



**Limited Tender through E-Procurement
for
Software license procurement for New Loyalty Programme**

Document Title	Tender for Oracle software license procurement for New Loyalty Programme
Document Type	RFP
Bid Type	Two part bid – Technical & Commercial
CRFQ No	1000247956
Date of CRFQ	30.12.2015
Last Date for Submission of Bid	7th Jan 2016 at 14:00 Hrs.

RFQ issued by:	Bharat Petroleum Corporation Limited, Retail Head Quarter. 12th Floor, Maker Tower 'E' Wing, Cuffe Parade, Mumbai - 400 005.
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**Subject: Invitation of Tender for Software Procurement for New Loyalty Program
(CRFQ no. 1000247956 dated 30.12.2015 due date of submission 7th Jan 2016)**

Dear Sir / Madam,

1. BPCL invites bids for oracle software licenses procurement for new loyalty programme and implementation.
2. You are invited to submit your offer in a two-part bid for the subject job as per the technical specifications and the terms & conditions contained in this tender document.
3. Please visit the website <https://bpcleproc.in> for participating in the tender and submitting your bid online. Please go through the web site for registration process and download “**Instruction to Vendors**” the process document for bidding online.
4. Bidders are required to submit their bids in two part bids consisting of the following, through this E-Tender:
 - a) Technical Bid (Part – I)
This should contain all tender conditions like Scope document, General Purchase Condition, Special Purchase condition and Integrity Pact duly signed and stamped by the bidder. This it to ensure that bidder confirms all tender conditions.
 - b) Price Bids (Part – II)
This should contain Prices bid / Taxes against the bill of materials.
5. Commercial bids of only those bidders, who qualify the technical criteria, will be opened and evaluated further.
6. You should submit your Techno-commercial & price bid through online portal.
7. BPCL does not take any responsibility for any delay in submission of online bid due to connectivity problem or non-availability of site and / or receipt of instrument i.e. No claims on this account shall be entertained.
8. Incomplete tenders shall be liable for rejection without seeking any further clarification. We also reserve the right to reject any or all tenders without assigning any reasons whatsoever.

Thanking you,
Yours faithfully,

Bharat Petroleum Corporation Ltd.

Rahul Deo
Manager ARB, Retail HQ

Commercial Terms & Conditions

- a) The quoted rates shall be valid for acceptance for the period of 120 days from the date of bid submission.
- b) Prices quoted by the bidder must be all inclusive, firm and final, and shall not be subject to any escalation whatsoever during the period of the contract. Prices should indicate the price at site.
- c) The bidder should quote separately for Basic price, and service tax as applicable on the item quoted separately as per the price bid format.
- d) Variation in the rates for Statutory levies/ taxes / duties during the tenure of the contract for supplies within delivery schedule will be allowed only on the submission of documentary evidence from Government / Statutory Authorities and its acceptance by BPCL.
- e) As our company's guidelines do not permit post-tender negotiations except with the tenderer offering the best financial terms, you are requested to submit your best terms at this stage itself.

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Background

Bharat Petroleum Corporation Limited (BPCL) is running Petro Bonus programme with PetroCard was started as a pilot in few cities in the year 1999. Initially IT support for the programme was outsourced to M/s Schelumberger and M/s Venture InfoTech Global Ltd. The programme got good response from the customers and later on it was extended to other cities. In the year 2001, the SmartFleet card was introduced to the PetroBonus program, which was to take care of the high end customers; mostly fleet owners and industries.

The Petro Bonus programme is currently operational in 67 cities and has over 2.2 million customers enrolled. The Smart Fleet programme is operational in all the major highways and currently has an enrolled customer base of over 6 lakhs vehicle. Both the programmes have over 4.5 million transactions in a month with a turnover of over Rs. 26,000 Crore during last fiscal year.

The loyalty programmes have been managed well in terms of efficiency and effectiveness to keep pace with changing demands of the customers and to be able to deliver on our brand promise consistently. Since 2003, the Sun servers located in our data centre at Sewree are being managed by multiple agencies coordinated by Retail IT team. These servers were replaced in 2011 with higher versions of Sun servers. We had setup Disaster Recovery (DR) site for Loyalty at Integrated Data centre (IDC) at Greater Noida in the year 2007. full-fledged IT department managing various business units, various applications and complete data centres.

SUBMISSION OF BIDS - Last date of Submission of Bids: 7th Jan 2016 at 14:00 Hrs.

For any queries related to this tender can be forwarded to the below contacts.

Rahul Deo
Manager (ARB) RHQ,
BPCL, 'A' – Installation,
Retail Technology Centre (RTC),
Sewree Fort Road, Sewree (East),
Mumbai-400015.
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SCOPE OF WORK

Executive Summary

The objective of this document is for migration of the existing loyalty program from existing vendor's solution to the new solution. The existing platform is on Solaris and will be migrated to Intel platform with RHEL OS. The application data migration will be done by application vendor. However, the readiness aspects from an infrastructure perspective and facilitating the smooth migration would be part of this tender.

BPCL existing Landscape:

The existing landscape consists of:

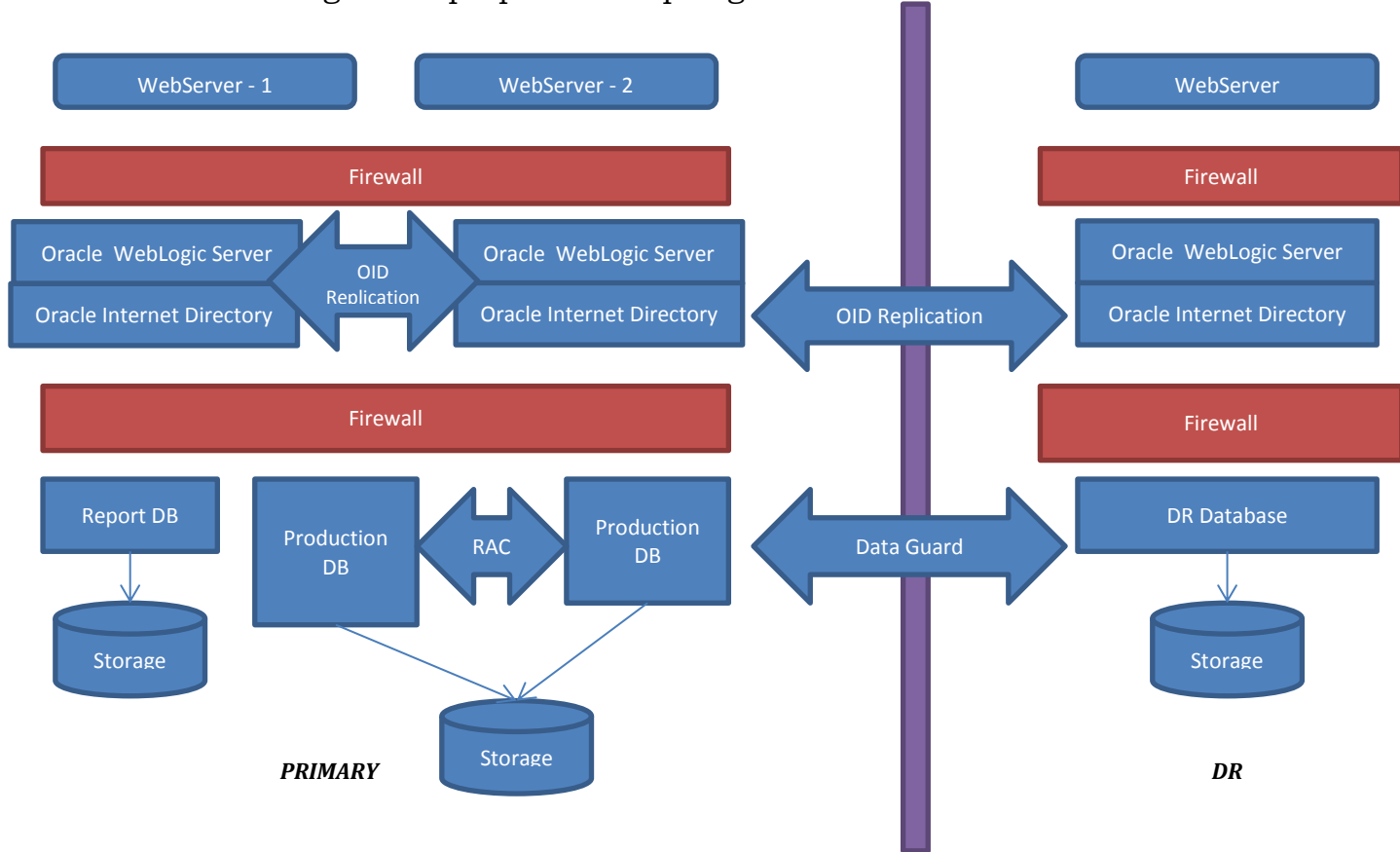
Production database System has 2 node RAC , single instance DR database , single instance report database , 2 node production application server , 2 node internet application server and 1 node DR application server. Apart from this the test environment has one standalone database and one application server. The data replication between production DB and report DB is configured using materialized view. DC to DR replication is done based on Oracle data guard. All application users are managed through OID, OID replication between primary and DR site is managed through LDAP replication which happens instantaneously.

Implementation

The bidder must arrange oracle expertise from OEM support/implementation division having relevant technical experience in the respective product or modules. The deputed OEM consultant should have expertise in latest Oracle Products especially around Oracle Database, Real Application Cluster, Partitioning, Advanced compression, diagnostics and tuning Pack on large databases, oracle web logic server 11G & 12c and customers with data size in Terabytes. Bidder should offer best practices for implementing of this software (Weblogic 11g & 12c, Database12c, 11gR2, RAC, Partitioning, diagnostics and tuning Pack). In existing production DB is currently around 1.0 TB.

PROPOSED SETUP

Broad schematic diagram of proposed setup is given below:



Details of proposed setup:-

- The setup shall have 4 web logic server, 3 in primary and one at DR.
- At primary site 2 Nos. application server would be configured in HA module to enable the transparent failover and load balancing.
- 3rd server at primary server would be used as test serve.
- OID shall be configured on each machine with instant OID replication.
- DR shall have one oracle web logic server with an OID which shall be replicated regularly from DC.
- Required OID database instance shall be configured in respective web logic servers.
- In the entire setup will have total 4 database instances, 3 at primary and one at DR site
- In primary site production DB will be configured with 2 nodes RAC.

- i) Report database is replica of production and would be used for internal MIS.
- j) The replication between DR and DC would happen through Oracle data guard replication.

Scope

The entire scope of work is classified under following headings:

- Database
- Application server
- Enterprise Manager for Alerts & Monitoring
- Go live support
- Training.

Database

- a) Understanding the detailed setup and preparing detailed configuration document.
- b) Understanding the transaction tables and suggesting necessary recommendation and changes for better purging and archival policy.
- c) Installation of database, create cluster as per BPCL setup requirement.
- d) RAC Implementation for one DB instance on 2 VMs for Production DB.
- e) Oracle DB installation for Reporting server and Test/UAT.
- f) Migration of one DB Instance from the existing Oracle Database RISC (SPARC) system with Solaris to the new Intel platform with RHEL OS.
- g) Configuration of materialized view for data replication.
- h) Data guard Configuration for replication between DC & DR.
- i) Analysing each database and tuning the system for better performance.
- j) Hardening the database as per the best industry practice.
- k) Devising, establishing and configuring a best & right backup and restoration policy for each database as per the best industry practice.
- l) Developing a detailed document covering setup document, backup & restoration policy with detailed approach, BCP document, daily monitoring parameters, best patching policy along with precautions to be taken to ensure the health of database.

Application Server:

- a) Standard installation and configuration of oracle weblogic application server for Production and Test/UAT instance.
- b) Configuration of 2 Nos. node cluster for oracle weblogic server at DC.
- c) Assistance/facilitating application vendor during deployment of Applications.
- d) Creating necessary containers and tuning the configuration parameter.

- e) Setup WLS for DR (1 Instance).
- f) Setup replication for OID.
- g) Migration of LDAP information.
- h) Hardening each weblogic application servers as per the best industry practice.
- i) Devising, establishing and configuring a best & right backup and restoration policy for each application as per the best industry practice.
- j) Developing a detailed document covering setup document , backup & restoration policy with detailed approach , BCP document , OID replication and verification , daily monitoring parameters , best patching policy along with precautions to be taken to ensure the health of application server setup.

Enterprise Manager for Alerts & Monitoring.

Configuring EM on all servers for alerts and monitoring at DC /DR.

Go Live Support

- a) Go Live Support for a maximum of 10 man days
- b) Bidder should assist at least one successful comprehensive DR drill activity with BPCL team.
- c) Performance Review and recommendations post go live for all instances.

Training:

- a) Five days onsite training for BPCL team about the new infrastructure covering details of components installed, architecture, practices to be followed for health monitoring, backup & restoration and performance tuning of the setup.
- b) Training for certification for 4 BPCL resources on web logic, OID and 12c database.

GENERAL PURCHASE CONDITIONS

The following conditions shall be applicable for all procurement unless specifically mentioned in the Special Purchase Conditions.

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1. DEFINITIONS:

The following expressions used in these terms and conditions and in the purchase order shall have the meaning indicated against each of these:

- 1.1. **OWNER:** Owner means Bharat Petroleum Corporation Limited (a Government of India enterprise), a Company incorporated in India having its registered office at Bharat Bhavan, 4 & 6 Currimbhoy Road, Ballard Estate, Mumbai 400038 and shall include its successors and assigns (hereafter called BPCL as a short form).
- 1.2. **VENDOR:** Vendor means the person, firm or the Company / Corporation to whom this Request for quotation (RFQ)/purchase order is issued and shall include its successors and assigns.
- 1.3. **INSPECTOR:** Person/agency deputed by BPCL for carrying out inspection, checking/testing of items ordered and for certifying the items conforming to the purchase order specifications..
- 1.4. **GOODS / MATERIALS:** means any of the articles, materials, machinery, equipments, supplies, drawing, data and other property and all services including but not limited to design, delivery, installation, inspection, testing and commissioning specified or required to complete the order.
- 1.5. **SITE / LOCATION:** means any Site where BHARAT PETROLEUM CORPORATION LTD. desires to receive materials anywhere in India as mentioned in RFQ.
- 1.6. **“RATE CONTRACT”** means the agreement for supply of goods/ materials between Owner and Vendor, for a fixed period of time (i.e. till validity of Rate Contract, with no commitment of contractual quantity) on mutually agreed terms and conditions. The actual supply of goods/ materials shall take place only on issue of separate purchase orders for required quantity as and when required by Owner.
- 1.7. **“FIRM PROCUREMENT”** means the agreement between the parties for mutually agreed terms and conditions with commitment of Quantity Ordered.

2. REFERENCE FOR DOCUMENTATION:

- 2.1. The number and date of Collective Request for Quotation (CRFQ) must appear on all correspondence before finalization of Rate Contract / Purchase Order.
- 2.2. After finalization of Contract / Purchase Order: The number and date of Rate Contract / Purchase Order must appear on all correspondence, drawings, invoices, dispatch advices, (including shipping documents if applicable) packing list and on any documents or papers connected with this order.
- 2.3. In the case of imports, the relevant particulars of the import Licence shall be duly indicated in the invoice and shipping documents as well as on the packages or consignments.

3. RIGHT OF OWNER TO ACCEPT OR REJECT TENDER:

The right to accept the tender will rest with the Owner.

4. LANGUAGE:

The Bid and all supporting documentation and all correspondence whatsoever exchanged by Vendor and Owner, shall be in English language only.

5. Price:

Unless otherwise agreed to the terms of the RFQ, price shall be:

Firm and no escalation will be entertained on any ground, except on the ground of statutory levies applicable on the tendered items.

6. TAXES AND DUTIES:

All vendors shall have VAT / CST/GST/Service tax registration in the concerned State and vendor shall quote their TIN number in the quotation.

6.1. EXCISE DUTY:

- 6.1.1. Excise duty extra as applicable at the time of delivery within scheduled delivery period will be payable by BPCL against documentary evidence. Vendor shall mention in their offer, the percentage of excise duty applicable at present. Any upward variation in excise duty rates, beyond the contractual delivery period, shall be to vendor's account.
- 6.1.2. In case Excise Duty is not applicable at present: Excise duty due to change in turnover is not payable. If applicable in future, the same will be borne by vendor.
- 6.1.3. Owner shall take CENVAT Credit on the material supplied for both excise duty and cess component and accordingly Excise duty / Cess should be quoted separately wherever applicable.

Vendor shall ask the transporter of the goods to hand over the copy of excise invoice (transporter's copy) at the time of delivery of goods at owner's site.

6.2. SALES TAX / VAT/GST:

- 6.2.1. Sales Tax as applicable at the time of delivery within scheduled delivery period will be payable by BPCL. Vendor shall give details of local sales tax and/or central sales tax currently applicable in their offer. The rates applicable for "CST without form C", "CST with form C" and "VAT" shall be clearly indicated.
- 6.2.2. Input VAT Credit may be claimed by BPCL, wherever applicable. Vendor shall submit the TAX invoice.

6.3 Service tax:

All vendors shall have service tax registration wherever applicable. BPCL may also claim CENVAT Credit on service tax. The vendor should quote service tax separately, if applicable. Vendor shall submit the TAX invoice. Vendor is required to furnish serially numbered and signed invoice / bill / challan containing the following details:

- a) Name, address and registration number of the service provider
- b) Name and address of person receiving taxable service
- c) Description, classification and value of taxable service provided
- d) Service Tax Payable

6.4 FREIGHT AND OCTROI:

6.4.1 Freight: Firm freight charges to be quoted as indicated in the Tender documents. Freight shall be payable after receipt of the Material(s) at the site, unless otherwise specified.

6.4.2. Octroi and entry taxes, if any, shall be invoiced separately and shall be re-imbursed by BPCL at actuals after receipt of the Material(s) at the Site against the submission of original documentary evidence for proof of payment of the related octroi and entry taxes, as the case may be.

6.5. NEW STATUTORY LEVIES :

All new statutory levies leviable on sale of finished goods to owner, if applicable are payable extra by BPCL against documentary proof, within the contractual delivery period.

6.6 Variation in Taxes/Duties

Any increase/decrease in all the above mentioned statutory levies on the date of delivery during the scheduled delivery period on finished materials will be on BPCL's account. Any upward variation in statutory levies after contractual delivery date shall be to vendor's account.

6.7 Income Tax (Withholding tax)

In the case of avilment of services from Non Resident Vendors who are claiming benefits offered under the Double Taxation Avoidance Agreements signed by India with the Government of the other country (i.e. the country of the Vendor), such Non Resident Vendors are required to provide the Tax Residency Certificates at the time of submission of Bid documents. The Tax Residency Certificates shall contain the following details:

- a) Name of Vendor (assessee) ;
- b) Status (Individual, Company, firm etc.) of assessee;
- c) Nationality (in case of individual);
- d) Country or specified territory of incorporation or registration (in case of others);
- e) Assessee's tax identification number in the country or specified territory of residence or in case no such number, then, a unique number on the basis of which the person is identified by the Government of the country or the specified territory;
- f) Residential status for the purpose of tax;
- g) Period for which the certificate is applicable; and

h) Address of the applicant for the period for which the certificate is applicable.

The Tax Residency Certificate shall be duly verified by the Government of the Country or the specified territory of the assessee of which the assessee claims to be a resident for the purposes of tax.

7. INSPECTION:

- 7.1. Materials shall be inspected by BPCL approved third party inspection agency if applicable before dispatch of materials. However, arranging and providing inspection facilities is entirely vendor's responsibility and in no way shall affect the delivery schedule.
- 7.2. Scope of Inspection shall be as per RFQ. Our registered third party inspection agencies are SGS/GLISPL/IRS/DNV/LRIS/EIL/TATA Projects/PDIL/ULIPL/RITES LTD/ITSIPL as amended time to time unless otherwise specified in the Special Purchase Conditions.
- 7.3. Unless otherwise specified, the inspection shall be carried out as per the relevant Standards/scope of inspection provided along with the Tender Enquiry/Purchase Order.
- 7.4. BPCL may, at its own expense, have its representative(s) witness any test or inspection. In order to enable BPCL's representative(s) to witness the tests/inspections. BPCL will advise the Vendor in advance whether it intends to have its representative(s) be present at any of the inspections.
- 7.5. Even if the inspection and tests are fully carried out, the Vendor shall not be absolved from its responsibilities to ensure that the Material(s), raw materials, components and other inputs are supplied strictly to conform and comply with all the requirements of the Contract at all stages, whether during manufacture and fabrication, or at the time of Delivery as on arrival at site and after its erection or start up or consumption, and during the defect liability period. The inspections and tests are merely intended to prima-facie satisfy BPCL that the Material(s) and the parts and components comply with the requirements of the Contract. The Vendor's responsibility shall also not be anywise reduced or discharged because BPCL or BPCL's representative(s) or Inspector(s) shall have examined, commented on the Vendor's drawings or specifications or shall have witnessed the tests or required any chemical or physical or other tests or shall have stamped or approved or certified any Material(s).
- 7.6. Although material approved by the Inspector(s), if on testing and inspection after receipt of the Material(s) at the location, any Material(s)

are found not to be in strict conformity with the contractual requirements or specifications, BPCL shall have the right to reject the same and hold the Vendor liable for non-performance of the Contract.

8. SHIPPING:

8.1 SEA SHIPMENT:

All shipment of materials shall be made by first class direct vessels, through the chartering wing, Ministry of Surface Transport as per procedure detailed hereunder. The Foreign Supplier shall arrange with Vessels Owners or Forwarding Agents for proper storage of the entire Cargo intended for the project in a specific manner so as to facilitate and to avoid any over carriage at the port of discharge. All shipment shall be under deck unless carriage on deck is unavoidable.

The bills of lading should be made out in favour of 'Bharat Petroleum Corporation Ltd.. or order'.

All columns in the body of the Bill of Lading namely mark and nos., material description, weight particulars etc., should be uniform and accurate and such statements should be uniform in all the shipping documents. The freight particulars should mention the basis of freight tonnage, heavy lift charges, if any, surcharge, discount etc. clearly and separately. The net total freight payable shall be shown at the bottom.

SHIPPING DOCUMENTS:

All documents viz. Bill of Lading, invoices, packing list, freight memos, country of origin certificates, test certificate, drawings and catalogues should be in English language.

In addition of the bill of lading which should be obtained in three stamped original plus as many copies as required, invoices, packing list, freight memos,(if the freight particulars are not shown in the bills of lading), country of origin certificate, test / composition certificate, shall be made out against each shipment in as many number of copies as shown below.

The bill of lading, invoice and packing list specifically shall show uniformly the mark and numbers, contents case wise, country of origin, consignees name, port of destination and all other particulars as indicated under clause 2. The invoice shall show the unit rates and net total F.O.B. prices. Items packed separately should also be invoiced and the value shown accordingly. Packing list must show apart from other particulars actual contents in each case, net and gross weights and

dimensions, and the total number of packages. All documents should be duly signed by the Vendor's authorised representatives.

In the case of FOB orders, shipping arrangements shall be made by the Chartering Wing

Of the Ministry of Surface Transport, New Delhi through their respective forwarding agents. The names and addresses of forwarding agents shall be as per Special Purchase Conditions. Supplier shall furnish to the respective agents the full details of consignments such as outside dimension, weights (both gross and net) No of packages, technical description and drawings, name of supplier, ports of loading, etc. 6 weeks notice shall be given by the supplier to enable the concerned agency to arrange shipping space.

The bill of lading shall indicate the following:

Shipper: Government of India

Consignee: Bharat Petroleum Corporation Ltd.

In case of supplies from USA, Export Licences, if any required from the American Authorities shall be Obtained by the U.S. Suppliers. If need be assistance for obtaining such export licences would be available from India Supply Mission at Washington.

8.2 AIRSHIPMENT:

In case of Air shipment, the materials shall be shipped through freight consolidator (approved by us). The airway bill shall be made out in favour of BHARAT PETROLEUM CORPORATION LTD.

TRANSMISSION OF SHIPPING DOCUMENTS:

Foreign Supplier shall obtain the shipping documents in seven complete sets including three original stamped copies of the Bill of Lading as quickly as possible after the shipment is made, and airmail as shown below so that they are received at least three weeks before the Vessels arrival. Foreign Supplier shall be fully responsible or any delay and / or demurrage in clearance of the consignment at the port due to delay in transmittal of the shipping documents.

If in terms of letter or otherwise, the complete original set of documents are required to be sent to BPCL through Bank the distribution indicated below will confine to copies of

documents only minus originals.

Documents	BPCL (Mumbai)
Bill of Lading	4 (including 1 original)
Invoice	4
Packing List	4
Freight Memo	4
Country of Origin Certificate	4
Third party inspection certificate	4
Drawing	4
Catalogue	4
Invoice of Third Party	4

for inspection charges whenever applicable.

9. INDIAN AGENT COMMISSION :

Any offer through Indian agents will be considered only after authorization mentioning them as Indian agents, is received from Vendor. Indian agents commission if applicable will be payable only in Indian currency. Indian agents should be registered with Directorate General of Supplies and Disposals, Government of India and agency commission will be payable only after registration with DGS&D, New Delhi.

10. ORDER AWARD / EVALUATION CRITERIA :

Unless otherwise specified, Order award criteria will be on lowest quote landed price basis. Landed price will be summation of Basic Price, Packing & Forwarding Charges, Excise Duty, Sales Tax, Freight, Inspection, Octroi, Supervision of Installation & Commissioning and other taxes & levies, loading etc, if any, reduced by cenvat/vat credit as applicable.

11. CONFIRMATION OF ORDER :

The vendor shall acknowledge the receipt of the purchase order within 10 days of mailing the same. The vendor shall sign, stamp the acknowledgement copy of the purchase order and return the same to BPCL.

12. PAYMENT TERMS:

12.1. Unless otherwise specified, 100% payment shall be made within 30 days from date of receipt and acceptance of materials at Site against submission of Performance Bank Guarantee (PBG) for 10% of basic order value if PBG is applicable for the tender.

12.2. In the case of imports, payment will be made on submission of original documents directly to

Owner (Telegraphic Transfer-TT) or through Bank (Cash against documents-CAD) or through irrevocable Letter of Credit.

12.3. Unless otherwise mentioned, the specified documents (All documents listed below (one original and two copies)) should be submitted to originator of P.O. (the name and contact details of whom are given in PO) and payments for despatches will be made by the originator of Purchase Order :

- a) Invoice
- b) Excise invoice
- c) The Lorry Receipt of the consignment
- d) Packing list for the consignment
- e) Third Party Inspector's Certificate covering the invoiced Material(s)/ Release Note, wherever applicable
- f) Manufacturers Test/Composition Certificate, wherever applicable
- g) Drawing(s)/Catalogue(s) covering the Material(s) , wherever applicable
- h) Guarantee/Warranty Certificate(s), wherever applicable.
- i) Original Receipt for Octroi/other statutory levies as applicable.
- j) Performance Bank Guarantee as applicable.

13. GUARANTEE/WARRANTY:

13.1. Materials shall be guaranteed against manufacturing defects, materials, workmanship and design for a period of 12 months from the date of commissioning or 18 months from the date of dispatch whichever is earlier. Warranty for replacement of material / accessories should be provided free of charges at our premises. The above guarantee/warranty will be without prejudice to the certificate of inspection or material receipt note issued by us in respect of the materials.

13.2. All the materials including components and sub contracted items should be guaranteed by the vendor within the warranty period mentioned above. In the event of any defect in the material, the vendor will replace / repair the material at BPCL's concerned location at vendor's risk and cost on due notice.

- 13.3. In case, vendor does not replace / repair the material on due notice, rejected material will be sent to the vendor on “Freight to pay” basis for free replacement. Material after rectification of defects shall be dispatched by the vendor on “Freight Paid” basis. Alternatively, BPCL reserves the right to have the material repaired / replaced at the locations concerned, at the vendor’s risk, cost and responsibility.
- 13.4. The Vendor shall provide similar warrantee on the parts, components, fittings, accessories etc. so repaired and / or replaced.

14. PERFORMANCE BANK GUARANTEE :

- 14.1. Vendor will have to provide Performance Bank Guarantee for 10% of the basic value of purchase order unless otherwise specified. This bank guarantee shall be valid (shall remain in force) for guarantee period (as mentioned in the guarantee clause), with an invocation period of six months thereafter. In the case of Indigenous vendors, the Performance Bank Guarantee shall be given on a non-judicial stamp paper of appropriate value (currently Rs 100). PBG format is as per Annexure VI.

In case, PBG is not provided by the Vendor, 10% of the basic value shall be retained in lieu of PBG, till the expiry of guarantee and claim period.

In the case of imports, the Supplier shall furnish the Performance Bank Guarantee (as per Annexure VI) through the following :

- a) Branches of Indian scheduled banks operating in their Country.
- b) Foreign bank operating in their Country which is counter guaranteed by branches of Indian scheduled banks operating in their Country/India.
- c) Indian branches of foreign banks.
- d) Foreign bank operating in their Country counter guaranteed by their Indian branch

However, in respect of c) and d) above, the Indian branch of foreign banks should be recognized as scheduled bank by Reserve Bank of India.

- 14.2. If Vendor wants to submit the PBG at Contract level to avoid multiple number of PBG (i.e. PBG issued against every purchase/call off order) then the validity of PBG will be calculated as mentioned below:

- 14.2.1. Validity of PBG = Rate Contract Issue Date (Start Date of Rate Contract) + Rate Contract Period (validity of Rate Contract) + Contractual Delivery Period of material + Contractual Guarantee period + 6 month (for invocation / Claim).

15. PACKING & MARKING:

15.1 PACKING:

15.1.1 Packing shall withstand the hazards normally encountered with the means of transport for the goods of this purchase order including loading and unloading operation both by crane and by pushing off.

In the case of imports, all equipments / materials shall be suitably packed in weather proof, seaworthy packing for ocean transport under tropical conditions and for rail or road or other appropriate transport in India. The packing shall be strong and efficient enough to ensure safe preservance upto the final point of destination.

Raw/Solid wood packaging material of imported items has to be appropriately treated & marked as per International Standard of Phytosanitary Measures (ISPM-15") for material originating from the contracting countries to the International Plant Protection Convention or the members of Food & Agriculture Organization. Material from non-contracting parties would have to be accompanied by a phytosanitary certificate of the treatment endorsed. The Custom Officer at Indian Port shall not release the material without appropriate compliance of the above provisions w.e.f. 01.11.2004.

15.1.2 The packing specification incorporated herein are supplementary to the internal and external packing methods and standards as per current general rules of J.R.A. Good Tariff Part-I. All packaging shall be done in such a manner as to reduce volume as much as possible.

15.1.3 Fragile articles should be packed with special packing materials depending on the type of Materials and the packing shall bear the words "HANDLE WITH CARE GLASS FRAGILE, DON'T ROLL THIS END UP. THIS END DOWN," to be indicated by arrow.

15.1.4 Chemicals in powder form, catalyst, refractories and like materials etc. shall be packed in drums, cans and tins only. However, Catalyst may be supplied in Jumbo bags.

15.1.5 The hazardous materials shall be packed in accordance with the applicable rules, regulations and tariff of all cognizant Government Authorities and other Governing bodies. It shall be the responsibility of the seller of hazardous materials to designate the material as hazardous and to identify each material by its proper commodity name and its hazardous material class code.

15.1.6 All packages requiring handling by crane should have sufficient space at appropriate place to put sling of suitable dia (strength). Iron/Steel angle should be provided at the place where sling marking are made to avoid damage to package/ equipment while lifting.

15.1.7 Item shipped in bundles must be securely tied with steel wire or strapping. Steel reinforcing rods, bars, pipes, structural members etc. shall be bundled in uniform lengths and the weight shall be within the breaking strength of the securing wire or strapping.

In the case of imports, for bundles the shipping marks shall be embossed on metal or similar tag and wired securely on each end.

15.1.8 All delicate surfaces on equipment/materials should be carefully protected and printed with protective paint/compound and wrapped to prevent rusting and damage.

15.1.9 All mechanical and electrical equipment and other heavy articles shall be securely fastened to the case bottom and shall be blocked and braced to avoid any displacement/shifting during transit.

15.1.10 Attachments and spare parts of equipment and all small pieces shall be packed separately in wooden cases with adequate protection inside the case and wherever possible should be sent along with the main equipment. Each item shall be suitably tagged with identification of main equipment, item denomination and reference number of respective assembly drawing. Each item of steel structure and furnaces shall be identified with two erection markings with minimum lettering height of 15mm. Such markings will be followed by the collection numbers in indelible ink/paint. A copy of the packing list shall accompany the materials in each package.

15.1.11 All protrusions shall be suitably protected by providing a cover comprising of tightly bolted wooden disc on the flanges. All nozzles, holes and openings and also all delicate surfaces shall be carefully protected against damage and bad weather. All manufactured surfaces shall be painted with rust proof paint.

In the case of imports, for bulk uniform material when packed in several cases, progressive serial numbers shall be indicated on each case.

15.1.12 Wherever required, equipment/materials instruments shall be enveloped in polythene bags containing silicagel or similar dehydrating compound.

15.1.13 Pipes shall be packed as under:

a. Upto 50mm NB in wooden cases/crates.

b. Above 50mm NB and upto 100mm NB in bundles and should be strapped at minimum three places.

c. Above 100mm NB in loose.

15.1.14 Pipes and tubes of stainless steel, copper etc. shall be packed in wooden cases irrespective of their sizes.

15.1.15 Pipes with threaded or flanged ends shall be protected with suitable caps covers, before packing.

In the case of imports, all pipes and sheets shall be marked with strips bearing progressive no.

15.1.16 Detailed packing list in waterproof envelope shall be inserted in the package together with equipment/materials. One copy of the detailed packing list shall be fastened outside of the package in waterproof envelope and covered by metal cover.

15.1.17 The supplier shall be held liable for all damages or breakages to the goods due to the defective or insufficient packing as well as for corrosion due to insufficient protection.

15.1.18 Packaged equipment or materials showing damage defects or shortages resulting from improper packaging materials or packing procedures or having concealed damages or shortages, at the time of unpacking shall be to the supplier's account.

All packages which require special handling and transport should have their Centres of Gravity and the points at which they may be slung or gripped clearly indicated and marked "ATTENTION SPECIAL LOAD HANDLE WITH CARE" both in English/Hindi Languages.

In the case of imports, a distinct colour splash in say red black around each package crate / bundle shall be given for identification.

15.1.19 Along with the packed material, supplier should attach material list, manuals/instructions and also the Inspection certificate/release note, wherever applicable.

15.2. MARKING:

The following details to be written on the side face of packing:

- a) Purchase Order Number
- b) Vendor Name
- c) Batch no with manufacturing date
- d) Procedure (in brief) for handling
- e) Date of dispatch etc.

15.3 Imported items:

On three sides of the packages, the following marks shall appear, clearly visible, with indelible paint and on Vendor's care and expenses.

BHARAT PETROLEUM CORPORATION LIMITED
(With detailed address as given in Special Purchase
Conditions)

From :

To : Bharat Petroleum Corpn.Ltd.

(With detailed address as given in Special Purchase Conditions)

Order no.	Rev. no.
Item :	
Equipment Nomenclature:	
Net weight :	Kgs.
Gross weight:	Kgs.
Case No.	of Total cases :
Dimensions :	
Import Licence No.	

NOTE:

Marking shall be bold - minimum letter height 5 cm. For every order and every shipment, packages must be marked with serial progressive numbering.

Top heavy containers shall be so marked either Top Heavy or Heavy Ends.

When packing material is clean and light coloured, dark black stencil paint shall be acceptable. However, where packaging material is soiled or dark, a coat of flat zinc white paint shall be applied and allowed to dry before applying the specific markings.

In case of large equipments like vessels, heat exchangers, etc. the envelope containing the documents shall be fastened inside a shell connection, with an identifying arrow sign "documents" using indelible paint.

16. DELIVERY:

16.1. Unless otherwise mentioned, Vendor is requested to quote their best delivery schedule from the date of receipt of Purchase order.

16.2. Time being the essence of this contract, the delivery mentioned in the purchase order shall be strictly adhered to and no variation shall be permitted except with prior authorization in writing from the Owner. Goods should be delivered, securely packed and in good order and condition, at the place of delivery and within the time specified in the purchase order for their delivery.

16.3. The contractual delivery period is inclusive of all the lead time for engineering /procurement of raw material, the manufacturing, inspection / testing, packing, transportation or any other activity whatsoever required to be accomplished for effecting the delivery at the required delivery point.

16.4. Unless otherwise specified, Material(s) shall not be despatched without prior inspection and/or testing and Release Order/Material(s) Acceptance Certificate issued by the Inspector(s).

16.5. BPCL shall have the right to advise any change in despatch point or destination in respect of any Material(s). Any extra expenditure incurred by the Vendor on this account supported by satisfactory documentary evidence, will be reimbursed to the Vendor by BPCL.

17. UNLOADING AND STACKING :

Unloading and stacking will be arranged by BPCL. The Vendor shall send BPCL information of the proposed consignment well in advance by telegram/fax/e-mail/courier to enable BPCL to take necessary action.

18. TRANSIT INSURANCE:

Unless otherwise mentioned,

18.1. Transit Insurance shall be covered by the Vendor.

18.2 In the case of imports, insurance against all marine and transit risk shall be covered under the Owner's marine policy. However, the Vendor shall

ensure that in effecting shipments clear bill of lading are obtained and the carrier's responsibility is fully retained on the Carriers so that the consignee's interests are fully secured and are in no way jeopardized.

18.2. The Vendor shall send BPCL information of the proposed consignment well in advance by telegram/fax/e-mail/courier to enable BPCL to take necessary action for the transit insurance of the consignment. Any failure by the Vendor to do so shall place the consignment at the Vendor's risk.

18.3. In the case of imports, as soon as any shipment is made, the Foreign Supplier shall send advance information by way of Telex message to Bharat Petroleum Corporation Ltd., (with detailed address as given in Special Purchase Conditions) giving particulars of the shipments, vessels name, port of shipment, bill of lading number and date, total FOB and freight value.

19 VALIDITY OF OFFER:

The rates quoted against this tender shall be valid for a period of 90 Days from the date of opening of the tender unless otherwise specified in the Special Purchase Conditions.

20. DELIVERY DATES AND PRICE REDUCTION SCHEDULE:

20.1. The time and date of Delivery of Material(s) as stipulated in the Contract shall be adhered to on the clear understanding that the Price(s) of the Material(s) has/have been fixed with reference to the said Delivery date(s).

20.2. If any delay is anticipated by the Vendor in the delivery of the Material(s) or any of them beyond the stipulated date(s) of Delivery, the Vendor shall forthwith inform BPCL in writing of such anticipated delay and of the steps being taken by the Vendor to remove or reduce the anticipated delay, and shall promptly keep BPCL informed of all subsequent developments.

20.3. The delivery period quoted must be realistic & specific. The inability of successful Vendors to execute orders in accordance with the agreed delivery schedule will entitle BPCL, at its options, to:

20.3.1. Accept delayed delivery at prices reduced by a sum equivalent to half percent (0.5%) of the basic value of any goods not delivered for every week of delay or part thereof, limited to a maximum of 5% of the total basic order value. LR date will be considered as delivery completion date for calculation of price reduction in the case of ex works contract. Date of

receipt of materials at owner's premises shall be considered for calculation of price reduction for F.O.R destination contract.

In the case of imports, the contractual delivery date shall be considered from the date of Letter of Credit (L/C) or the date of L/C amendment because of Buyer's fault plus one week (to take care of transit time for receipt of L/C) plus the delivery schedule as indicated by the vendors.

In case of the shipment taking place on "Cash against documents", the contractual delivery shall be taken from the date of purchase order plus one week (to take care of transit time for receipt of order) plus delivery period.

Further the date of B/L or House airway bill shall be considered to find out the delay with respect to contractual delivery date. In case of FOB shipments if the vessel is not available then the intimation by vendors regarding readiness of the goods for the shipment shall be considered for calculating the delay if any. So vendor shall inform the readiness of material for shipment on FOB (Free on Board) basis / FCA (Free on Carrier) basis.

20.3.2. Cancel the order in part or full and purchase such cancelled quantities from elsewhere on account at the risk and cost of the vendor, without prejudice to its right under 20.3.1 above in respect of goods delivered.

21. RISK PURCHASE CLAUSE:

BPCL reserves the right to curtail or cancel the order either in full or part thereof if the vendor fails to comply with the delivery schedule and other terms & conditions of the order. BPCL also reserves the right to procure the same or similar materials/equipment through other sources at vendor's entire risk, cost and consequences. Further, the vendor agrees that in case of procurement by the owner from other sources the differential amount paid by the owner shall be on account of the vendor together with any interest and other costs accrued thereon for such procurement.

22. FORCE MAJEURE CLAUSE:

(A) Definition: The term "**Force Majeure**" means any event or circumstance or combination of events or circumstances that affects the performance by the vendor of its obligations pursuant to the terms of this Agreement (including by preventing, hindering or delaying such performance), but only if and to the extent that such events and circumstances are not within the vendor's reasonable control and were

not reasonably foreseeable and the effects of which the vendor could not have prevented or overcome by acting as a Reasonable and Prudent person or, by the exercise of reasonable skill and care. **Force Majeure events and circumstances shall in any event include the following events and circumstances to the extent they or their consequences satisfy the requirements set forth above in this Clause:**

- i. the effect of any element or other act of God, including any storm, flood, drought, lightning, earthquake, tidal wave, tsunami, cyclone or other natural disaster;
- ii. fire, accident, loss or breakage of facilities or equipment, structural collapse or explosion;
- iii. epidemic, plague or quarantine;
- iv. air crash, shipwreck, or train wreck;
- v. acts of war (whether declared or undeclared), sabotage, terrorism or act of public enemy (including the acts of any independent unit or individual engaged in activities in furtherance of a programme of irregular warfare), acts of belligerence of foreign enemies (whether declared or undeclared), blockades, embargoes, civil disturbance, revolution, rebellion or insurrection, exercise of military or usurped power, or any attempt at usurpation of power;
- vi. radioactive contamination or ionizing radiation;

(B) Notice and Reporting:

- i. The Vendor shall as soon as reasonably practicable after the date of commencement of the event of Force Majeure, but in any event no later than two (7) days after such commencement date, notify BPCL in writing of such event of Force Majeure and provide the following information:
 - (a) Reasonably full particulars of the event or circumstance of Force Majeure and the extent to which any obligation will be prevented or delayed;
 - (b) Such date of commencement and an estimate of the period of time required to enable the vendor to resume full performance of its obligations; and
 - (c) All relevant information relating to the Force Majeure and full details of the measures the vendor is taking to overcome or circumvent such Force Majeure.

- ii. The Vendor shall, throughout the period during which it is prevented from performing, or delayed in the performance of, its obligations under this Agreement, upon request, give or procure access to examine the scene of the Force Majeure including such information, facilities and sites as the other Party may reasonably request in connection with such event. Access to any facilities or sites shall be at the risk and cost of the Party requesting such information and access.

(C) Mitigation Responsibility:

- (i) The Vendor shall use all reasonable endeavours, acting as a Reasonable and Prudent Person, to circumvent or overcome any event or circumstance of Force Majeure as expeditiously as possible, and relief under this Clause shall cease to be available to the Vendor claiming Force Majeure if it fails to use such reasonable endeavours during or following any such event of Force Majeure.
- (ii) The Vendor shall have the burden of proving that the circumstances constitute valid grounds of Force Majeure under this Clause and that it has exercised reasonable diligence efforts to remedy the cause of any alleged Force Majeure.
- (iii) The Vendor shall notify BPCL when the Force Majeure has terminated or abated to an extent which permits resumption of performance to occur and shall resume performance as expeditiously as possible after such termination or abatement.

(D) Consequences of Force Majeure. Provided that the Vendor has complied and continues to comply with the obligations of this Clause and subject to the further provisions:

- (i) the obligations of the Parties under this Agreement to the extent performance thereof is prevented or impeded by the event of Force Majeure shall be suspended and the Parties shall not be liable for the non-performance thereof for the duration of the period of Force Majeure; and
- (ii) the time period(s) for the performance of the obligations of the Parties under this Agreement to the extent performance thereof is prevented or impeded by the event of Force Majeure shall be extended for the duration of the relevant period of Force Majeure except as provided herein.

(E) Force Majeure Events Exceeding 60 Days

- (i) If an event or series of events (alone or in combination) of Force

Majeure occur, and continue for a period in excess of 60 consecutive days, then BPCL shall have the right to terminate this agreement, whereupon the Parties shall meet to mitigate the impediments caused by the Force Majeure event.

23. ARBITRATION CLAUSE :

- 23.1. Any dispute or difference of any nature whatsoever, any claim, cross-claim, counter-claim or set off of BPCL/Vendor against omission or on account of any of the parties hereto arising out of or in relation to this Contract shall be referred to the Sole Arbitration of Director (Marketing) / Director (HR) / Director (R) of BPCL as the case may be or to some officer of BPCL who may be nominated by them.
- 23.2. In the event the Arbitrator being unable or refusing to act for any reason whatsoever, the said Directors of BPCL shall designate another person to act as an Arbitrator in accordance with the terms of the said Contract/Agreement. The Arbitrator newly appointed shall be entitled to proceed with the reference from the point at which it was left by his predecessor.
- 23.3. It is known to the parties herein that the Arbitrator appointed hereunder is an employee of the Corporation and may be Shareholder of the Corporation.
- 23.4. The award of the Arbitrator so appointed shall be final, conclusive and binding on all the parties to the contract and the law applicable to arbitration proceedings will be the Arbitration and Conciliation Act, 1996 or any other enactment in replacement thereof.
- 23.5. The language of the proceedings will be in English and the place of proceedings will be Mumbai.
- 23.6. The parties hereby agree that the Courts in the city of Mumbai alone shall have jurisdiction to entertain any application or other proceedings in respect of anything arising under this Agreement and any Award or Awards made by the Sole Arbitrator hereunder shall be filed, if required, in the concerned Courts in the City of Mumbai alone.

24. INTEGRITY PACT (IP) :

Vendors are requested to sign & return our pre-signed IP document, if applicable. This document is essential & binding. Vendor's failure to

return the IP document duly signed along with Bid Document may result in the bid not being considered for further evaluation.

25. RECOVERY OF SUMS DUE:

Whenever, any claim against vendor for payment of a sum of money arises out of or under the contract, the owner shall be entitled to recover such sums from any sum then due or when at any time thereafter may become due from the vendor under this or any other contract with the owner and should this sum be not sufficient to cover the recoverable amount of claim(s), the vendor shall pay to BPCL on demand the balance remaining due.

26. CONFIDENTIALITY OF TECHNICAL INFORMATION:

Drawing, specifications and details shall be the property of the BPCL and shall be returned by the Vendor on demand. The Vendor shall not make use of drawing and specifications for any purpose at any time save and except for the purpose of BPCL. The Vendor shall not disclose the technical information furnished to or organized by the Vendor under or by virtue of or as a result of the implementation of the Purchase Order to any person, firm or body or corporate authority and shall make all endeavours to ensure that the technical information is kept CONFIDENTIAL. The technical information imparted and supplied to the vendor by BPCL shall at all-time remain the absolute property of BPCL. Imparting of any confidential information by the Vendor will be breach of contract.

27. PATENTS & ROYALTIES:

The vendor shall fully indemnify BPCL and users of materials specified herein/supplied at all times, against any action, claim or demand, costs and expenses, arising from or incurred by reasons of any infringement or alleged infringement of any patent, registered design, trademark or name, copy right or any other protected rights in respect of any materials supplied or any arrangement, system or method of using, fixing or working used by the vendor. In the event of any claim or demand being made or action sought against BPCL in respect of any of the aforesaid matter, the vendor shall be notified thereof immediately and the vendor shall at his/its own expense with (if necessary) the assistance of BPCL (whose all expense shall be reimbursed by the vendor) conduct all negotiations for the settlement of the same and/or litigation which may arise thereof.

28. LIABILITY CLAUSE:

In case where it is necessary for employees or representatives of the Vendor to go upon the premises of owner, vendor agrees to assume the responsibility for the proper conduct of such employees/representatives while on said premises and to comply with all applicable Workmen's Compensation Law and other applicable Government Regulations and Ordinances and all plant rules and regulations particularly in regard to safety precautions and fire hazards. If this order requires vendor to furnish labour at site, such vendor's workmen or employees shall under no circumstances be deemed to be in owner's employment and vendor shall hold himself responsible for any claim or claims which they or their heirs, dependent or personal representatives, may have or make, for damages or compensation for anything done or committed to be done, in the course of carrying out the work covered by the purchase order, whether arising at owner's premises or elsewhere and agrees to indemnify the owner against any such claims, if made against the owner and all costs of proceedings, suit or actions which owner may incur or sustain in respect of the same.

29. COMPLIANCE OF REGULATIONS:

Vendor warrants that all goods/Materials covered by this order have been produced, sold, dispatched, delivered and furnished in strict compliance with all applicable laws, regulations, labour agreement, working condition and technical codes and statutory requirements as applicable from time to time. The vendor shall ensure compliance with the above and shall indemnify owner against any actions, damages, costs and expenses of any failure to comply as aforesaid.

30. REJECTION, REMOVAL OF REJECTED GOODS AND REPLACEMENT:

In case the testing and inspection at any stage by inspectors reveal that the equipment, materials and workmanship do not comply with specification and requirements, the same shall be removed by the vendor at his/its own expense and risk, within the time allowed by the owner. The owner shall be at liberty to dispose off such rejected goods in such manner as he may think appropriate. In the event the vendor fails to remove the rejected goods within the period as aforesaid, all expenses incurred by the owner for such disposal shall be to the account of the vendor. The freight paid by the owner, if any, on the inward journey of the rejected materials shall be reimbursed by the vendor to the owner before the rejected materials are removed by the vendor. The vendor will have to proceed with the replacement of the equipment or part of equipment without claiming any extra payment if so required by the

owner. The time taken for replacement in such event will not be added to the contractual delivery period.

31. NON-WAIVER:

Failure of the Owner to insist upon any of the terms or conditions incorporated in the Purchase Order or failure or delay to exercise any rights or remedies herein, or by law or failure to properly notify Vendor in the event of breach, or the acceptance of or payment of any goods hereunder or approval of design shall not release the Vendor and shall not be deemed a waiver of any right of the Owner to insist upon the strict performance thereof or of any of its or their rights or remedies as to any such goods regardless of when such goods are shipped, received or accepted nor shall any purported oral modification or revision of the order by BPCL act as waiver of the terms hereof. Any waiver to be effective must be in writing. Any lone incident of waiver of any condition of this agreement by BPCL shall not be considered as a continuous waiver or waiver for other condition by BPCL.

32. NEW & UNUSED MATERIAL:

All the material supplied by the vendor shall be branded new, unused and of recent manufacture.

33. PURCHASE PREFERENCE CLAUSE:

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

Owner reserves its right to allow Micro and Small Enterprises (MSEs) and MSEs owned by Scheduled Caste (SC) or the Scheduled tribe (ST) entrepreneurs, purchase preference as admissible/applicable from time to time under the existing Govt. policy. Purchase preference to a MSE and a MSE owned by SC/ST entrepreneurs shall be decided based on the price quoted by the said MSEs as compared to L1 Vendor at the time of evaluation of the price bid.

34. CANCELLATION:

34.1. BPCL reserves the right to cancel the contract/purchase order or any part thereof through a written notice to the vendor if.

34.1.1. The vendor fails to comply with the terms of this purchase order/contract.

34.1.2. The vendor becomes bankrupt or goes into liquidation.

34.1.3. The vendor fails to deliver the goods on time and/or replace the rejected goods promptly.

34.1.4. The vendor makes a general assignment for the benefit of creditors.

34.1.5. A receiver is appointed for any of the property owned by the vendor.

34.2. Upon receipt of the said cancellation notice, the vendor shall discontinue all work on the purchase order matters connected with it. BPCL in that event will be entitled to procure the requirement in the open market and recover excess payment over the vendor's agreed price if any, from the vendor and also reserving to itself the right to forfeit the security deposit if any, made by the vendor against the contract. The vendor is aware that the said goods are required by BPCL for the ultimate purpose of materials production and that non-delivery may cause loss of production and consequently loss of profit to the BPCL. In this-event of BPCL exercising the option to claim damages for non-delivery other than by way of difference between the market price and the contract price, the vendor shall pay to BPCL, fair compensation to be agreed upon between BPCL and the vendor. The provision of this clause shall not prejudice the right of BPCL from invoking the provisions of price reduction clause mentioned in 20.3.1 as aforesaid.

35. ANTI -COMPETITIVE AGREEMENTS/ABUSE OF DOMINANT POSITION:

The Competition Act, 2002 as amended by the Competition (Amendment) Act, 2007 (the Act), prohibits anti- competitive practices and aims at fostering competition and at protecting Indian markets against anti-competitive practices by enterprises. The Act prohibits anti- competitive agreements, abuse of dominant position by enterprises, and regulates combinations (consisting of acquisition, acquiring of control and M&A) wherever such agreements, abuse or combination causes, or is likely to cause, appreciable adverse effect on competition in markets in India. BPCL reserves the right to approach the Competition Commission

established under the Act of Parliament and file information relating to anti-competitive agreements and abuse of dominant position. If such a situation arises, then Vendors are bound by the decision of the Competitive Commission and also subject to penalty and other provisions of the Competition Act.

36. ASSIGNMENT:

The Vendor can / does not have any right to assign his rights and obligations under these general purchase conditions without the prior written approval of BPCL.

37. GOVERNING LAW:

These General Purchase Conditions shall be governed by the Laws of India.

38. AMENDMENT

Any amendment to these General Purchase Conditions can be made only in writing and with the mutual consent of the parties to these conditions.

39. SPECIAL PURCHASE CONDITIONS

In case of a conflict between the clauses, terms and conditions of General Purchase Conditions and Special Purchase condition, the clauses, terms and conditions of Special Purchase Condition will have an overriding effect over General Purchase Conditions and the same shall be applicable.

40. NOTICES

Any notices to be given hereunder by a Party to the other shall be in English and delivered by hand or sent by courier or facsimile to the other Party at the address or facsimile number stated below or such other address or number as may be notified by the relevant Party from time to time.

INTEGRITY PACT

Between

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

And

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

Preamble

The Principal intends to award, under laid down organization procedures, contract/s for SUPPLY AND SUPPORT OF ORACLE LICENSES FOR NEW LOYALTY PROGRAM. The Principal values full compliance with all relevant laws and regulations, and the principles of economic use of resources, and of fairness and transparency in its relations with its Bidder/s, Contractor/s and Supplier/s.

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

Section 1 - Commitments of the Principal

(1)The Principal commits itself to take all measures necessary to prevent Corruption and to observe the following principles:

- (a) No employee of the Principal, personally or through family members, will in connection with the tender, or the execution of the contract, demand, take a promise for or accept, for himself/herself or third person, any material or immaterial benefit which he/she is not legally entitled to.
- (b) The Principal will, during the tender process, treat all Bidders with equity and reason. The Principal will, in particular, before and during the tender process, provide to all Bidders the same information and will not provide to any Bidder confidential / additional information through which the Bidder could obtain an advantage in relation to the tender process or the contract execution.
- (c) The Principal will exclude from the process all known prejudiced persons.

(2) If the Principal obtains information on the conduct of any of its

employees which is a criminal offence under the relevant Anti-Corruption Laws of India, or if there be a substantive suspicion in this regard, the Principal will inform its Vigilance Office and in addition can initiate disciplinary actions.

Section 2 - Commitments of the Bidder / Contractor/Supplier

- (1) The Bidder / Contractor/Supplier commits itself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.
 - (a) The Bidder / Contractor/Supplier will not, directly or through any other person or firm, offer, promise or give to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person, any material or immaterial benefit which he/she is not legally entitled to, in order to obtain in exchange, any advantage of any kind whatsoever during the tender process or during the execution of the contract.
 - (b) The Bidder / Contractor/Supplier will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
 - (c) The Bidder / Contractor/Supplier will not commit any offence under the relevant Anti-Corruption Laws of India; further the Bidder / Contractor/Supplier will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
 - (d) The Bidder / Contractor/Supplier will, when presenting his bid, disclose any and all payments he has made, is committed to, or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.
- (2) The Bidder / Contractor/Supplier will not instigate third persons to commit offences outlined above or be an accessory to such offences.

Section 3 - Disqualification from tender process and exclusion from

future contracts

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

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

Section 4 - Compensation for Damages

- a) No employee of the Principal, personally or through family members, will in connection with the tender, or the execution of the contract, demand, take a promise for or accept, for himself/herself or third person, any material or immaterial benefit which he/she is not legally entitled to.
- b) The Principal will, during the tender process, treat all Bidders with equity and reason. The Principal will, in particular, before and during the tender process, provide to all Bidders the same information and will

not provide to any Bidder confidential / additional information through which the Bidder could obtain an advantage in relation to the tender process or the contract execution.

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

Section 5 - Previous Transgression

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

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

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

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

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

Section 8 - Independent External Monitors

- (1) The Principal has appointed competent and credible Independent External Monitors for this Pact. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.
- (2) The Monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. He reports to the Chairperson of the Board of the Principal.
- (3) The Bidder/Contractor/Supplier accepts that the Monitor has the right to access without restriction to all Project documentation of the Principal including that provided by the Bidder/Contractor/Supplier. The Bidder/Contractor/Supplier will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to this project documentation. The same is applicable to Subcontractors. The Monitor is under contractual obligation to treat the information and documents of the Bidder/Contractor/Supplier/ Subcontractor with confidentiality.
- (4) The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the Principal and the Bidder/Contractor/Supplier. The parties offer to the Monitor the option to participate in such meetings.

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

Section 9 - Pact Duration

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

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

Section 10 - Other provisions

- (1) This agreement is subject to Indian Law. Place of performance and jurisdiction is the Registered Office of the Principal, i.e. Mumbai. The Arbitration clause provided in the main tender document / contract shall not be applicable for any issue / dispute arising under Integrity Pact.
- (2) Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.
- (3) If the Bidder/Contractor/Supplier is a partnership or a consortium, this agreement must be signed by all partners or consortium members.

(4) Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

For the Principal

For the Bidder/Contractor/
Supplier

Place

Witness 1:
(Signature/Name/Address)

Date

Witness 2 :
(Signature/Name/Address)

PERFORMANCE BANK GUARANTEE

M/S: Bharat Petroleum Corporation Ltd.

Bharat Bhavan, 4 & 6, Currimbhoy Road,
Ballard Estate, P.B.NO.688, Mumbai – 400001.

Subject:

THIS DEED OF GUARANTEE made at _____ this ____ day of _____, Year _____ by M/S. _____ having its registered office at _____ (hereinafter Called “vendor” which expression shall, unless repugnant to the context or meaning include its successors and assigns) in favor of **Bharat Petroleum Corporation Ltd. Bharat Bhavan, 4 & 6, Currimbhoy Road, Ballard Estate, P.B.NO.688, Mumbai – 400001.** (Hereinafter called “the purchaser” which expression shall, unless repugnant to the context or meaning, include its successors & assigns).

M/S. _____, having its registered office at _____ (hereinafter Called “vendor” which expression shall, unless repugnant to the context or meaning include its successors and assigns) which is the bank has accepted the **Purchase Order no. _____ DT. _____** from the Purchaser whereby the vendor has agreed to supply and install _____ more particularly described in Purchase Order on terms and conditions therein contained, the purchase Order is here in after referred to as (“the said order”).

1. It is one of the terms of the of the said conditions that upon successful completion of acceptance test & issue of certificate from the purchase for the above said supplies each such Computer Equipment in accordance with the provision of clause 1 of the said order, the purchaser shall pay the **Rs. _____-(Rupees _____)** in respect of the supplies & installation to the vendor subject to vendor furnishing a Bank Guarantee for performance in favor of the Purchaser thereby guaranteeing the satisfactory execution of the said order and performance of the respective equipment as laid down in the said order and in the event of the failure on the part of the vendor to satisfactory execute the terms of the said order and ensure satisfactory working of the respective equipment guaranteeing the payment by the bank for the value equivalent to 10% of the total price Rs. _____ I’e **Rs. _____(Rupees _____)** valid for the period up to _____ from the date of such guarantee.

2. The Vendor has carried out the Acceptance test in respect of the equipment which is hereinafter referred to as “the Said equipment” installed by the Vendor at site of the Purchaser.

3. The bank has at the request of the Vendor agreed to given in favor of Purchaser performance guarantee as above & has requested the purchaser to pay the vendor balance of Rs. _____ (Rupees _____) for the said equipment in terms of the said agreement .

4. The Purchaser has accordingly agreed to pay to the vendor a sum of **Rs. _____-(Rupees _____)** being 10% of the balance total price in respect of the said equipment.

NOW THEREFORE THIS DEED GUARANTEE WITNESS THAT

1. IN CONSIDERATATION of the Purchaser at the request of the Vendor having agreed to pay to the Vendor Said Sum of **Rs. _____/-(Rupees _____)** being 10% of the balance total price in respect of the said equipment. We the Bank, hereby unconditionally & irrevocably guarantee & undertake that the Vendor shall satisfactorily execute the terms of the said order & ensure satisfactory performance of the equipment supplied for a period up to _____ from the date of formal acceptance by the Purchaser of the equipment we the (bank name), having its Branch office at _____ (hereinafter referred to as the Guarantor) Shall on demand (s) from the purchaser without protest or demur or without reference to the Vendor & notwithstanding pay to the purchaser forthwith the sum of **Rs. _____(Rupees _____ only)**.

2. WE (bank name) HEREBY FURTHER AGREE & DECLARE THAT

- a) Any neglect or forbearance on the purchaser to the Vendor or any indulgence of any kind show by the Purchaser or any change in the terms and conditions mutually agrees between the vendor & the purchaser shall not in any way release or discharge the Bank from its liabilities.
- b) The guarantee herein contained shall be distinct & independent and shall be enforced against the bank notwithstanding any other guarantee or security now or hereinafter held by the purchaser at its discretion shall at the time when this guarantee is invoked be outstanding or not enforced.
- c) The Guarantee shall not effected by any infirmity or absence or irregularity in the exercise of the guaranteeing powers by or on behalf of our Bank or by merger or amalgamation any change in the constitution or name of the bank .

3. WE THE (bank name), HEREBY ALSO FURTHER AGREE AND DECLARE THAT, Though as between the vendor & the bank, the bank is surely only, the bank agrees that as between the Purchaser & the Bank is principle debtor to the purchaser. This guarantee is a continuing guarantee during the validity

period up to _____ and unless demand or claims from time to time within the amount guaranteed are made on or before _____, all the rights of the Purchaser hereunder shall be relieved & the bank shall be discharged of all its liabilities hereunder.

This guarantee shall not be affected by any change in the constitution of the vendor or the purchaser & shall be discharged only on the purchaser being satisfied about the performance by the said equipment by fulfilling the criterion as to the uptime performance of the said equipment as laid down in the said agreement or by payment by the Bank the sum guaranteed hereunder to the purchaser as the case may be. In the event of the vendor being wound up the purchaser will be entitled to prove against the properties of the vendor in respect of the vendors whole indebtedness to the Purchaser without any right on the part of the bank to stand in the purchaser`s place in respect of or to claim the benefits of any compensation for payment or for any security held by the purchaser until the purchaser has received the full amount under this Bank Guarantee against the Vendor

This guarantee shall be in addition to & not in substitution for any other guarantee or security by the Vendor given or to be given to Purchaser in respect of the said consignment.

4. Any notice / communication from the purchaser to the effect that there has been failure of the equipment to perform & satisfy the criterion as to the uptime performance of the said equipment laid down in the said agreement shall be conclusive ,final & binding on the bank. Any notice / communication by the way of request and demand or otherwise hereunder may be sent by post or any other mode of communication to the bank addressed as aforesaid and if sent by post it shall be deemed to have been given at the time when given by post it shall be sufficient to prove that envelope containing the notice was posted and certificate signed by any Officer of Purchaser that the envelop was posted and Certificate signed by an Officer of Purchaser that the envelope was so posted shall be conclusive.

Notwithstanding anything contained herein

1. Our liability under this bank shall not exceed **Rs. _____ (Rupees only)**
2. This bank Guarantee shall be valid up to _____ and including and ceases to be effect in all respect whether or not original bank guarantee is returned to us and:
3. We are liable to pay the guaranteed amount or any part thereof under this bank Guarantee only & only if you serve upon us a written claim or demand on or before _____.

Notwithstanding anything contained hereinabove, our liability under this guarantee is restricted to **Rs. _____ (Rupees only)** and we shall be

released and discharged from all liabilities hereunder unless a written claim for the original guarantee is returned to us.

The Confirmation of this guarantee is available our controlling office as mentioned below. The beneficiary may at this own interest may confirm the guarantee, by sending a certified copy of this guarantee.

Banks Name.,

Branch

Date:

Place:

SPECIAL PURCHASE CONDITIONS

I. VENDOR'S SCOPE OF WORK

The detailed scope of work is explained in this document Page No 6 above.

II. CALL / COMPLAINT LOGGING PROCESS

III. BPCL'S SCOPE OF WORK

BPCL will ensure that all the pre-requisite for implementation would be fulfilled by for following areas:

- a) Server
- b) Storage
- c) Network
- d) Operating System

- e) Providing site and system access to the vendor in accordance with the agreed plan.

IV. IMPLIMENTATION & PENALTY

- a) Supply of complete software as per tender requirement should complete within 2 weeks from the date of issue of LOI.
- b) Installation, configuration and commissioning as mentioned in scope document should complete within 15 working days from the date of BPCL confirmation.
- c) The premium support during support period shall be provided on all the days from Monday to Sunday 24X7.
- d) Penalty for Supply & Commissioning - Any delay in supply, installation, commissioning and configuration within the stipulated time mentioned in tender document will lead penalty and Compensation charges for extra time taken, shall be recovered from the vendor at the rate of Rs. 1000 per day (or part thereof). Subject to maximum of 5% of the PO value

- e) Vendor should extend his support to other vendors for getting any call resolved wherever there is dependency on Oracle software

V. DURATION OF THE CONTRACT:

The contract period will be for One year.

VI. PAYMENT TERMS

- a. BPCL reserves the right to increase or decrease the tendered quantity.
- b. BPCL shall make payment on quarterly basis.
- c. Payment to vendors will be made within 30 days after the receipt of all bills/ invoices.

VII. OTHER CONDITIONS

- 1) All support should be extended through OEM only.
- 2) Oracle software should be supported on 24*7*365 basis.
- 3) Bidder participating in this tender should be authorised Oracle Partner.
- 4) The support changes quote should be minimum 10% of the license cost.
- 5) Vendor shall also have to essentially sign an **Integrity Pact (IP)** for participating in this tender. The salient points to be noted in regard to IP are:
 - a) If the vendor has been disqualified from the tender process prior to the award of the contract in accordance with the provisions of the Integrity Pact, BPCL shall be entitled to demand and recover from vendor, Price reduction amount by forfeiting the EMD/Performance Guarantee as per provisions of the Integrity Pact.
 - b) If the contract has been terminated according to the provisions of the Integrity Pact, or if BPCL is entitled to terminate the contract according to the provisions of the Integrity pact, BPCL shall be entitled to demand and recover from vendor, Price reduction amount by forfeiting the Performance Guarantee amount as per provisions of the Integrity Pact.

- 6) BPCL reserves the right to reject any and/or every tender without assigning any reason whatsoever and/or place order on one or more bidders without negotiations with any bidder in the manner considered appropriate by the Corporation. Corporation also reserves the right to reject any un-workable offer.

Commercial Evaluation / Contract Award Criteria

Commercial bids of techno-commercially qualified bidders will be evaluated considering the unit rate and quantity for five years including applicable taxes. Contract will be awarded to the overall lowest (L1) quote basis. However, BPCL reserves the right to utilize the resources depending upon the actual requirement.

The vendor may raise /complaints if any with the Independant External Monitor

The name, address and contact numbers of the nominated Independant External Monitor is as follows:

Shri Shantanu Consul

No 9 MCHS (IAS Officers Colony),

16th Main (IAS officers Colony)

BTM 2nd Stage,

Bangalore- 560076

shananuconsul@gmail.com

Un-priced Bid format

All figures must be in Indian Rupees

Sr. No.	Product Name	No. of Processor	Unit Value	Tax	Amount	Amount
			(Rs.)	(Rs.)		(Rs.)
1	Oracle Database - Enterprise Edition - Perpetual	7				
2	One time setup charges	1				
3	Oracle database - Real application Cluster (For Primary)- Perpetual	9				
4	One time setup charges	1				
5	Oracle Database - Partitioning - Perpetual	11				
6	One time setup charges	1				
7	Oracle Database - Advanced compression Perpetual	13				
8	One time setup charges	1				
9	Oracle Weblogic Suite - Perpetual	4				
10	One time setup charges	1				
11	One year support charges	LS				
12	One time setup and Integration Charges	LS				