

Response To Pre-Bid Queries (Pre-Bid date: 19-10-2020)			
TENDER NO. HLL/SOURCING/ COVID-19/018/2020 dated 14/10/2020			
Queries received during Pre-Bid (Pre-Bid date: 19-10-2020)			
Sl. No	TENDER TERMS & CONDITIONS INCLUDING SPECIFICATION (Tender Page & Para )	QUERIES RAISED BY THE FIRMS	Remarks/Clarification
1	Section III, Pg no.12, Clause A, Para 4 Eligibility Criteria and Document 4. The bidders must quote a minimum of 50% of the tendered quantity for being eligible.	The representative informed that as per the TED minimum 50% tender quantity is required for eligible. They informed that there should not be any minimum quantity for submission of bid as this is not possible to supply minimum 50% quantity i.e. 50,000 MT in three months period being very large volume.	Refer to amendment no.2 regarding amendment in quantity.
2	Section III, Pg no.12, Clause A, Para 4 Eligibility Criteria and Document 4. The bidders must quote a minimum of 50% of the tendered quantity for being eligible.	They have informed that they have already sent a mail raising various issues. However major issues are as under: 1.Even for minimum qualifying criteria of 50% quantity, they need 1250 ISO containers for completing the delivery in 90 days which is practically impossible in given delivery period.  2. Further, stated that the delivery schedule mentioned in tender is difficult to maintain due to involvement of multiple agencies which are beyond their control.	Refer to amendment no.2 regarding amendment in quantity.
3	Section III, Pg no.12, Clause A, Para 4 Eligibility Criteria and Document 4. The bidders must quote a minimum of 50% of the tendered quantity for being eligible.	Mr.Saket, President AIIGMA stated that minimum eligibility criteria may be brought down to 20% instead of 50% and accordingly EMD may also be reduced. In addition to this, they have stated that the turnover of 50 Cr for Indian suppliers appears to be on higher side. Therefore, the consortium of 2-3 indian agents may be allowed to meet the turnover requirement or reduce the turnover requirement.	Refer to amendment no.2 regarding amendment in quantity.
4	Section III, Pg no.12, Clause A, Para 4 Eligibility Criteria and Document 4. The bidders must quote a minimum of 50% of the tendered quantity for being eligible.	Mr.Kiran Karnawat, M/s. Airline Gases have requested that minimum eligible quantity should 10% of total quantity and delivery should be allowed for 6-9 months. He has also requested for that no security deposit should be asked. Further, he also requested to allow consortium of bidders.	Refer to amendment no.2 regarding amendment in quantity.  No change in terms regarding security deposit. Tender condition shall prevail. Consortium not allowed.
5	Section III, Pg no.12, Clause A, Para 4 Eligibility Criteria and Document 4. The bidders must quote a minimum of 50% of the tendered quantity for being eligible.	Requested no minimum eligible quantity or reduce the same for 5% of total quantity.	Refer to amendment no.2 regarding amendment in quantity.
6	Section III, Pg no.12, Clause A, Para 4 Eligibility Criteria and Document 4. The bidders must quote a minimum of 50% of the tendered quantity for being eligible.	Mr.RamKumar, Taiyo Nippon Sanso have requested for delivery period of 6 to 9 months and requested to reduce the eligibility criteria for quantity to 5% to 10%.  He has also mentioned that it is not possible to send their representatives at all the consignee sites for decanting. In this regard it was informed to them that decanting of the tanks shall be arranged by the consignee in their storage and the supplier need to facilitate the same.	Refer to amendment no.2 regarding amendment in quantity. Decanting will be done by consignee/storage owners and suppliers will facilitate the same. 'Facilitating' means cooperating in weighing, placing the vehicle at decanting locations as per instructions etc.

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7	General	Mr. Sandeep Agarwal, ACA International informed that they have a capacity to supply 10,000 MT per week. They suggested that govt. may be requested to assist for exemption of custom duty for Liquid oxygen. They also need PESO approval without loss of time and assistance may be given. They have also sent a mail for certain clarification such as LC format is not attached with the tender document as the payment will be made against LC. They also desired to know whether invoicing shall be made to the procurer or the consignee. Further, they also desired clarification about delivery date as it is mentioned in TED that the delivery date will be the date when consignment reaches the port of destination.	<p>The supplier/contractor will be responsible for entire supply chain of the goods from the country of origin till the destination point (decantation point). However, on request of supplier/contractor necessary assistance, if deemed appropriate, will be extended.</p> <p>LC will be opened by PA/Purchaser after issue of Notification of Award as per the tender conditions and in line with the guidelines of Uniform Customs &amp; Practice for Documentary Credits (UCP 600) agreed by the International Chamber of Commerce.</p> <p>LC will be opened by PA/Purchaser. The invoice shall be billed as HLL for and on behalf of MoHFW, however the IEC / AD code / GST no. of HLL will be used for preparing BoE.</p> <p>Further in BoE, the consignee name also need to be marked as per provision, so that the duty benefit can also be availed.</p> <p>if the consignee is different then the consignee details has to be mentioned as ship to / consignee / delivery address in invoice.</p>
<b>Queries received before Pre-Bid (Pre-Bid date: 19-10-2020)</b>			
SI. No	TENDER TERMS & CONDITIONS INCLUDING SPECIFICATION (Tender Page & Para )	REPRESENTATION RECEIVED FROM THE FIRMS	Remarks
1	Section-II Scope of work, Technical Specification, Delivery Schedule, Consignee/Storage Location, Pg no.10, Para 3  3. DELIVERY SCHEDULE:	In how many months the awarded/won bid has to be delivered (assuming 50% of the bid).	<b>Refer to amendment no.2</b>
2	Section III, Pg no.12, Clause A, Para 4 Eligibility Criteria and Document 4. The bidders must quote a minimum of 50% of the tendered quantity for being eligible.	Is the tender open for lower quantity bid such as 25%.	<b>Refer to amendment no.2</b>
3	General	Will there be counter guarantee provided for the amount of bid contract as this volume to be imported is commitment of extensive capital and thus what will be liquidated damages if the volume of contract lowered.	Notification of Award is a legal contractual document. LD will be as per tender terms and conditions.

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4	Section-II Scope of work, Technical Specification, Delivery Schedule, Consignee/Storage Location, Pg no.11, Para 3.B	The LC format is not attached in the tender documents as you have indicated that payment will be made by LC on submission of certain documents as listed which includes delivery confirmation receipt from the consignee.	LC will be opened by PA/Purchaser after issue of Notification of Award as per the tender conditions and in line with the guidelines of Uniform Customs & Practice for Documentary Credits (UCP 600) agreed by the International Chamber of Commerce.  However, LC format shall be shared with the supplier before opening of LC.
5	General	Will the invoicing be made to the procurer or the consignee as the LC is being opened by the Government of India.	LC will be opened by PA/Purchaser. The invoice shall be billed as HLL for and on behalf of MoHFW, however the IEC / AD code / GST no. of HLL will be used for preparing BoE.  Further in BoE, the consignee name also need to be marked as per provision, so that the duty benefit can also be availed.  if the consignee is different then the consignee details has to be mentioned as ship to / consignee / delivery address in invoice.
6	Section-II Scope of work, Technical Specification, Delivery Schedule, Consignee/Storage Location, Pg no.11, Para 3	Delivery date will be the date when the consignment reaches the port of destination.	<b>Refer to amendment no.2</b>
7	General	Commitment on volume or schedule is not possible as supply chain involves multiple agencies and beyond the control of Linde, and therefore Linde can not accept LD, consequential damages or other similar liabilities wrt supply performance.	No Change in LD condition.
8	General	Linde can only commit for ISO turnaround time in the country of origin and no. of ISOs that can be deployed over few weeks.	This tender is for supply of imported liquid medical oxygen and supply is to be made as per delivery schedule of TED including amendment.
9	Pg 5 – Clause 1 i) Rs. 9,84,00,000/- is an EMD for the entire tender quantity. Bidders can choose to bid for the entire quantity or part quantity as per their capacity. However, the bidders must quote a minimum of 50% of the tendered quantity for being eligible, otherwise their bid shall be liable for rejection.	Pl. review qualifying condition of "minimum of 50% of the tendered quantity". Assuming min 30-40 days of ISO turnaround, each bidder will need 1250 ISOs in circuit (without contingency), which is practically impossible.	<b>Refer to amendment no.2</b>
10	Section I, Clause 6 (vii),Page No. 8 6. Bid should be submitted in following manner: vii) Bidders shall comply with all terms and conditions of tender. No DEVIATION is acceptable. No counter conditions are acceptable.	We seek to revise the clause as follows:- "Subject to the deviations agreed between the Bidder and the Procurement Agency, the bidders shall comply with all terms and conditions of tender."	Once the amendment and pre-bid clarification uploaded, bidder has to comply to the TED condition.No deviation accepted.

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11	Section II, Clause 1 (b),Page No. 10 b. Custom clearance at the port of Landing in India. ( will be reimbursed on submission of documentary proof of payment)	We seek to insert the following provision in this clause: "the Procurement agency shall provide Supplier with all necessary documentary support required for Custom clearance."	Necessary documentes required for Custom clearance will be provided by PA/Purchaser.
12	Pg 10 – 1d d. Facilitating drawl of sample for quality testing at consignee site	Linde can confirm desired product quality in ISO post fill at Linde site before export. We will come back if CO and CO2 can be analysed at exporting site. If not, we can involve 3rd party lab, but will impact supply schedule apart from cost.	Quality will be checked at receiving point as per tender provision
13	Section II, Clause 3 (b) Page No. 11 b. For Imported goods, price offered in Foreign currency + INR: Delivery schedule will be reckoned from the date of opening of Letter of Credit (LC). The Suppliers shall provide necessary documents complete in all respects for opening of LC within 3 days of Notification of Award (NOA). Days taken beyond 3 days will be adjusted in Delivery period. Procurement Agency will open the LC in 4 working Days. The target date for opening the LC from the date of Notification of Award will be 7 days. The date of delivery will be the date when the consignment reaches the port of destination.	We seek the following deviation – Seek Deletion of this Clause since Linde can only guarantee the number of containers but cannot guarantee the delivery schedule, since a lot of external factors beyond the control of Linde determine the delivery timelines.	This tender is for supply of imported liquid medical oxygen and supply is to be made as per delivery schedule of TED including amendment.
14	Section II, Clause 3 (b) note, Page No. 11 'D' is date of Notification of Award in case the total contract is awarded in INR. 'D' is date of opening of LC in case the contract is awarded in foreign currency + INR Note: For delayed delivery, Liquidated damages shall be charged.	We seek the following deviation – D – shall be the date of execution of the Rate Contract in case the total contract is awarded in INR. 'D' is date of opening of LC after signing of Rate Contract, in case the contract is awarded in foreign currency + INR	No change is required as this is not a rate contract.  Refer to Amendment no.2 for Delivery schedule.
15	Section III Clause 4(i) Page No. 12 i. Manufacturing License of foreign manufacturer,	Internal note – Please confirm, if the drug manufacturing License is sought for, as not all countries, from which Oxygen could be imported, mandates a drug manufacturing license for the manufacturer, therefore foreign manufacturer may not be in a position to provide the same.	This is their internal note.No feedback received from supplier.No queries received in pre-bid meeting or even after meeting. Therefore, Tender condition shall prevail.

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16	<p>Section V – Clause 4.1, Page No. 17</p> <p>4. Notification of Award (NOA)  4.1 Before expiry of the tender validity period, the Procurement Agency will notify the successful tenderer(s) in writing, by registered / speed post or by email (to be confirmed by registered / speed post) that its tender for goods &amp; services, which have been selected by the Procurement Agency, has been accepted, also briefly indicating there in the essential details like description, specification and quantity of the goods &amp; services and corresponding prices accepted (Encloser-7). The successful tenderer must furnish to the Procurement Agency the required performance security within 10 days from the date of issue of this notification, failing which the EMD will forfeited and the award will be cancelled. However, the Procurement Agency reserves the right to agree for extending time on account of justified reasons given by supplier to a maximum of one week. Relevant details about the performance security have been provided in the tender clauses.</p>	<p>"Before expiry of the tender validity period, the Procurement Agency will notify the successful tenderer(s) in writing, by registered / speed post or by email (to be confirmed by registered / speed post) that its tender for goods &amp; services, which have been selected by the Procurement Agency, has been accepted, also briefly indicating there in the essential details like description, specification and quantity of the goods &amp; services and corresponding prices accepted (Encloser-7). The successful tenderer must furnish to the Procurement Agency the required performance security within 10 days from the date of issue of this notification, failing which the EMD will forfeited and the award will be cancelled. However, the Procurement Agency reserves the right to agree for extending time on account of justified reasons given by supplier to a maximum of <b>two weeks</b>. Relevant details about the performance security have been provided in the tender clauses."</p>	<p><b>Refer to Amendment no.2</b></p>
17	<p>Pg 17 – Clause 6 A a)</p> <p>A) If Bid is offered in INR only by Indian Agent/ Indian Supplier. Payment shall be made in Indian Rupees as specified in the contract in the following manner:</p>	<p>Pl. confirm in how many days payment will be made to supplier after successful submission of all documents.</p>	<p><b>Refer to Amendment no.2</b></p>
18	<p>Pg 17 – Clause 6 A (iv)  TERMS AND MODE OF PAYMENT  A) If Bid is offered in INR only by Indian Agent/ Indian Supplier.  a) On delivery/ Receipt of Goods:   (iv) Insurance Certificate as per tender</p>	<p>Pl. confirm what "Insurance Certificate" required for processing payment.</p>	<p>Goods insurance policy copy is required to submit as per tender condition.</p>
19	<p>Section V – Clause 5.,Page No. 17  5. Issue of Contract  5.1 Promptly after notification of award, the Procurement Agency will mail the contract form duly completed and signed, in duplicate, to the successful tenderer by registered / speed post.  5.2 Within 7 days from the date of the contract, the successful tenderer shall return the original copy of the contract, duly signed and dated, to the Procurement Agency.  5.3 The Procurement Agency reserves the right to issue the Notifications of Award consignee / Storage location wise.</p>	<p>"5.1 Promptly after notification of award, the Procurement Agency and the successful tenderer, shall enter into a Rate Contract on mutually agreed terms and conditions. The Procurement agency will mail the rate contract duly completed and signed, in duplicate, to the successful tenderer by registered / speed post.   5.2 Within 7 days from the date of the receipt of the Rate Contract from the Procurement Agency, the successful tenderer shall return the original copy of the contract, duly signed and dated, to the Procurement Agency."</p>	<p>No Change as this is not a rate contract tender.</p>

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20	<p>Section V – Clause 6 (A) (a) (i),Page No. 17</p> <p>TERMS AND MODE OF PAYMENT</p> <p>A) If Bid is offered in INR only by Indian Agent/ Indian Supplier. Payment shall be made in Indian Rupees as specified in the contract in the following manner:</p> <p>a) On delivery/ Receipt of Goods: 100% payment of the contract price shall be paid on receipt of goods in good condition and upon the submission of the following documents subject to recovery of LD, if any:</p>	<p>We seek the following deviation –</p> <p>“100% payment of the contract price shall be paid within 15 days, upon receipt of goods in good condition and upon the submission of the following documents subject to recovery of LD, if any:”</p>	<p><b>Refer amendment no.2</b></p>
21	<p>Section V – Clause 6 (B) ( c), Page No. 18</p> <p>B) If bid is offered in Foreign currency + INR : Payment for foreign currency portion shall be made in the currency as specified in the contract in the following manner: On delivery/ Receipt of Goods</p> <p>c) Payment of Indian Agency Commission: Indian Agency commission will be paid to the manufacturer’s agent in the local currency for an amount in Indian rupees indicated in the relevant Price Schedule (as per prevailing bill currency selling exchange rate ruling on the date of Contract) and shall not be subject to further escalation / exchange variation. This is payable against submission of a certificate from the principal supplier that they have realised full and final settlement against their supply.</p>	<p>We seek the following deviation –</p> <p>“This is payable within 15 days from the submission of a certificate, from the principal supplier that they have realised full and final settlement against their supply.”</p>	<p><b>Refer amendment no.2</b></p>

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22	<p>Section V – Clause 6 (B) ( c), Page No. 18</p> <p>B) If bid is offered in Foreign currency + INR : Payment for foreign currency portion shall be made in the currency as specified in the contract in the following manner: On delivery/ Receipt of Goods</p> <p>c) Payment of Indian Agency Commission: Indian Agency commission will be paid to the manufacturer's agent in the local currency for an amount in Indian rupees indicated in the relevant Price Schedule (as per prevailing bill currency selling exchange rate ruling on the date of Contract) and shall not be subject to further escalation / exchange variation. This is payable against submission of a certificate from the principal supplier that they have realised full and final settlement against their supply.</p>	<p>We seek to revise the following clause – “The supplier shall be entitled to interest on delayed payments, at the rate of 24% per annum for the period of delay. Further the Procurement Agency agrees and acknowledges that there could be several consequences of a non-supply of Product by the Supplier, including serious threat to the life and well-being of patients consuming such Product in the Hospitals. Therefore, the Procurement Agency agrees that it shall be solely responsible for all such consequences of any non-supply of Product by the Supplier due to any reasons attributable to the Procurement Agency and the Supplier shall not be liable for any such consequences. The Procurement Agency, hereby indemnifies the Supplier and shall keep the Supplier duly indemnified from and against any and all consequences whatsoever of any non-supply of Product by the Supplier, for reasons attributable to the Procurement Agency.</p> <p>Notwithstanding anything contained hereinabove, timely payment of the equipment usage charges and price for the products supplied is the essence of this Agreement and a breach of this obligation by the Procurement Agency is a breach of terms of this Agreement and notwithstanding any other remedy stated hereinabove, shall entitle the Supplier at its discretion to suspend supplies of Product or terminate this Agreement forthwith if the default is over 60 days. In either case, the Procurement Agency shall be solely liable and responsible for all consequences thereof, including any death or injury to any of the patients consuming the Product at the premises where the Product is being supplied hereunder.”</p>	No Change. Tender condition shall prevail.
23	<p>Section V – Clause 10, Page No. 19</p> <p>10. LIQUIDATED DAMAGES: Time is an essence of the contract therefore the job, as ordered, should be completed on the dates mutually agreed upon in accordance with the delivery schedule. In cases of delay not attributable to Procurement Agency/ Consignee beyond the agreed schedule, the Supplier shall pay liquidated damages, a sum representing 0.5% (Half per cent) per week or part thereof of the order value, subject to maximum of 10% of the order value for the undelivered portion.</p>	<p>We want to revise the clause as follows – In cases of delay and/or non-supply not attributable to Procurement Agency/ Consignee beyond the agreed schedule, the Supplier shall pay liquidated damages, a sum representing 0.5% (Half per cent) per week or part thereof of the order value, subject to maximum of 10% of the order value for the undelivered portion.”</p>	No Change. Tender condition shall prevail.

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24	<p>Section V – Clause 11 (ii), Page No. 20</p> <p>11. GST COMPLIANCE:</p> <p>ii. In case within the delivery period stipulated in the contract, there is an increase in the statutory taxes like GST, Custom Duty, or fresh imposition of taxes which may be levied in respect of the goods and services specified in the contract, reimbursement of these statutory variation shall be allowed to the extent of actual quantum of taxes paid by the supplier. This benefit, however, cannot be availed by the supplier in case the period of delivery is extended due to unexcused delay by the supplier.</p>	<p>Since, LD shall be deducted in case of delay in supply, we seek to revise the clause as follows –</p> <p>“ In case within the delivery period stipulated in the contract, there is an increase in the statutory taxes like GST, Custom Duty, or fresh imposition of any taxes which may be levied in respect of the goods and services specified in the contract either in the country of manufacture or in India, reimbursement of these statutory variation shall be allowed to the extent of actual quantum of taxes paid by the supplier or its vendor(s).</p>	No Change. Tender condition shall prevail.
25	<p>Section V – Clause 11 (iii) – note, Page No. 20</p> <p>iii. But nevertheless, the Procurement Agency/Consignee shall be entitled to the benefit of any decrease in price on account of reduction in or remission of customs duty and/or GST or any other duty or tax or levy or on account of any other grounds. In case of downward revision in taxes/duties, the actual quantum of reduction of excise duty must be reimbursed to the Procurement Agency by the supplier. All such adjustments shall include all reliefs, exemptions, rebates, concession etc. if any obtained by the supplier.</p>	<p>We seek to revise the clause as follows –</p> <p>“Note: Any change in tax component/structure due to government regulation during the execution of contract within contractual delivery period the same will be applicable at actual ruling at the time of supply/service/execution of contract after Government Notification.”</p>	No Change. Tender condition shall prevail.
26	<p>Section V – Clause 12, Page No. 20</p> <p>12. RISK PURCHASE &amp; ORDER CANCELLATION:</p> <p>In case of delay beyond the contractual delivery period, Procurement Agency reserves the right to cancel the order and procure the ordered material from any other available source at Procurement Agency's option and discretion and entirely at Suppliers risk and cost. Extra expenditure incurred by Procurement Agency in doing so will be recovered from you. Procurement Agency also reserves the right to cancel the order at Suppliers risk and cost if the progress of work is not considered satisfactory and it is felt that Supplier is not likely to meet the contractual delivery date.</p>	<p>We seek the following deviation -</p> <p>Seek deletion of this clause since Linde cannot guarantee on the delivery schedule.</p>	<b>No Change in referred clause. However refer to Amendment no.2 for Delivery schedule.</b>
27	<p>Section V – Clause 13.1, Page No. 20</p> <p>13. OPTION CLAUSE:</p> <p>13.1 At the time of awarding the contract, the purchaser reserves the right to increase or decrease by up to Fifty (50) per cent, the quantity of goods and services mentioned in the NIT (rounded off to next whole number) without any change in the unit price and other terms &amp; conditions quoted by the tenderer.</p>	<p>Seek deletion of this clause.</p>	<b>No Change in referred clause. However refer to Amendment no.2 for Delivery schedule.</b>



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28	Section V – Clause 13.2, Page No. 20 13. OPTION CLAUSE: 13.2 If the quantity has not been increased to the maximum of 50% of the tendered quantity at the time of awarding the contract, the purchaser reserves the right to increase the quantity further by up to the balance available Fifty (50) per cent of the tendered quantity of goods and services (rounded off to next whole number) without any change in the unit price and other terms & conditions mentioned in the contract during the currency of the contract	Seek deletion of this clause.	<b>No Change in referred clause. However refer to Amendment no.2 for Delivery schedule.</b>
29	Section V – Clause 13.3, Page No. 20 13. OPTION CLAUSE: 13.3 Considering the fact that imported oxygen is being Procurement through this tender for Covid-19 pandemic management, Procurement Agency can decide to order beyond the limits as mentioned above with approval of competent authority if situation so demands.	We seek the following deviation –  “Considering the fact that imported oxygen is being Procurement through this tender for Covid-19 pandemic management, Procurement Agency can decide to order beyond the limits as mentioned above with approval of competent authority if situation so demands, any demand to supply Liquid Oxygen, beyond the maximum volume agreed under this Tender, shall be discussed between the Parties and shall be on the basis of mutually agreed terms and conditions.”	<b>Refer to Amendment no.2</b>
30	Section V – Clause 14, Page No(s). 20 & 21 14. CONTRACT EXTENSION CLAUSE: Procurement Agency retains the right to extend the contract beyond the originally contracted period at the same rate, terms and conditions of the contract.	We seek the following deviation – “the Parties may extend the term of the Contract or increase the volume of Supply beyond what is agreed under this Tender by mutual agreement.	<b>Refer to Amendment no.2</b>
31	Section V – Clause 17.1, Page No. 21 17. Termination for default 17.1 The MoHFW/Procurement Agency, without prejudice to any other contractual rights and remedies available to it , may, by written notice of default sent to the supplier, terminate the contract in whole or in part, if the supplier fails to deliver any or all of the goods or fails to perform any other contractual obligation(s) within the time period specified in the contract, or within any extension thereof granted by the Procurement Agency.	We seek the following deviation – “ The MoHFW/Procurement Agency, without prejudice to any other contractual rights and remedies available to it , may, by written notice of default sent to the supplier, terminate the contract in whole or in part, if the supplier fails to rectify the said breach within 60 days from the date of notification of the breach, provided further, the MoHFW/Procurement Agency shall be bound to comply with the provisions of the contract with respect of all despatches of goods which are in transit as of the date of the termination, for a period of 30 days after termination of the contract.	No Change. Tender condition shall prevail.
32	Section V – Clause 17.2, Page No. 21  17.2 In the event of the Procurement Agency terminates the contract in whole or in part, the Procurement Agency may procure goods and/or services similar to those cancelled, with such terms and conditions and in such manner as it deems fit and the supplier shall be liable to the Procurement Agency for the extra expenditure, if any, incurred by the Procurement Agency/Consignee for arranging such procurement.	We seek deletion of this Clause, since we don't agree with part deletion.	Please refer to clause no.17.1 above, wherein it has been agreed with part deletion. Therefore, tender condition shall prevail.

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33	Section V – Clause 17.3, Page No. 21 17.3 Unless otherwise instructed by the Procurement Agency/Consignee, the supplier shall continue to perform the contract to the extent not terminated.	We seek deletion of this Clause, since we don't agree with part deletion.	Please refer to clause no.17.1 above, wherein it has been agreed with part deletion. Therefore, tender condition shall prevail.
34	Section V – Clause 23.2, Page No. 23 23 Resolution of disputes 23.2 If the parties fail to resolve their dispute or difference by such mutual consultation within twenty-one days of its occurrence, then, either the Procurement Agency or the supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided the applicable arbitration procedure will be as per the Arbitration and Conciliation Act, 1996 of India or amendments thereof. In the case of a dispute or difference arising between the Procurement Agency and a Supplier relating to any matter arising out of or connected with the contract, such dispute or difference shall be referred to the sole arbitrator appointed by C&MD (HLL Lifecare Limited). The award of the arbitrator shall be final and binding on the parties to the contract subject to the provision that the Arbitrator shall give reasoned award in case the value of claim in reference exceeds Rupees One lakh (Rs. 1,00,000/-)	We seek to replace this Clause with the following– "All and any disputes and claims as aforesaid, which cannot be fully and satisfactorily resolved or settled by the parties as aforesaid, shall at the request of either party, be submitted to, and be settled by arbitration of the sole arbitrator and if there is no concurrence on the appointment of the sole Arbitrator then it must be resolved by appointing 3 (three) arbitrators in accordance with the Arbitration and Conciliation Act, 1996 or any other statute as may be in force for the time being. The venue of arbitration shall be Delhi"	<b>Refer amendment no.2</b>
35	Section V – Clause 23.3, Page No. 23 23.3 Settlement of disputes through pre- institution mediation and settlement in accordance with the commercial courts, commercial division and commercial appellate division of High Courts (Amendment) Act 2018, No. 28 of 2018 Chapter IIIA	We seek deletion of the Mediation Clause.	No Change. Tender condition shall prevail.
36	Section V – Clause 26.6, Page No. 24 26 General/ Miscellaneous Clauses 26.6 The Manufacturer/its authorized Agent/ Supplier shall, at all times, indemnify and keep indemnified the Procurement Agency/ MoHFW/Government of India against any claims in respect of any damages or compensation payable in consequences of any accident or injury sustained or suffered by its employees or agents or by any other third party resulting from or by any action, omission or operation conducted by or on behalf of the supplier/its associate/affiliate etc.	We seek to revise the Clause as follows – "Subject to the maximum LD, payable, as mentioned in Section V, Clause 10 of this tender document, the Manufacturer/its authorized Agent/ Supplier shall, at all times, indemnify and keep indemnified the Procurement Agency/ MoHFW/Government of India against any claims in respect of any damages or compensation payable in consequences of any accident or injury sustained or suffered by its employees or agents or by any other third party resulting from or by any action, omission or operation conducted by or on behalf of the supplier/its associate/affiliate etc."	No Change. Tender condition shall prevail.

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37	<p>GT&amp;C, Clause 4.1 and 4.2 , Page No. 25</p> <p><b>4. RISK PURCHASE</b></p> <p>4.1 If the equipment / article / service or any portion thereof be not delivered / performed by the scheduled delivery date / period, any stoppage or discontinuation of ordered supply / awarded contract without written consent by Purchaser or not meeting the required quality standards the Purchaser shall be at liberty, without prejudice to the right of the Purchaser to recover Liquidated Damages / penalty as provided for in these conditions or to any other remedy for breach of contract, to terminate the contract either wholly or to the extent of such default. Amounts advanced or part thereof corresponding to the undelivered supply shall be recoverable from the Contractor / Bidder at the prevailing bank rate of interest.</p> <p>4.2 The PA shall also be at liberty to PA, manufacture or supply from stock as it deems fit, other articles of the same or similar description to make good such default and/or in the event of the contract being terminated, the balance of the articles of the remaining to be delivered there under. Any excess over the purchase price cost of manufacture or value of any articles supplied from the stock, as the case may be, over the contract price shall be recoverable from the Bidder / Supplier / Contractor.</p>	<p>These Clauses shall be subjected to the maximum LD, payable, as mentioned in Section V, Clause 10 of this tender document</p>	<p><b>Refer amendment no.2</b></p>
38	<p>GT&amp;C, Clause 6.1 , Page No. 25</p> <p><b>6. INDEMNIFICATION</b></p> <p>6.1 The Bidder / Supplier / Contractor, his employees, licencees, agents or Sub-Supplier / Sub-contractor, while on site of the Purchaser for the purpose of this contract, indemnifies the Purchaser against direct damage and/or injury to the property and/or the person of the Purchaser or that of Purchaser's employees, agents, Sub-Contractors / Suppliers occurring and to the extent caused by the negligence of the Bidder / Supplier / Contractor, his employees, licensees, agents or Sub-contractor by making good such damages to the property, or compensating personal injury and the total liability for such damages or injury shall be as mutually discussed and agreed to.</p>	<p>These Clauses shall be subjected to the maximum LD, payable, as mentioned in Section V, Clause 10 of this tender document</p>	<p>No Change. Tender condition shall prevail.</p>
39	<p>GT&amp;C, Clause 9, Page No. 26</p> <p><b>9. PATENT RIGHTS.</b></p> <p>9.1 The Bidder / Supplier / Contractor shall hold harmless and keep the Purchaser indemnified against all claims arising as a result of infringement of any patent / copy rights on account of manufacture, sale or use of articles covered by the order.</p>	<p>These Clauses shall be subjected to the maximum LD, payable, as mentioned in Section V, Clause 10 of this tender document</p>	<p>No Change. Tender condition shall prevail.</p>

SI. No	TENDER TERMS & CONDITIONS INCLUDING SPECIFICATION (Tender Page & Para )	QUERIES RAISED BY THE FIRMS	Remarks/Clarification
40	GT&C, Clause 17, Page No. 28 17. FORFEITURE OF SECURITY DEPOSIT 17.1 Non-performance of agreed terms and or default/breach by Bidder/Supplier/Contractor will result in forfeiture of security deposit with application of risk purchase provisions as felt appropriate by the Purchaser.	These Clauses shall be subjected to the maximum LD, payable, as mentioned in Section V, Clause 10 of this tender document	No Change. Tender condition shall prevail.
41	GT&C, Clause 21.1, Page No. 28 21. CANCELLATION OF ORDER 21.1 The Purchaser reserves the right to cancel an order forthwith without any financial implications on either side, if on completion of 50% of the scheduled delivery/Completion period the progress of manufacture/Supply is not to the satisfaction of Purchaser and failure on the part of the Bidder/Supplier/Contractor to comply with the delivery schedule is inevitable. In such an event the Bidder/Supplier/Contractor shall repay all the advances together with interest at prevailing bank rates from the date of receipt of such advances till date of repayment. The title of any property delivered to Purchaser will be reverted to the Bidder/Supplier/Contractor at his cost.	We seek deletion of this clause since termination cannot be based on subjective criteria like "satisfaction" of the Purchaser. Accordingly, Clauses 21.2 and 21.3 also to be deleted.	Refer to amendment no.2
42	GT&C, Clause 21.2, Page No. 28 21.2 In case of breach / non-compliance of any of the agreed terms & conditions of order / contract. PA reserves the right to recover consequential damages from the Supplier / contractor on account of such premature termination of contract.	We seek to replace the clause as – "Neither Party shall be liable to the other Party, whether in contract, tort (including negligence), arising under or in connection with the Agreement for loss of profits, sales, business, agreements, contracts, anticipated savings, goodwill, or any incidental, punitive, indirect or consequential loss."	Refer to amendment no.2
43	GT&C, Clause 23, Page No. 20 23. TAXES & DUTIES / STATUTORY LEVIES	Internal Note – Kindly get this Taxation provision reviewed by the taxation team.	This is their internal note.No feedback received from supplier.No queries received in pre-bid meeting or even after meeting. Therefore, Tender condition shall prevail.
44	GT&C, Clause 31,32, Page No(s). 30 31 REJECTION OF MATERIALS 31.1 Should the articles, or any portion thereof of the equipment be found defective / rejected, the Bidder / Supplier / Contractor shall collect the same from the Purchaser's Stores, all incidental charges being borne by him (inclusive of Custom duty, if payable), within 30 days from the date of intimation to the Bidder / Supplier / Contractor of such rejection. The Purchaser reserves the right to dispose off the rejected items at the end of a total period of 90 days in any manner to the best advantage to the Purchaser and recover storage charges and any consequential damages, from sale proceeds of such disposal.  32 TECHNOLOGICAL DEVELOPMENTS / MODIFICATIONS	Since, the tender is only for procuring Liquid Oxygen, these Clauses are not applicable to the Supplier.	Refer amendment no.2

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45	GT&C, Clause 34, Page No. 30 34 BANK GUARANTEE / INSURANCE COVER FOR FREE ISSUE MATERIAL 34.1 The Bidder / Supplier / Contractor shall furnish Bank Guarantee / insurance Cover equivalent to the value of materials supplied by HLL free of cost valid up to the execution of the contract / delivery of material, inspected / accepted and receipt at HLL together with the material reconciliation statement whichever is later.	Bank Guarantee for the Performance Security Deposit, shall be applicable to the Supplier as mentioned in Clause 9, section V.	<b>Refer amendment no.2</b>
46	Pg 32 – Enclosure 3 PRICE SCHEDULE A) PRICE SCHEDULE FOR GOODS OF FOREIGN ORIGIN QUOTED IN INR	Pl. reconfirm all duties & taxes including but not limited to customs, GST etc. will be reimbursed separately.	Price schedule for rate quoted in INR under column 5 ( c ) indicates the amount in addition to GST. Therefore, tender condition shall prevail.
47	Pg 32 – Enclosure 3 PRICE SCHEDULE A) PRICE SCHEDULE FOR GOODS OF FOREIGN ORIGIN QUOTED IN INR	Pl. confirm exchange rate for calculation of price in local currency. Also, how to recover any change in foreign currency exchange rate.	For price quoted in INR, the foreign exchange variation shall be in bidders/suppliers account. Therefore, Tender condition shall prevail.
48	Pg 32 PRICE SCHEDULE A) PRICE SCHEDULE FOR GOODS OF FOREIGN ORIGIN QUOTED IN INR	As there are many consignee sites across India, Linde will quote in-country transport per 100 kms from port of destination for easy evaluation of bids. For road distance google map or similar credible app can be used.	Only one price is applicable for all consignee/storage location irrespective of distance from port of destination. Therefore, tender condition shall prevail.
49	Price Schedule, Form B, Note – 4, Page No. 33 B) PRICE SCHEDULE FOR GOODS OF FOREIGN ORIGIN QUOTED IN FOREIGN CURRENCY + INR	Internal note – Confirm if we are in a position to conform with this clause, else we need to seek a deviation.	This is their internal note. No feedback received from supplier. Thereafter, no queries received in pre-bid meeting even after meeting. Therefore, tender conditions shall prevail.
50	Pg 50 Clause.6. Fall Clause The BIDDER undertakes that it has not supplied/is not supplying similar product/systems or subsystems OR providing similar services at a price / charge lower than that offered in the present bid in respect of any other Ministry/Department of the Government of India or PSU and if it is found any stage that similar product/systems or sub systems was supplied by the BIDDER to any to the Ministry/Department of the Government of India or a PSU at a lower price, then that very price, with due allowance for elapsed time will be applicable to the present case and the difference in the cost would be refunded by the BIDDER to HLL, if the contract has already been concluded.	Linde can confirm that no supply of imported oxygen to any GOI/ PSU agency is made at a lower price since the issue of this RFQ.	Standard clause mentioned in the Pre-integrity pact of Government of India. Therefore, tender condition shall prevail.

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51	General	We seek to add this Clause – Notwithstanding anything contained in this tender, along with the following documents – a. the Special Conditions of Contract, b. General Terms & Conditions and c. the Indemnity Pact, d. any other documents in relation thereto the aggregate liability of Linde, whether in contract, tort (including negligence), for breach of statutory duty or otherwise, arising under or in connection with this contract or otherwise shall not exceed 10% of the value of the consignment which is the subject matter of dispute, during the entire term of the tender/ contract.”	Refer to amendment no.2
<b>Queries received after Pre-Bid (Pre-Bid date: 19-10-2020)</b>			
SI. No	TENDER SPECIFICATION	REPRESENTATION RECEIVED FROM THE FIRMS	Remarks/Clarification
1	Irrevocable & non – transferable LC shall be opened by the Procurement Agency. However, if the supplier requests specifically to open confirmed LC, the extra charges would be borne by the supplier. If LC is required to be extended and/or amended for reasons not attributable to the Procurement Agency/consignee, the charges thereof shall be borne by the supplier.	Please confirm that you will open an irrevocable letter of credit for the entire amount of the bid as in the foreign currency quoted immediately on confirming the order on CIF basis or DDP basis.	HLL will open an irrevocable letter of credit for the ordered quantity in foreign currency within 7 days after issuing the NOA for imported goods in foreign currency as per clause 3 b. of Section II of TED.
2	b. For Imported goods, price offered in Foreign currency + INR: Delivery schedule will be reckoned from the date of opening of Letter of Credit (LC). The Suppliers shall provide necessary documents complete in all respects for opening of LC within 3 days of Notification of Award (NOA). Days taken beyond 3 days will be adjusted in Delivery period. Procurement Agency will open the LC in 4 working Days. The target date for opening the LC from the date of Notification of Award will be 7 days. The date of delivery will be the date when the consignment reaches the port of destination.	The date of delivery as required for the delay charges shall be the date the iso container shall arrive at the port	Refer to Amendment no.2
3	General	L C format shall be provided in the tender documents	LC will be opened by PA/Purchaser after issue of Notification of Award as per the tender conditions and in line with the guidelines of Uniform Customs & Practice for Documentary Credits (UCP 600) agreed by the International Chamber of Commerce.  However, LC format shall be shared with the supplier before opening of LC.

SI. No	TENDER TERMS & CONDITIONS INCLUDING SPECIFICATION (Tender Page & Para )	QUERIES RAISED BY THE FIRMS	Remarks/Clarification
4	General	The import export code of HLL will be used to file the bill of entry at the customs. hence the invoicing will be in the name of HLL with delivery instruction to various consignee sites.	<p>LC will be opened by PA/Purchaser. The invoice shall be billed as HLL for and on behalf of MoHFW, however the IEC / AD code / GST no. of HLL will be used for preparing BoE.</p> <p>Further in BoE, the consignee name also need to be marked as per provision, so that the duty benefit can also be availed.</p> <p>if the consignee is different then the consignee details has to be mentioned as ship to / consignee / delivery address in invoice.</p>
5	General	you will help in recommending duty waiver for the custom duty for import of liquid medical oxygen for covid purposes	The supplier/contractor will be responsible for entire supply chain of the goods from the country of origin till the destination point (decantation point). However, on request of supplier/contractor necessary assistance, if deemed appropriate, will be extended
6	General	you will also request the peso to reduce the charges and time taken for documentation required for the clearance of the import permission from peso for the iso containers.	The supplier/contractor will be responsible for entire supply chain of the goods from the country of origin till the destination point (decantation point). However, on request of supplier/contractor necessary assistance, if deemed appropriate, will be extended
7	General	As per discussion over call, I will like to convey that, we are confident we can cater to 2000-3000 MT/month (6000 – 9000 MT in 90 days) The range is provided due to several dynamic variables such as shipping slots on vessels, which often are busy and thus a contingency has to be planned for worst case & best case scenario.	<b>Refer to amendment no.2</b>

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8	Delivery Schedule, Clause 3, Pg.no.11	<p>3 months period to be explored to be extended for 6 months Securing such large quantity of ISO tanks for shorter period like 3 months will result:</p> <p>Very high cost of rentals as the minimum commitment for such assets is 6-12 months. Thus, the import cost will go up as these costs will be loaded over 3 months' supply. This will also result in suppliers to not be able to source large quantity of ISO tanks due to shorter window commitment. Thus tender can be considered for 3 months with option to extend to 6 months. Bidders can quote for 3 months and if the tender not extended for another 3 months, compensating rental cost for the balance 3 months. This will be a win-win situation and also factors in the eventuality of a situation that if the need arises for import of product for extended period, first right of refusal will be towards the tender.</p>	Refer to amendment no.2
9	<p>Section III,Section III Eligibility Criteria and Document, Pg no.12 Eligibility Criteria and Document A. ELIGIBILITY CRITERIA AND DOCUMENTS: 4. The bidders must quote a minimum of 50% of the tendered quantity for being eligible.</p>	<p>Minimum bid quantity to be set to 10% if 90 days or 20% if 180 days Based on our experience &amp; understanding of these ISO tanks availability in our Asia Pac region, the best effort any single bidder can come up with cannot exceed importing of 2000-3000 m tonnes/month, owing to following reasons:</p> <p>Limited availability ISO tanks Availability of consistent Liquid oxygen supply at shortest lead time for faster turnaround of ISO tanks Limited vessel connectivity</p>	Refer to amendment no.2
10	General	<p>Eligibility Criteria for bid Based on meeting following 3 conditions as below, will result in serious players in this segment to qualify</p> <p>100 ISO tanks availability to be demonstrated as leased/owned 100 tonnes/day liquid oxygen supply contract with manufacturer in overseas country 50 road trailers with GPS available to deliver the product to designated destinations in the country</p>	Refer to amendment no.2



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11	<p>Clause no.9., Pg no.19  <b>9. SECURITY DEPOSIT (SD):</b>  a. The successful bidder shall have to submit Security Deposit for an amount of 5% of the Order / Contract Value in the form of Bank Guarantee drawn in favor of HLL Lifecare Limited or Electronic payment through NEFT/RTGS to HLL Lifecare Limited's account. Bank Guarantee should be from Scheduled Banks. The BG towards Security Deposit (SD) shall be forwarded to VP (Sourcing), No interest will be paid on Security Deposit. The SDBG shall be in the prescribed format as given in the Enclosure 6 and should be valid for 60 days beyond the contractual obligation.</p>	<p><b>Removal Security Deposit or Performance Guarantee</b>  Suppliers will have to mobilise large advance payments or Bank Guarantee to secure the ISO tanks &amp; assured product and thus these further conditions may burden the complex activity dissuading the interested bidders. Also, currently it is a seller's market (lessors of ISO tanks) and this approach will be not conducive for this mammoth activity.</p>	<p>No Change. Tender condition will prevail.</p>
12	<p>Clause no.10, Pg.no.19,  <b>10. LIQUIDATED DAMAGES:</b>  Time is an essence of the contract therefore the job, as ordered, should be completed on the dates mutually agreed upon in accordance with the delivery schedule. In cases of delay not attributable to Procurement Agency/ Consignee beyond the agreed schedule, the Supplier shall pay liquidated damages, a sum representing 0.5% (Half per cent) per week or part thereof of the order value, subject to maximum of 10% of the order value for the undelivered portion.</p>	<p><b>Waiver of LD and flexible schedule</b>  These are exceptional times and it is requested to exempt bidder from LD and other penalties, and also provide flexible delivery schedule as most of import supply chain activity are not in bidder's control. However, Linde will make all attempts to deliver HLL full committed quantity within agreed schedule.    In case LD and schedule cannot be relaxed, pl. allow bidder to meet its obligations from domestic sources and HLL may, in that case, impose a 10% penalty of respective supply invoice amount.</p>	<p>No Change. Tender condition will prevail.</p>
13	<p>Clause no.4, Pg.no.6  <b>4. EARNEST MONEY DEPOSIT (EMD) / BID BOND:</b>  a. Bidders shall furnish EMD for Rs 9,84,00,000/-or Rs. 4,92,00,000/- (Minimum Eligibility EMD amount) or amount as applicable in the following forms:  • Account Payee Demand Draft  • Fixed Deposit Receipt  • Banker's cheque  • Bank Guarantee and  • Electronic payment through NEFT/RTGS to HLL Lifecare Limited Bank account as detailed in subsequent para</p>	<p><b>Proportionate EMD</b>  Min EMD required is for 50% of tender volume. As most bidders can only supply 2-5% of total volume, EMD be reduced proportionately.    Also, EMD amount be refunded based on volume supplied by bidder monthly.</p>	<p><b>Refer to amendment no.2</b></p>
14	<p>General</p>	<p><b>Linde product availability in ASEAN</b>  Linde has limited number of ISOs and most of the ISOs are already engaged under long term supply contracts with its customers. Linde could lease ISOs from market but availability is limited.    Linde can make available 200-300 tonnes per day of liquid oxygen at its sites in Malaysia and Thailand collectively, and can supply on ex-works basis to any gas player nominated by HLL.</p>	<p><b>Refer to amendment no.2</b></p>

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15	General	<p><b>Port clearance in India</b></p> <p>For faster turnaround of ISOs, special arrangement is sought at all Indian ports to get ISOs released from port on the same day of ship arrival and similarly, empty departure of ISO to origin country.</p>	The supplier/contractor will be responsible for entire supply chain of the goods from the country of origin till the destination point (decantation point). However, on request of supplier/contractor necessary assistance, if deemed appropriate, will be extended
16	General	<p><b>Volume commitment:</b></p> <p>Linde could commit to deliver 2400 MT of liquid oxygen in 3 months period. However, if delivery period is expended, more product could be delivered.</p> <p>HLL to provide minimum take or pay guarantee for the allocated volume.</p>	Refer to amendment no.2
17	Pg.no.35, Enclosure-5, Manufacturers Authorization Forms	<p>Enclosure-5, Manufacturers Authorization Forms states:</p> <p>&lt;We also hereby extend our full warranty, CMC as applicable as per clause 15 of the General Conditions of Contract, read with modification, if any, in the Special Conditions of Contract for the goods and services offered for supply by the above firm against this TE document.&gt;</p> <p>We do not see such Clause 15 in the General Conditions of Contract or Special Conditions of Contract. Please clarify. where this Clause 15 is located.</p>	Refer to amendment no.2