONTRACTOR or any dispute pending before any Court, Tribunals, Arbitrator or any other Authority.

The Bank undertakes not to revoke this guarantee during its currency without previous consent of OWNER and further agrees that the guarantee herein contained shall continue to be enforceable till the OWNER discharges this guarantee. OWNER shall have the fullest liberty without affecting in any way the liability of the BANK under this guarantee from time to time to extend the time for performance by CONTRACTOR of the aforementioned contract. OWNER shall have the fullest liberty, without affecting this guarantee, to postpone from time to time the exercise of any powers vested in them or of any right which they might have against CONTRACTOR and to exercise the same at any time in any manner, and either to enforce, to forbear to enforce any covenant contained or implied, in the aforementioned Contracts between Vadodara Gas Limited and CONTRACTOR or any other course of release of its obligations under these presents by any exercise by OWNER of its liability with reference to the matters aforesaid or any of them or by reason or any other acts of omission or commission on the part of OWNER or any other indulgence shown by OWNER or by any other matter or thing whatsoever which under law would, but for this provision, have the effect of relieving the Bank.

The Bank also agrees that OWNER at its option shall be entitled to enforce this Guarantee against the Bank as a Principal Debtor, in the first instance without proceeding against CONTRACTOR and notwithstanding any security or other guarantee that OWNER may have in relation to the Contractor's liabilities.

Notwithstanding anything contained herein above our liability under this Guarantee is restricted to AND it shall remain in force up to and including _____ and shall be extended from time to time for such period as may be desired by the CONTRACTOR on whose behalf this Guarantee has been given.



Dated this the day of _____ 2016at

WITNESS

(Signature)

(Signature)

(Name)

Bank Rubber Stamp

(Name)

(Official Address)

Designation with Bank stamp Plus Attorney as
Per power of Attorney No.

Dated: