

3) Dispute Resolution Mechanism (Applicable for Domestic Procurement)

3.1 Notice of Dispute and Amicable Settlement

- 3.1.1** In the event of any difference/dispute between the parties to the contract arising out of or in connection with the contract, the concerned party shall send a **Notice of Dispute** specifying all points of disputes / issues, the amounts of any quantified claims, and, to the extent possible, an estimate of the monetary value of any other claims, along with the supporting document(s) to the other party under the contract.
- 3.1.2** After receipt of a Notice of Dispute under Clause 3.1.1 above, the parties shall in good faith, make all reasonable efforts to arrive at a mutually acceptable resolution to the disputes raised in the Notice of Dispute in a formal meeting(s) between authorized representatives of the parties.
- 3.1.3** Parties agree that any effort by either party for arriving at the mutually acceptable resolution of the disputes is to be kept confidential by both Parties. Parties also agree to not rely upon any views expressed, admissions or suggestions made, or willingness to enter into a settlement by either party as evidence in any forum / arbitration / court proceeding.
- 3.1.4** Parties agree that neither party shall be entitled to any claim or compensation for any consequential, indirect or special losses/damages, including loss of profit, loss of production, loss of use, loss of goodwill, loss of reputation, remote damages, loss of business opportunities, loss of employment opportunities, loss of interest including any pre-reference or *pendente-lite* interest, idling costs of men and machinery, prolongation costs etc., on account of any dispute/ claim raised under the contract. Parties agree that claim for any such amount shall not be considered and shall be void.
- 3.1.5** In case the parties fail to amicably resolve the disputes between them within **60 days** of receipt of Notice of Dispute sent under Clause 3.1.1 above, the following provisions of Clause 3 mentioned below, as applicable, shall follow.

3.2 Mediation/Conciliation

3.2.1 For Disputes above Rs 10 Lakh - through Outside Expert Council (OEC)

- 3.2.1.1** If any dispute between the parties, of or above the value of Rs. 10 lakh, is not resolved within 60 days of receipt of Notice of Dispute, the concerned party may request the other party to refer the said dispute(s) for settlement through mediation / conciliation through an Outside Expert Council (**OEC**) as per the extant ONGC's Guidelines on the subject.
- 3.2.1.2** The concerned party shall submit its request for mediation / conciliation on the '**Mediation Portal**' created by ONGC at <https://oec.ongc.co.in>. The procedure and timelines to be followed for the mediation process shall be in accordance with the 'Manual on Mediation through Outside Expert Council' (including any changes thereto) available / uploaded on the aforesaid Mediation Portal.

3.3 Arbitration (*not applicable in case of disputes between public sector enterprises*)

- 3.3.1** The provisions under Clause 3.3 of the Contract shall be applicable only for disputes with a claim amount of more than Rs. 25 lakh and less than Rs. 10 crore. For the purposes of determining the applicability of this clause, the claim amount shall include any previous claim(s) referred to Arbitration under the Contract and the value of such cumulative claim(s) shall be restricted to Rs. 10 crore only.
- 3.3.2** In case of failure to resolve a dispute amicably through amicable settlement / mediation / conciliation under the provisions of Clauses 3.1 and 3.2 above, either party may, subject to the

provision under Clause 3.3.1 above, refer the said dispute for resolution through Arbitration under the administration of 'India International Arbitration Centre' ("IAC"), established by an Act of the Parliament, i.e., the India International Arbitration Centre Act, 2019, in accordance with the India International Arbitration Centre (Conduct of Arbitration) Regulations ("IAC Regulations") for the time being in force, including any subsequent modifications and amendments thereof, which regulations are deemed to be incorporated by reference in this clause, to the extent these regulations are not inconsistent with this clause.

3.3.3 The Arbitration shall be conducted by an Arbitral Tribunal consisting of:

(i) For claim amount upto Rs. 2 crore, by a Sole Arbitrator, to be appointed by the Chairman, IAC, in accordance with the IAC Regulations. It is clarified that only a Retired Judge shall be eligible to be appointed as a Sole Arbitrator under this clause, and

(ii) For claim amount above Rs. 2 crore, by a Tribunal of three arbitrators comprised of Retired Judges. Parties to nominate one arbitrator each and the two co-arbitrators shall nominate the presiding arbitrator in accordance with the IAC Regulations.

Any arbitrator appointed under sub-clauses (i) and (ii) above that is not a member of the panel of arbitrators maintained by IAC shall submit a declaration to abide by and conduct the arbitration proceedings in accordance with the IAC Regulations.

3.3.4 The seat of Arbitration shall be at Delhi.

3.3.5 Parties further agree that following matters shall not be referred to Arbitration:-

- i. Any claim, difference or dispute relating to, connected with or arising out of ONGC's decision to initiate proceeding for suspension or banning, or decision to suspend or to ban business dealings with the Bidder / Contractor;
- ii. Any claim, difference or dispute relating to, connected with or arising out of ONGC's decision under the provisions of Integrity Pact executed between ONGC and the Bidder / Contractor;
- iii. Any dispute pertaining to insolvency and bankruptcy, property laws.

3.3.6 The necessary arrangements for venue of arbitration proceedings, travel and stay of arbitrators, etc. shall be made by the Contractor. The total cost of Arbitration proceedings including all expenses incurred in relation thereto shall be shared equally by the parties.

3.4 **Dispute resolution (*in case of disputes between Govt. entities/public sector enterprises*) through AMRCD**

3.4.1 The provision under Clause 3.4 is applicable only for settlement of commercial disputes between Central Public Sector Enterprises (**CPSEs**) and Government Department(s)/Organizations(s).

3.4.2 Before referring any dispute for adjudication through Administrative Mechanism for Resolution of CPSEs Disputes (AMRCD), the parties undertake to make all efforts in good faith to resolve their differences/disputes amicably amongst themselves, through respective Internal Committees consisting of authorized officers of each party. If such dispute or difference cannot be resolved mutually between the parties, the same may be referred to the AMRCD. [In this regard, ONGC has set up an Internal Fast-track Resolution Committee (IFRC), which is

empowered to negotiate with the concerned CPSEs/Govt. entities for resolving the differences amicably].

3.4.3 Subject to the provision under 3.4.2 above, in the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract(s) between Central Public Sector Enterprises (CPSEs)/ Port Trusts inter se and also between CPSEs and Government Departments/Organizations (excluding disputes concerning Railways, Income Tax, Customs & Excise Departments), such dispute or difference shall be taken up by either party for resolution through AMRCD as mentioned in DPE OM No. 05/0003/2019-FTS-10937 dated 14th December, 2022 (as revised time to time) and the decision of AMRCD on the said dispute will be binding on both the parties.

3.5 Adjudication by Courts

3.5.1 Any dispute not resolved or not covered under the provisions of Clauses 3.1, 3.2, 3.3 above may be referred for final adjudication by the court.