

Addendum - 3 to RFP no ONGC/RFP/EOA/KG-DWN-98-2/02 published on 24.08.2022 for sale of gas from KG-DWN-98/2 field

Date: 31st August 2022

With reference to ONGC's Request for Proposal (RFP) No. ONGC/RFP/EOA/KG-DWN-98-2/02 published on 24.08.2022 for sale of 0.75 MMSCMD gas from KG-DWN-98/2 field of Eastern Offshore Asset, all the interested bidders are requested to note the following highlighted changes in the RFP and model GSA:

Sl. No.	RFP/GSA Section no.	Existing	Proposed modification
1	Article 12.01 of GSA	Neither Seller nor Buyer shall be responsible for any failure or delay in fulfilling the relevant obligations under this Agreement, as a result of Force Majeure, except in relation to obligations of BUYER to make payments under the Agreement. The term "Force Majeure" shall mean unavoidable causes reasonably beyond the control and without the fault or negligence of either party such as acts of God or sabotage, fires, floods, cyclones, typhoons, earthquakes, wars (declared or undeclared), hostilities, invasion, blockades, riots, epidemics, quarantine restrictions, nationwide strikes, freight embargos, civil commotion or any order of Government, local authority having jurisdiction or anybody or person purporting to be or to act for such authority directly affecting the performance of this Agreement. In case of Force Majeure, the Parties agree	Neither Seller nor Buyer shall be responsible for any failure or delay in fulfilling the relevant obligations under this Agreement, as a result of Force Majeure, except in relation to obligations of BUYER to make payments under the Agreement. The term "Force Majeure" shall mean unavoidable causes reasonably beyond the control and without the fault or negligence of either party such as acts of God or sabotage, fires, floods, cyclones, typhoons, earthquakes, wars (declared or undeclared), hostilities, invasion, blockades, riots, epidemics, pandemics , quarantine restrictions, nationwide strikes, freight embargos, civil commotion or any order of Government, local authority having jurisdiction or anybody or person purporting to be or to act for such authority directly affecting the performance of this Agreement. In case of Force Majeure, the Parties agree to notify Force Majeure within forty-eight [48] hours of the occurrence.

		to notify Force Majeure within forty-eight [48] hours of the occurrence.	
2	New Articles	ONGC will add the following Anti-corruption and Anti-Money Laundering Clause in the GSA on Buyer's request.	<p>Anti-Corruption Clause</p> <p>a) Each party to this Agreement hereby agrees that it shall not, directly or indirectly: -</p> <p>i. commit, authorize or permit any action which would cause either party to be in violation of any applicable anti-bribery laws or regulations.</p> <p>ii. will not offer or give, or agree to give, to any employee, representative or third party acting on behalf of the other party or any Public Official, nor knowingly accept, or agree to accept, from any employee, representative, or third party acting on behalf of the other party, any unlawful payment, unlawful compensation, facilitation payment or unlawful remuneration or unlawful hospitality, be it monetary or other thing of value, in connection with the negotiation, execution, conclusion or the performance of this Agreement.</p> <p>iii. Each Party assures other Party that it has not used, adopted or deployed any corrupt practices or unethical means in negotiating or securing this contract and will raise invoices strictly in accordance with this Contract/Agreement/LOI.</p> <p>The parties shall promptly notify each other if they become aware of any breach of this provision, and a breach of this provision may be considered cause for termination under this agreement.</p> <p>b) Each Party shall respond promptly, and in reasonable detail, to any notice from any other Party or its auditors or legal counsel pertaining to the above stated assurance in clause a) above and shall furnish documentary support, if any, for such response upon request from such other Party.</p> <p>Anti-Money Laundering Clause</p> <p>None of the parties to this Agreement/Contract: -</p>

			<p>A. is under investigation by any Governmental Authority, or has been charged with, or convicted of, money laundering, drug trafficking, terrorist-related activities or other money laundering predicate crimes under any applicable law (collectively, Anti-Money Laundering Laws”),</p> <p>B. has been assessed/levied civil penalties under any Anti-Money Laundering Laws, or</p> <p>C. has had any of its funds seized or forfeited in an action under any Anti-Money Laundering Laws Each of the parties has taken reasonable measures appropriate to the circumstances (in any event as required by any applicable law), to ensure that each such party and its subsidiaries are and will always continue to be in compliance with all applicable current and future Anti-Money Laundering Laws.</p> <p>D. Breach of this clause shall be deemed to be a breach of a material term of the Agreement/Contract</p>
3	Article 25.05 of GSA	If pursuant to the provisions of Article 25.03, Seller withholds, reduces or suspends delivery of the Seller’s Gas, then Seller shall be under no obligation to make up any quantity of the Seller’s Gas which would have been delivered to Buyer but for such withholding, reduction, or suspension.	If pursuant to the provisions of Article 25.01, Seller withholds, reduces or suspends delivery of the Seller’s Gas, then Seller shall be under no obligation to make up any quantity of the Seller’s Gas which would have been delivered to Buyer but for such withholding, reduction, or suspension.
4	Article 17 of GSA	Entire Article -17 related to Dispute resolution is replaced with the new clause	<p>Except as otherwise provided elsewhere in the contract, if any dispute, difference, question or disagreement arises between the parties hereto or their respective representatives or assignees, at any time in connection with construction, meaning, operation, effect, interpretation of the contract or breach thereof shall be referred to “Resolution of disputes” as provided below:</p> <p>01.01. The Parties shall use their best efforts to settle amicably all disputes or difference arising out of or in connection with any of the terms and conditions of this Agreement or concerning the interpretation or performance thereof.</p>

01.02.SOLE EXPERT

Matters which, by the terms of this Agreement, the Parties have agreed to refer to an expert and any other matters which the Parties may agree to so refer, may be referred to a sole expert ("Expert") who shall be an independent and impartial person of international standing with relevant qualifications and experience, appointed by agreement between the Parties and who shall not, by virtue of nationality, personal connection or commercial interest, have a conflict between his/her own interest and his/her duty as a sole expert. In the event that the Parties fail or are unable, to agree on an Expert within 30 days or such longer period as may be mutually agreed by Parties, the matter shall be referred to Arbitration pursuant to this Schedule. Any Expert appointed shall be acting as an expert and not as an arbitrator and the decision of the Expert on matters referred to him/her shall be final and binding on the Parties and shall not be subject to [AMRCD and Arbitration]. The Parties intend that the Expert will primarily deal with "technical matters" (meaning matters involving issues including metering or measurement of crude oil and payment disputes which are capable of determination by reference to engineering or scientific or commercial knowledge and practice). The fees and expenses of an Expert appointed by the Parties shall be borne equally by the Parties.

01.03.If such disputes or differences cannot be settled amicably within ninety (90) days or such longer period as may be mutually agreed by the parties from the date of receiving written notice for the said purpose, then, such dispute or

difference may be submitted to Arbitration for decision as hereinafter provided-

01.03.01. For Public Sector Undertaking:

In the event of any dispute or difference relating to the interpretation and application of the provisions of this Agreement, between Central Public Sector Enterprise (CPSEs), such dispute or difference shall be taken up by either party for resolution through AMRCD as mentioned in DPE OM No. 4(1)/2013-DPE(GM)/FTS-1835 dated 22-05-2018.

01.03.02. Other than Pubic Sector Undertaking:

Such dispute or difference shall be referred exclusively to arbitration under the provisions of the Arbitration and Conciliation Act, 1996 as amended from time to time. Arbitration under this clause will be referred to a panel of three (3) arbitrators. For arbitration between parties, one arbitrator shall be appointed by the Claimant(s) and the other arbitrator by the other Party, the two arbitrators so appointed shall then appoint the third arbitrator.

The claimant(s) and respondent(s) shall share the cost of arbitration equally. The seat and venue of the arbitration shall be [Kakinada, (A.P)] provided that the Arbitrator may with the consent of the Parties agree upon any other venue. The language of arbitration shall be English.

Notwithstanding the existence of any arbitration in terms thereof or otherwise, the Parties shall continue and be bound to continue and perform all its/his outstanding obligations in all respects under this

			Agreement and the Parties shall remain liable and bound in all respects under this Agreement.
5	5.3.6 of the RFP	For ascertaining commercial eligibility of the bidder, Net worth of the bidder for the previous immediate financial year shall be considered. Bidder to submit audited annual accounts of previous immediate financial year for ascertaining their Commercial eligibility. The date (i.e. the financial period closing date) of the immediate previous year's annual accounts should not be older than eighteen (18) months from the date of NIO.	For ascertaining commercial eligibility of the bidder, positive Net worth of the bidder for the previous immediate financial year shall be considered. Bidder to submit audited annual accounts of previous immediate financial year for ascertaining their Commercial eligibility. The date (i.e. the financial period closing date) of the immediate previous year's annual accounts should not be older than eighteen (18) months from the date of NIO.
6	First para of Appendix 8 of section B of RFP	We have read the terms and conditions provided in the RFP and GSA regarding obligation of the bidder to obtain all the necessary statutory/regulatory clearance for the proposed gas usage.	We have read the terms and conditions provided in the RFP and GSA regarding obligation of the bidder to obtain all the necessary statutory/regulatory clearance for the proposed gas usage _____ {Bidder needs to add the usage of gas}