



Document No.: PS: CPC: MM: PUR: GCC: Rev02 Dated 07 March 2025

Amendment 03, Revised Dated 01.12.2025

Volume-IC

GENERAL CONDITIONS OF CONTRACTS (GCC)

**BHARAT HEAVY ELECTRICALS LIMITED
POWER SECTOR - HEAD QUARTERS
CENTRAL PROCUREMENT CELL (CPC)**





**CENTRAL PROCUREMENT
CELL (CPC)**
PURCHASE DEPARTMENT

**GENERAL CONDITIONS OF
CONTRACT (GCC)**

GENERAL CONDITIONS OF CONTRACTS (GCC)

1. INSTRUCTIONS TO BIDDERS
2. GENERAL COMMERCIAL TERMS & CONDITIONS
3. ANNEXURES

**BHARAT HEAVY ELECTRICALS LIMITED
POWER SECTOR–HEAD QUARTERS
CENTRAL PROCUREMENT CELL**

**BHEL SADAN, 8TH FLOOR
PLOT NO. 25, SECTOR – 16A
NOIDA – 201301 (U.P.)**

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1.1 GENERAL INSTRUCTIONS:

- 1.1.1** The General Conditions of Contract form part of the Tender specifications. For this tender, bidders shall use electronic Signature Viz. Digital Signature Certificate while uploading the tender documents on the e-procurement portal. The information furnished shall be complete by itself. The tenderer is required to furnish all the details and other documents as required in the following pages.
- 1.1.2** Tenderers are advised to study all the tender documents carefully. Any submission of tender by the tenderer shall be deemed to have been done after careful study and examination of the tender documents and with the full understanding of the implications thereof. Should the tenderers have any doubt about the meaning of any portion of the Tender Specification or find discrepancies or omissions in the drawings or the tender documents issued are incomplete or shall require clarification on any of the technical aspect, the scope of work etc., he shall at once, contact the authority inviting the tender well in time (so as not to affect last date of submission) for clarification before the submission of the tender. Tenderer's request for clarifications shall be with reference to Sections and Clause numbers given in the tender documents. The specifications and terms and conditions shall be deemed to have been accepted by the tenderer in his offer. Non-compliance with any of the requirements and instructions of the tender enquiry may result in the rejection of the tender.
- 1.1.3** Integrity pact (IP) shall be applicable for all tenders / contracts if indicated in NIT. This IP shall be issued as part of the Tender documents and shall be submitted by the bidder along with Techno-commercial bid duly filled, signed and stamped by the authorized signatory who signs the bid. Entering into this pact shall be a preliminary qualification.
- 1.1.4** All commercial terms and conditions except price should be submitted as part of techno- commercial offer (Part-I) which may be opened first. The price part (Part-II) is to be submitted in price bid section separately.
- 1.1.5** Price bids of only those bidders will be opened who will qualify for the subject job on the basis of evaluation of Techno-commercial bids / Pre – Qualification criteria and as considered suitable by BHEL. BHEL shall have sole discretion to adopt its own method for evaluation of Techno-commercial bids/ Pre - Qualification Criteria.
- 1.1.6** No revision of price will be entertained after tenders are opened, unless mentioned in our enquiry/ asked so by BHEL.
- 1.1.7** BHEL reserves the right to split, accept or reject any or all tenders without assigning any reason what so ever.
- 1.1.8** BHEL reserves the right to reduce the tendered item and/or quantity, while awarding the order, without assigning any reason what so ever.
- 1.1.9** In case Vendor/Contractor fails to execute the LOA/LOI/WO/PO as per terms and conditions of the contract, BHEL shall have the right to arrange/procure the material/services from alternate sources as deemed appropriate by BHEL in line with **Clause no. 2.40** of GCC.

1.2 PROCEDURE FOR SUBMISSION & OPENING OF TENDERS:

- 1.2.1** The tenderers must submit their tenders to Officer inviting tender as per instructions in the NIT. E-Tenders shall be submitted through E-Procurement portal (<https://eprocurebhel.co.in>) as per instruction in NIT. Tenderers to upload offers well in advance in order to avoid last minute congestion in e-procurement website. However, after submission of the tender, the tenderer can re-submit revised tender but before due date and time of submission of tender as notified.
- 1.2.2** PART-I (techno-commercial bid) shall be opened on the due date and time as specified in the NIT. Tenderers or their authorized representatives may witness the event online through BHEL E-Procurement site (<https://eprocurebhel.co.in>).



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NOTE: In case the due date of opening of tender becomes a non-working day, then the due date & time of offer submission and opening of tenders get extended to the next working day.

1.2.3 Tenderers whose bids are found techno commercially qualified shall be informed the date and time of opening of the Price Bid through system generated email from BHEL E-Procurement system. Tenderers or their authorized representatives may witness the event online through BHEL E-Procurement site (<https://eprocurebhel.co.in>).

1.2.4 No correspondence shall be entertained from the tenderers after the opening of Part-II (Price bid) of the tender.

1.2.5 BHEL may negotiate the tender, if the quoted rates/terms are found to be unreasonable or in the unacceptable range.

1.2.6 In case wherever scope comprises of supply and services, the tenderers are advised to inspect the site of work and the environments and be well acquainted with the actual working and other prevalent conditions, facilities available, position of material and labour, means of transport and access to Site, accommodation etc before submission of Offer. No claim will be entertained later on the grounds of lack of knowledge of any of these conditions.

The tenderer may get aware about weather conditions, contingencies & other circumstances which may influence or affect their tender prices. Invariable of inspection by the tenderer, the tenderer shall be considered deemed acquainted with all site conditions such as rain patterns, hazardous conditions, soil patterns, local factors etc. Tenderer to have satisfied himself in all respect before quoting his rates and no claim will be entertained later on the grounds of lack of knowledge of any of these conditions.

1.2.7 The information given in the tender documents is for general guidance and shall not be construed as contractually binding on BHEL/ Owner. All relevant site data/ information as may be necessary for bidding shall have to be obtained/ collected by the Tenderer.

1.2.8 The Tenderers are advised to physically visit the site to acquaint and satisfy themselves about the weather conditions, working culture in the area, socio-political environment, safety & security aspects, law & order situation, law of the land, transportation routes, various distances, surroundings of plant/ project premises together with all statutory, obligatory, mandatory requirements of various authorities and obtain for themselves all necessary information as to the risks, contingencies and all other circumstances, which may influence or affect the discharge of various obligations under the Contract during contract period including extended period (if any).

1.2.9 The submission of bid will tantamount to due diligence having been done and it shall be deemed that:

- the Tenderer has obtained all necessary information as to risks, contingencies and other circumstances which may influence or affect the Works
- the Tenderer accepts total responsibility for having foreseen all difficulties and costs of successfully completing the Works
- the Tenderer accepts that, the Contract Price shall not be adjusted to take account of any unforeseeable or unforeseen difficulties or costs and the Tenderer shall not raise any claims/ disputes against BHEL and/ or Owner at later date in any manner whatsoever.

1.2.10 The Tenderer shall mandatorily be required to submit "Site Visit Confirmation Declaration" in Annexure-XV along with the Technical Bid.

1.3 CLARIFICATIONS REQUIRED BY BIDDERS:

Technical and Commercial clarifications required, if any, before submission of tender, should be addressed (on or before the date as specified in sl. no. 1. ix of Salient Features of NIT to the official inviting the tenders.

1.4 Void



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1.5 METRIC SYSTEM:

Vendor/Contractors are requested to give metric measurements while quoting.

1.6 ETHICS IN BUSINESS DEALINGS/ SUSPENSION OF BUSINESS DEALINGS WITH VENDOR/CONTRACTOR:

BHEL reserves the right to take action against Contractors who either fail to perform or Tenderers/Contractor who indulge in malpractices, by suspending business dealings with them in line with BHEL guidelines issued from time to time.

The offers of the bidders who are under suspension as also the offers of the bidders, who engage the services of the banned firms / principal / agents, shall be rejected. The list of banned firms is available on BHEL web site www.bhel.com.

If any bidder / Vendor/Contractor during pre-tendering / tendering / post tendering / award / execution / post-execution stage indulges in any act, including but not limited to, mal-practices, cheating, bribery, fraud or and other misconduct or formation of cartel so as to influence the bidding process or influence the price or tampers the tendering process or acts or omits in any manner which tantamount to an offence punishable under any provision of the Indian Penal Code, 1860(Bhartiya Nyaya Samhita 2023) or any other law in force in India, or does anything which is actionable under the Guidelines for Suspension of Business dealings, action may be taken against such bidder / Vendor/Contractor as per extant guidelines of the company available on www.bhel.com and / or under applicable legal provisions. Guidelines for suspension of business dealings is available in the webpage:

http://www.bhel.com/vender_registration/vender.php

The abridged version of extant 'Guidelines for suspension of business dealings with suppliers/ vendors' is available on www.bhel.com on "supplier registration page" i.e., <https://www.bhel.com/guidelines-suspension-business-dealings-supplierscontractors> Bidders should get themselves acquainted with these guidelines.

Fraud Prevention Policy: Bidder along with its associate /collaborators /sub-contractors /sub-vendors / consultants / service providers shall strictly adhere to BHEL Fraud Prevention Policy displayed on BHEL website <http://www.bhel.com> and shall immediately bring to the notice of BHEL Management about any fraud or suspected fraud as soon as it comes to their notice.

Cartel Formation: The Bidder declares that they will not enter into any illegal or undisclosed agreement or understanding, whether formal or informal with other Bidder(s). 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. In case, the Bidder is found having indulged in above activities, suitable action shall be taken by BHEL as per extant policies/ guidelines

Non-Disclosure Certificate: The bidders shall enter into the Non-disclosure agreement totally voluntarily, with full knowledge of its meaning and without duress. **(Annexure-IX).**

1.7 INTEGRITY COMMITMENT:

The offers of the bidders who are on the debarred list and also the offer of the bidders, who engage the services of the debarred firms, shall be rejected. The list of debarred firms is available on BHEL web site www.bhel.com on <supplier registration page i.e., <<https://www.bhel.com/list-debarred-firms>>.



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1.7.1 Integrity commitment, performance of the contract and punitive action thereof:

1.7.1.1 Commitment by BHEL:

BHEL commits to take all measures necessary to prevent corruption in connection with the tender Process and execution of the contract. BHEL will during the tender process treat all Bidder(s) in a transparent and fair manner, and with equity.

1.7.1.2 Commitment by Bidder/ Supplier:

1.7.1.2.1 The bidder/ supplier commit to take all measures to prevent corruption and will not directly or indirectly influence any decision or benefit which he is not legally entitled to nor will act or omit in any manner which tantamount to an offence punishable under any provision of the Indian Penal Code, 1860 or any other law in force in India.

1.7.1.2.2 The bidder/ supplier will, when presenting his bid, disclose any and all payments he has made, and is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract and shall adhere to relevant guidelines issued from time to time by Govt. of India/ BHEL.

1.7.1.2.3 The bidder/ supplier will perform/ execute the contract as per the contract terms & conditions and will not default without any reasonable cause, which causes loss of business/ money/ reputation, to BHEL.

If any bidder/ supplier/ vendor during pre-tendering/ tendering/ post tendering/ award/ execution/ post-execution stage indulges in mal-practices, cheating, bribery, fraud or and other misconduct or formation of cartel so as to influence the bidding process or influence the prices or acts or omits in any manner which tantamount to an offence punishable under any provision of the Indian Penal Code, 1860 or any other law in force in India, then, action may be taken against such bidder/ supplier/ vendor as per extant guidelines of the company available on www.bhel.com and / or under applicable legal provisions.

1.8 INTEGRITY PACT (IP):

Bidders shall submit Integrity Pact Agreement (Duly signed by authorized signatory who signs in the offer) along with techno-commercial bid, if applicable (as given at Clause no. 1 (xi), Salient Features of NIT). This pact shall be considered as a preliminary qualification for further participation. The names and other details of Independent External Monitor (IEM) for the subject tender is as given below:

- (a) IP is a tool to ensure that activities and transactions between the Company and its Bidders/ Contractors are handled in a fair, transparent and corruption free manner. Following Independent External Monitors (IEMs) on the present panel have been appointed by BHEL with the approval of CVC to oversee implementation of IP in BHEL.

Sl. No.	IEM	Email
1.	Dr. Sarat Kumar Acharya, Ex-CMD, NLC	iem1@bhel.in
2.	Shri R. Mukundan, IRPS (Retd.)	iem2@bhel.in
3.	Shri Madan Lal Meena, IAS (Retd.)	iem3@bhel.in

- (b) The IP as enclosed with the tender is to be submitted (duly signed by authorized signatory) along with techno-commercial bid (Part-I, in case of two/ three part bid). Only those bidders who have entered into such an IP with BHEL would be competent to participate in the bidding. In other words, entering into this Pact would be a preliminary qualification.



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- (c) Please refer Section-8 of IP for Role and Responsibilities of IEMs. In case of any complaint arising out of the tendering process, the matter may be referred to any of the above IEM(s). All correspondence with the IEMs shall be done through email only.

Note:

No routine correspondence shall be addressed to the IEM (phone/ post/ email) regarding the clarifications, time extensions or any other administrative queries, etc. on the tender issued. All such clarification/ issues shall be addressed directly to the tender issuing (procurement) department's officials whose contact details are as per Clause no. 1, Salient Features of NIT, Sl. No. (ix).

(Please submit the Integrity Pact Format as per Annexure – XIV).

1.9 QUALIFICATION OF TENDERERS

- 1.9.1** Only tenderers who have previous experience in the **supply of materials/work** of the nature and description detailed in the Notice Inviting Tender and/or tender specification are expected to quote for this **Tender/work** duly detailing their experience along with offer.
- 1.9.2** Offers from tenderers who do not have proven and established experience in the field shall not be considered.
- 1.9.3** The offers of the bidders who are on the debarred list shall be rejected. Further, offer of the bidders, who engage the services of the debarred firms or associated with the debarred firm, for present bid, shall also be rejected. The list of debarred firms is available on BHEL web site www.bhel.com (Refer clause 1.7 of GCC).
- 1.9.4** Offers from tenderers who do not comply with the latest guidelines of Ministry/Commissions of Govt. of India shall not be considered.

1.10 EVALUATION OF BIDS:

- 1.10.1** Techno-commercial evaluation shall be carried out on the basis of technical specifications, commercial terms and conditions and PQR (if applicable) specified in the tender documents and changes/clarifications thereof, if any, based on documentary evidences submitted along with the offer.
- 1.10.2** Bidders (other than cases of single part bids) shall be given an opportunity to withdraw the deviations/ furnish clarifications/submit documents by appropriate cut-off date by authorized purchase executive.
IF THE BIDDER DOES NOT WITHDRAW ITS DEVIATION(S), THE BID WILL BE LIABLE TO BE REJECTED.
- 1.10.3 VOID.**
- 1.10.4** In case the qualifying experience claimed by bidder is based on 'Purchase Order'/'Work Order' and 'Experience Certificates' from any organization other than BHEL (main agency), then it shall be the responsibility of bidder to submit (in addition to the experience certificate from main agency) relevant certificate regarding qualifying experience from the end Customer or the Turnkey-Contractor (if any) who has awarded the work to main agency, as a proof for having executed subject qualifying work. BHEL reserves the right to ask for any other proof for the said job.
- 1.10.5** Price Bids of shortlisted bidders shall only be opened through the electronic price bid opening with/without Reverse Auction, at the discretion of BHEL. Unless specified otherwise in the tender, the L1 bidder amongst all the shortlisted bidders shall be considered for award. However, the L1 bidder shall have no claim on the award & BHEL reserves the right to award the tender at its sole discretion.
- 1.10.6** Price Bids of unqualified bidders shall not be opened. Reasons for rejection shall be intimated in due course either through system generated e-mail or through letter/e-mail after award to successful bidder.



1.11 MICRO & SMALL-SCALE ENTERPRISES (MSE):

1.11.1 Any Bidder falling under MSE category, shall furnish the following details & submit documentary evidence/ Govt. Certificate etc. in support of the same along with their Techno-commercial offer;

Type under MSE	SC/ST owned	Women owned	Others (excluding SC/ST & Women)
Micro			
Small			

NOTE: - If the bidder does not furnish the above, offer shall be processed construing that the bidder is not falling under MSE category.

1.11.2 MSE suppliers can avail the intended benefits in respect of the procurements related to the Goods and Services only (Definition of Goods and Services as enumerated by Govt. of India vide Office Memorandum F. No. 21(8)/2011-MA dtd. 09/11/2016 office of AS & DC, MSME) only if they submit along with the offer, attested copies of either Udyam Registration Certificate. If the tender is to be submitted through e-procurement portal, then the above required documents are to be uploaded on the portal. Documents should be notarized or attested by a Gazetted officer. Documents submitted by the bidder may be verified by BHEL for rendering the applicable benefits.

1.11.3 MSEs shall be exempted from payment of earnest money at the time of tender deposit.

1.11.4 MSEs shall not be exempted from payment of Performance Security deposit submission.

For this procurement, purchase preference to MSE shall be in line with Office Order No. F. No. DPE/3(3)/10-Fin dated 29.05.2023 forwarded by Department of Public Enterprises against Department of Expenditure O M No. F.1/4/2021-PPD dated 18.05.2023. In case of subsequent orders issued by the nodal ministry, changing the definition of MSE, the same shall be applicable even if issued after issue of this NIT, but before opening of Part-II bids against this NIT.

As per the latest guidelines issued by the Government, the benefits of Micro and Small Enterprises (MSEs) shall be extended to all eligible Micro and Small Enterprises before opening of Part-II bids against this NIT.

1.12 DATA TO BE ENCLOSED:

Full information shall be given by the tenderer in respect of the following. Non-submission of this information may lead to rejection of the offer.

i) INCOME TAX PERMANENT ACCOUNT NUMBER

Certified copies of Permanent Account Numbers as allotted by Income Tax Department for the Company/Firm/Individual Partners etc. shall be furnished along with tender.

ii) ORGANIZATION CHART

The organization chart of the tenderer's organization, including the names, addresses and contact information of the Directors/Partners shall be furnished along with the offer.



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- iii) An attested copy of the Power of Attorney, in case the tender is signed by an individual other than the sole proprietor.
- iv) **IN CASE OF INDIVIDUAL TENDERER:**
His / her full name, address, PAN and place & nature of business.
- v) **IN CASE OF PARTNERSHIP FIRM:**
The names of all the partners and their addresses, A copy of the partnership deed/instrument of partnership dully certified by the Notary Public shall be enclosed.
- vi) **IN CASE OF COMPANIES:**
 - a) Date and place of registration including date of commencement certificate in case of Companies Certificate of Commencement of Business, if applicable under Section 10A of the Companies Act, 2013, or any other applicable provision, evidencing that the Company is authorized to commence its business operations (certified copies of Memorandum and articles of Association are also to be furnished).
 - b) Nature of business carried on by the Company and the provisions of the Memorandum relating thereof.

1.13 AUTHORIZATION AND ATTESTATION:

Tenders shall be signed by a person duly authorized/empowered to do so, for which a Power of Attorney is to be submitted along with the tender offer. For company, a Power of Attorney (as per Annexure-XII) shall be submitted.

1.14 BANK GUARANTEES:

Where ever Bank Guarantees are to be furnished/submitted by the contractor, the following shall be complied with

- i. Bank Guarantees shall be from BHEL **Consortium Banks only**. Bank Guarantees issued by Co-Operative Banks/ Financial Institutions shall not be accepted.
- ii. The Bank Guarantees shall be as per prescribed formats.
- iii. It is the responsibility of the bidder to get the Bank Guarantees revalidated/extended for the required period as per the advice of BHEL. BHEL shall not be liable for issue of any reminders regarding expiry of the Bank Guarantees.
- iv. In case extension/further extensions of any Bank Guarantees are not required, the bidders shall ensure that the same is explicitly endorsed by the Resident Manager.
- v. In case the Bank Guarantees are not extended before the expiry date, BHEL reserves the right to invoke the same by informing the concerned Bank in writing, without any advance notice/communication to the concerned bidder.
- vi. Bidders to note that any corrections to Bank Guarantees shall be done by the issuing Bank, only through an amendment in an appropriate non-judicial stamp paper.
- vii. The Original Bank Guarantee shall be submitted to BHEL as specified in TCC.



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1.15 REJECTION OF TENDER AND OTHER CONDITIONS:

1.15.1 The acceptance of tender will rest with BHEL which does not bind itself to accept the lowest tender nor any tender and reserves to itself full rights for the following without assigning any reasons whatsoever: -

- a. To reject any or all of the tenders.
- b. To split up the package/work amongst two or more tenderers as per NIT.
- c. To award the supply package/work in part if specified in NIT.
- d. In case of either of the contingencies stated in (b) and (c) above, the time for completion as stipulated in the tender shall be applicable.

1.15.2 Conditional tenders, unsolicited tenders, tenders which are incomplete or not in the form specified or defective or have been materially altered or not in accordance with the tender conditions, specifications etc. are liable to be rejected.

1.15.3 Tenders are liable to be rejected in case of unsatisfactory performance of the tenderer with BHEL or tenderer under suspension (debarred) by any unit / region / division of BHEL or tenderers who do not comply with the latest guidelines of Ministry/Commissions of Govt of India. BHEL reserves the right to not consider a bidder for further processing of tender in case it is observed that they are overloaded and may not be in a position to execute this job as per the required schedule. The decision of BHEL will be final in this regard.

1.15.4 If a tenderer who is a proprietor expires after the submission of his tender or after the acceptance of his tender, BHEL may at their discretion, cancel such tender. If a partner of a firm expires after the submission of tender or after the acceptance of the tender, BHEL may then cancel such tender at their discretion, unless the firm retains its character. In case BHEL resolves to cancel the tender under this clause, BHEL will issue a notice in this regard containing reasons as to the cancellation of tender. The contractor shall be required to furnish his response to such notice within a period of 14 days from the date of receipt of such notice through any means (BHEL reserves the right to decrease the period up to 05 days). BHEL after due consideration of the representation made by contractor shall communicate its final decision within a reasonable period. In case contractor fails to submit any response to the notice issued by BHEL within the period stipulated in the notice, BHEL at its discretion may proceed to cancel the contract. Contractor shall not be eligible for any compensation whatsoever for the cancellation of contract under this clause

1.15.5 BHEL will not be bound by any Power of Attorney granted by changes in the composition of the firm made subsequent to the execution of the supply/contract. BHEL may, however, recognize such power of Attorney and changes after obtaining proper legal advice, the cost of which will be chargeable to the contractor concerned.



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1.15.6 If the tenderer deliberately gives wrong information in his tender, BHEL reserves the right to reject such tender at any stage or to cancel the contract if awarded and forfeit the Earnest Money/Security Deposit/any other money due.

1.15.7 Canvassing in any form in connection with the tenders submitted by the Tenderer shall make his offer liable to rejection.

1.15.8 In case the Proprietor, Partner or Director of the Company/Firm submitting the Tender, has any relative or relation employed in BHEL, the authority inviting the Tender shall be informed of the fact as per specified format, along with the Offer. Failing to do so, BHEL may, at its sole discretion, reject the tender or cancel the contract and forfeit the Earnest Money/Security Deposit.

1.15.9 VOID.

1.15.10 VOID

1.15.11 The Tender submitted by a techno commercially qualified tenderer shall become the property of BHEL who shall be under no obligation to return the same to the bidder.

1.15.12 Unsolicited discount received after the due date and time of Bid Submission shall not be considered for evaluation. However, if the party who has submitted the unsolicited discount/rebate becomes the L-1 party, then the awarded price i.e. contract value shall be worked out after considering the discount so offered.

1.15.13 BHEL shall not be liable for any expenses incurred by the bidder in the preparation of the tender irrespective of whether the tender is accepted or not.

1.16 EXECUTION OF CONTRACT AGREEMENT:

The successful tenderer's responsibility under this contract commences from the date of issue of the Letter of Intent/ Award /Purchase Order(PO) by Bharat Heavy Electricals Limited.

The successful tenderer shall be required to execute an agreement in the prescribed form, with BHEL, within a reasonable time after the acceptance of the Letter of Award/PO, and in any case before releasing the first running bill. The contract agreement shall be signed by a person duly authorized/empowered by the tenderer. The expenses for preparation of agreement document shall be borne by BHEL.

Value of Non judicial Stamp Paper for Bank Guarantees and for Contract Agreement shall be not less than Rs 100/- unless otherwise required under relevant statutes.

1.17 INTIMATION OF CHANGE OF NAME/ RE-CONSTITUTION OF THE ORGANIZATION:

In the event of the organization (Proprietorship/Partnership/Company) undergoing any change of name or reconstitution, prior intimation of the same shall be given to BHEL. Upon such changes coming into effect, the same is to be intimated to BHEL immediately with supporting documents as applicable.

1.18 LANGUAGE & CORRECTIONS:



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- a) The Bid shall be in English language. All correspondence and documents relating to the bid exchanged between the bidder and the BHEL shall also be in ENGLISH language. However, any technical document/ literature etc. printed in a language other than English shall be accompanied by its true English translation duly signed for its correctness. Any document submitted with the bid but not in English language shall not be treated as part of the bid document. The responsibility for the correctness of the translations if any solely rests on the bidder and BHEL shall not be responsible for any loss/likely loss arising out of error in translation whatsoever. In such cases, for the purpose of interpretation of the bid, the English translation shall prevail.
- b) Tenderer shall quote the rates in English language and Indo-Arabic numerals only. These rates shall be entered in figures as well as in words. For the purpose of tender, metric system of units shall be used.
- c) All entries in the tender shall either be typed or written legibly in ink. Cancellations, insertions, erasement, over-writing (if unavoidable) shall be authenticated with signature and seal by the bidder.
- d) Tenderer's offer, remarks and deviations shall be with reference to sections and clause numbers given in the tender documents.

1.19 PRICE DISCREPANCY:

Following shall be considered for evaluation and ordering for non-conformities/errors/discrepancies in price bid:

- a) If, in the price structure quoted for the required goods/ services/ works, there is discrepancy between the unit price and the total price (which is obtained by multiplying the unit price by the quantity), the unit price shall prevail and the total price corrected accordingly, unless in the opinion of the BHEL there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price corrected accordingly.
- b) If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected.
- c) If there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject of (a) and (b) above.
- d) Taxes and duties if not specified clearly as extra shall be considered as included in the basic price and, therefore, shall not be reimbursed. Shall prevail subject of (a) and (b) above.
- e) Bid should be free from correction, overwriting, using corrective fluid, etc. Any interlineation, cutting, erasure or overwriting shall be valid only if they are attested under full signature(s) of person(s) signing the bid else bid shall be liable for rejection.

1.20 PUBLIC PROCUREMENT (PREFERENCE TO MAKE IN INDIA):

For this procurement, the local content to categorize a supplier/Vendor as a Class I local supplier/ Class II local Supplier/Non-Local Supplier and purchase preferences to Class I local supplier, is as defined in Public Procurement (Preference to Make in India), Order 2017 dated 04.06.2020 issued by DPIIT. In case of subsequent orders issued by the nodal ministry, changing the definition of local content for the items of the NIT, the same shall be applicable even if issued after issue of this NIT, but before opening of Part-II bids against this NIT.

1.20.1 Compliance to Restrictions under Rule 144 (xi) of GFR 2017

- I. Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority. The Competent Authority for the purpose of this Clause shall be the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade (DPIIT).



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- II. "Bidder" (including the term 'tenderer', 'consultant' or 'service provider' in certain contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by such person, participating in a procurement process.
- III. "Bidder from a country which shares a land border with India" for the purpose of this Clause means:-
- An entity incorporated established or registered in such a country; or
 - A subsidiary of an entity incorporated established or registered in such a country; or
 - An entity substantially controlled through entities incorporated, established or registered in such a country; or
 - An entity whose beneficial owner is situated in such a country; or
 - An Indian (or other) agent of such an entity; or
 - A natural person who is a citizen of such a country; or
 - A consortium or joint venture where any member of the consortium or joint venture falls under any of the above.
- IV. The beneficial owner for the purpose of (III) above will be as under:
- In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together or through one or more juridical person, has a controlling ownership interest or who exercises control through other means.
Explanation-
 - "Controlling ownership interest" means ownership of or entitlement to more than twenty-five per cent of shares or capital or profits of the company.
 - "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements.
 - In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership.
 - In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person has ownership of or entitlement to more than fifteen percent of the property or capital or profits of the such association or body of individuals.
 - Where no natural person is identified under (1) or (2) or (3) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;
 - In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.
- V. An Agent is a person employed to do any act for another, or to represent another in dealings with third person.

Note:

- The bidder shall provide undertaking for their compliance to this Clause, in the format provided in Annexure-XIX.
- Registration of the bidder with Competent Authority should be valid at the time of submission of bids and at the time of acceptance of the bids.



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1.21 **CONFLICT OF INTEREST:** Bidders having a conflict of interest shall not be eligible to participate in the tender process. In this regard, a declaration in Annexure – XXX regarding 'Conflict of Interest' to be signed by the authorized signatory of the bidder.



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2.1 DEFINITION OF TERMS: The following terms shall have the meaning hereby assigned to them except where the context otherwise requires

- 2.1.1 BHEL/Purchaser** shall mean Bharat Heavy Electricals Limited, a company registered under Indian Companies Act 1956, having its Registered Office at BHEL HOUSE, SIRI FORT, NEW DELHI – 110 049, or its office at CPC (Central Procurement Cell), PSHQ, Noida or its Power Sector Regional Offices or its Authorized Officers (inviting tenders).
- 2.1.2 TENDERER/ BIDDER** shall mean the Firm/ Company/ Organisation who quotes against the Tender Enquiry issued by BHEL.
- 2.1.3 SUPPLIER/ VENDOR / CONTRACTOR** shall mean the successful bidder with whom the Order/ Contract is made.
- 2.1.4 “COMPETENT AUTHORITY”** shall mean BHEL Officers who are empowered to act on behalf of BHEL.
- 2.1.5 “ENGINEER” or “ENGINEER IN CHARGE”** shall mean an Officer of BHEL as may be duly appointed and authorized by BHEL to act as “Engineer” on his behalf for the purpose of the Contract, to perform the duty set forth in this General Conditions of Contract and other Contract documents. The term also includes “CONSTRUCTION MANAGER” or “SITE INCHARGE” or “Resident Manager” as well as Officers at Site or at the Headquarters of the respective Power Sector Regions. For the purpose of joint measurement, verification, certification and/ or approval of the work and/ or documents under the contract the word "Engineer" or "Engineer In-charge" shall be deemed to include the Engineers of the Customer and/ or his Consultant also.
- 2.1.6 “SITE”** shall mean the places or place at which the plants/ equipment is to be installed and services are to be performed as per the specification of this Tender.
- 2.1.7 “CLIENT OF BHEL” or “CUSTOMER” or “OWNER”** shall mean the project authorities with whom BHEL has entered into a contract for supply of equipment or provision of services.
- 2.1.8 “CONTRACTOR” or “SUPPLIER” or “VENDOR”** shall mean the successful Bidder/Tenderer who is awarded the Contract and shall include the Contractor’s successors, heirs, executors, administrators and permitted assigns.
- 2.1.9 “CONTRACT” or “CONTRACT DOCUMENT”** shall mean and includes the Agreement or Work Order or Purchase Order, the accepted appendices of Rates, Schedules, Quantities if any, Offer submitted by contractor including acceptance to General Conditions of Contract, Special Conditions of Contract, Instructions to the Tenderers, Drawings, Technical Specifications, the Special Specifications if any, the Tender documents, subsequent amendments /corrigenda to Tender mutually agreed upon and the Letter of Intent/Award/Order/Acceptance issued by BHEL. Any conditions or terms stipulated by the contractor in the tender documents or subsequent letters shall not form part of the contract unless, specifically accepted in writing by BHEL in the Letter of Intent/Award/Order and incorporated in the agreement or amendment thereof.
- 2.1.10 “GENERAL CONDITIONS OF CONTRACT (GCC)”** shall mean the ‘Instructions to Tenderers’ and ‘General Conditions of Contract’ pertaining to the Work/ Supplies for which above tenders have been called for.



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- 2.1.11 “TENDER SPECIFICATION”** or **“TENDER”** or **“TENDER DOCUMENTS”** shall mean General Conditions, Common Conditions, Special Conditions, Price Bid, Rate Schedule, Technical Specifications, Appendices, Annexures, Corrigenda, Amendments, Forms, Procedures, Site information etc. and drawings/documents pertaining to the work for which the tenderers are required to submit their offers. Individual specification number will be assigned to each Tender Specification.
- 2.1.12 “LETTER OF INTENT/ AWARD/WORK ORDER / PURCHASE ORDER(PO)”** shall mean the intimation by a Letter/Fax/email to the tenderer that the tender has been accepted in accordance with provisions contained in the letter. The responsibility of the contractor commences from the date of issue of this letter and all terms and conditions of the contract are applicable from this date.
- 2.1.13 “COMPLETION TIME”** shall mean the period by ‘date/month’ specified in the ‘Letter of Intent/Award’ or date mutually agreed upon for handing over of the intended scope of work, the erected equipment/plant which are found acceptable by the Engineer, being of required standard and conforming to the specifications of the Contract.
- 2.1.14 “PLANT”** shall mean and connote the entire assembly of the plant and equipments covered by the contract.
- 2.1.15 “EQUIPMENT”** shall mean equipment, machineries, materials, structural, electricals and other components of the plant covered by the contract.
- 2.1.16 “TESTS”** shall mean and include such test or tests to be carried out on the part of the contractor as are prescribed in the contract or considered necessary by BHEL in order to ascertain the quality, workmanship, performance and efficiency of the contractor or part thereof.
- 2.1.17 “APPROVED”, “DIRECTED” or “INSTRUCTED”** shall mean approved, directed or instructed by BHEL.
- 2.1.18 “WORK or CONTRACT WORK”** shall mean and include supply of all categories of labour, specified consumables, tools and tackles and Plants required for complete and satisfactory material procurement, storage, fabrication, transportation and other allied works to the entire satisfaction of BHEL.
- 2.1.19 “SINGULAR AND PLURALS ETC”** words carrying singular number shall also include plural and vice versa, where the context so requires. Words imparting the masculine Gender shall be taken to include the feminine Gender and words imparting persons shall include any Company or Associations or Body of Individuals, whether incorporated or not.
- 2.1.20 “HEADING”** – The heading in these General Conditions are solely for the purpose of facilitating reference and shall not be deemed to be part thereof or be taken as instructions thereof or of the contract.
- 2.1.21 GOODS/SUPPLIES** means all the items, materials, equipment and/or machinery, which the supplier is required to supply to the BHEL in terms of a contract.
- 2.1.22 SERVICES** means the services ancillary to the supply of the goods, such as transportation and insurance and as any other incidental services, such as installation, commissioning, provision of



technical assistance, training and other such obligation of the Vendor/Contractor covered under a contract.

2.1.23 CONSIGNEE means the individual or body to whom the contracted goods are required to be delivered as per the terms and conditions incorporated in a contract.

2.1.24 'Day' or 'Days' unless herein otherwise expressly defined shall mean calendar day or days of twenty-four (24) hours each. A Week shall mean continuous period of seven (7) days.

2.1.25 "MONTH" shall mean calendar month unless otherwise specified in the Tender.

2.1.26 "WRITING" shall include any manuscript type written or hand written or printed statement or electronically transmitted messages, under the signature or seal or transmittal of BHEL.

2.1.27 "TEMPORARY WORK" shall mean all temporary works for every kind required in or for the execution, completion, maintenance of the work.

2.1.28 'CONTRACT PRICE' or 'CONTRACT VALUE' shall mean the sum mentioned in the LOI/LOA/WO/PO/Contract Agreement subject to such additions thereto or deductions there from as may be made under provisions hereinafter contained.

2.1.29 'EXECUTED CONTRACT VALUE' shall mean actual value of works /supply executed by the contractor/supplier/vendor and certified by BHEL. This value shall not include PVC, Extra Works and Taxes.

2.1.30 "COMMENCEMENT DATE" or "START DATE" shall mean the commencement/start of work/supply at Project Site as per terms defined in the Tender.

2.1.31 "SHORT CLOSING" or "FORE CLOSING" of Contract shall mean the premature closing of Contract, for reasons not attributable to the contractor and mutually agreed between BHEL and the contractor.

2.1.32 "TERMINATION" of Contract shall mean the pre-mature closing of contract due to reasons as mentioned in the contract.

2.1.33 "DE MOBILIZATION" shall mean the temporary winding up of Site establishment by Contractor leading to suspension of works temporarily for reasons not attributable to the contractor.

2.1.34 "RE MOBILIZATION" shall mean the resumption of work with all resources required for the work after demobilization.

2.2 PRICES:

Prices shall be for the entire scope of supply / services in line with all instructions, specifications, terms & conditions specified in the tender documents and subsequent clarifications/ confirmations till completion of contract.



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2.3 INSPECTION:

Inspection for the stores will be carried out at the Contractor/ Vendor's works/ BHEL Destinations/ Sites by the BHEL authorized inspecting officer. Wherever preliminary or stage Inspection is to be carried out at the Vendor/Contractor's works the same will be subject to final acceptance/after receipt of the stores at the BHEL works / Destinations/ Site as the case may be and the decision of the BHEL shall be final.

BHEL reserves the right to inspect the material during/after manufacturing at Vendor/Contractor's works and/or at BHEL Site and also to get tested the material under dispatch from third party. The test results of third-party test shall be final and binding on the Vendor/Contractor.

Rejected goods will be returned to the Vendor/Contractor at his cost including freight on original shipment. Vendor/Contractor shall be liable to replace the materials at his own cost.

2.4 MATERIAL DESPATCH CLEARANCE CERTIFICATE (MDCC):

2.4.1 When the inspection have been satisfactorily completed at Supplier / Vendor/ Contractor's works, the Inspection Agency /BHEL shall issue an inspection report that effect within Seven (07) days after completion of the inspection. If the inspections were waived by BHEL, the material acceptance report would be issued within Seven (07) days after receipt of the test certificates by the BHEL.

2.4.2 BHEL will issue MDCC to the Supplier / Vendor/ Contractor within Seven (07) days based on inspection report/ test certificates/Certificate of Conformance, to be completed in all aspects, as applicable.

In case of delay in issuance of MDCC beyond Seven (07) days stipulated time (i.e. from the date of successful inspection report), by BHEL arising due to reasons not attributable to vendor, BHEL will extend the delivery period for such delay in issuing MDCC.

2.4.3 MATERIAL DISPATCH CLEARANCE CERTIFICATE (MDCC): MDCC shall be issued by BHEL. No material shall be dispatched by Supplier / Vendor/ Contractor unless and until Material Dispatch Clearance Certificate (MDCC) issued by BHEL Site. In case any material is dispatched without MDCC and any loss is incurred by Supplier / Vendor/ Contractor for any reason whatsoever, BHEL shall not be responsible in any manner to compensate the Supplier / Vendor/ Contractor in this regard.

2.4.4 Satisfactory completion of tests or issue of MDCC shall not absolve the responsibilities of Supplier / Vendor/ Contractor from the contract.

2.5 VOID

2.6 PACKING AND MARKING:

Packing shall be in conformity with specifications and shall be such as to ensure prevention of damages, corrosion, deterioration, shortages, pilferage and loss in transit or storage. In case of shipment by sea, the packing shall be sea-worthy and of international standards. If any damage, deterioration or loss is sustained when the carrier or underwriter attributed to improper/defective packing the Supplier / Vendor/ Contractor shall be liable to replace the stores at his cost or reimburse the value of the loss to the BHEL notwithstanding whether the insurance is arranged by him or not.

The following marking shall be made on each package in Black bold capital letters;

- i. Name & Address of Consignee
- ii. Dimension of Package
- iii. Weight details (Gross & Net)

These markings should be stencilled or written in bold letters on the package. Should the package be small, suitable cards/ metal tags giving these details may be tagged or nailed to such package.



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2.7 DELIVERY:

Supply of plant/ equipment/ stores shall not be considered complete until they have been inspected and accepted at the place and destination specified for delivery by the time stipulated under the terms & conditions of the Order/ Contract. **Supplier / Vendor/ Contractor shall not dispatch any material before issuance of MDCC by BHEL.** Mere payment by itself shall not constitute acceptance of the goods or materials in any manner, whatsoever.

2.8 REJECTION:

The Supplier / Vendor/ Contractor shall intimate the BHEL in writing, within 15 days after the receipt of rejection advice, regarding disposal of the rejected plant/ equipment/ material /stores. If no advice is received within aforesaid period the BHEL shall be at liberty to return the stores at the cost of the Vendor/ Contractor after recovering the cost, if any paid by the BHEL including inward freight and other incidental charges. The BHEL will not be responsible for rejected stores thereafter and no claim whatsoever will rest on the BHEL.

2.9 SHORTAGES / DAMAGES:

If there are any shortages/damages in Equipment/ Stores found during receipt of material at Destination/ site, vendor shall supply replacements for same, as early as possible, at the old contractual rates upon intimation to vendor within one (1) months of receipted LR. Decision of BHEL regarding shortages/damages shall be final and binding. LD shall be applicable as per original delivery schedule of P.O.

2.10 TRANSPORTATION & FREIGHT CHARGES:

All dispatches shall be through road / rail / air carriers on freight pre-paid basis, unless otherwise specified in the TCC. E-way bill, if required, will be arranged by Supplier / Vendor/ Contractor.

2.11 TERMS OF PAYMENT: Payment terms shall be as specified in the Technical Conditions of Contract (TCC).

2.11.1 MODE OF PAYMENT:

Payments shall be made directly to the Supplier / Vendor/ Contractor by E-transfer. Supplier / Vendor/ Contractor will provide necessary information for the same as per format mentioned in GCC to BHEL.

2.11.2 NO INTEREST PAYABLE TO VENDOR/CONTRACTOR: No interest shall be payable by the BHEL to the Supplier / Vendor/ Contractor on any money or balances including but not limited to the Performance security amount, EMD, any bills or any amount withheld which may become due owing to difference or misunderstanding or any dispute between the BHEL and the Supplier / Vendor/ Contractor, or any delay on the part of BHEL in making periodical or final payment or any other aspects incidental thereto.

2.12 Earnest Money Deposit (EMD):

2.12.1 Every tender must be accompanied by the prescribed amount of Earnest Money Deposit (EMD) in the manner described herein.

- i. EMD shall be furnished before tender opening / along with the offer in full as per the amount indicated in the NIT.



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- ii. The EMD up to an amount of Rs. 2 Lakh is to be paid only in the following forms:
- Electronic Fund Transfer credited in BHEL account (before tender opening).
 - Banker's cheque / Pay order/ Demand draft, in favour of 'Bharat Heavy Electricals Limited' and payable at Regional HQ issuing the tender (along with offer).
 - Fixed Deposit Receipt (FDR) issued by Scheduled Banks/ Public Financial Institutions as defined in the Companies Act (FDR should be in the name of the Contractor, a/c BHEL marking lien in favour of BHEL) (along with offer). The Fixed Deposit in such cases shall be valid for a period of 45 (forty-five) days beyond the final bid validity period.
 - Guarantee from any of the Scheduled Banks preferably from any of BHEL Consortium Banks in the prescribed format. In such cases shall be valid for a period of 45 (forty-five) days beyond the final bid validity period
 - Insurance Surety Bonds.

In the EMD is more than Rs. Two lakh and in case of foreign bidders, it may be in the form of a bank guarantee (in equivalent Foreign Exchange amount, in case of foreign bidders) issued/ confirmed from any of the scheduled Bank preferably from any of BHEL Consortium Banks in the prescribed format. The EMD shall remain valid for a period of 45 (forty-five) days beyond the final bid validity period.

- iii. No other form of EMD remittance shall be acceptable to BHEL.
- iv. **Proof of EMD:** Bidder shall upload the scanned copy of EMD along with bid submission through BHEL e-procurement Portal. However, for the purpose of realization, the bidder shall send the demand draft/ banker's cheque/ pay order/ Bank Guarantee/ FDR/ Insurance Surety Bonds, in original, to the designated officer through post/courier or by hand within reasonable time.

For issuance of e-BG, BHEL is a registered entity in NeSL the platform through which e-BG is issued. BHEL as a registered NeSL beneficiary can be tracked based on BHEL PAN No AAACB4146P.

2.12.2 EMD by the Tenderer will be forfeited as per NIT conditions, if:

- The bidder withdraws or amends its/his tender or impairs or derogates from the tender in any respect within the period of validity of the tender or if the successful bidder fails to furnish the required performance security within the specified period mentioned in the Tender.
- EMD by the Bidder shall be withheld in case any action on the tenderer is envisaged under the provisions of extant "Guidelines on Suspension of business dealings with suppliers/ contractors" and shall be forfeited in case of suspension.

2.12.3 Subject to cl. no. 2.12.2 above, EMD of the unsuccessful bidders shall be returned at the earliest after expiry of the final bid validity period and latest by the 30th day after the



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award of the contract. However, in case of two packet or two stage bidding, EMD of unsuccessful bidders during first stage i.e., technical evaluation etc. shall be returned within 30 days of declaration of result of first stage i.e. technical evaluation etc.

2.12.4 EMD of successful bidder shall be refunded on conclusion of the order/ receipt of a performance security as mentioned in NIT.

2.12.5 EMD shall not carry any interest.

2.12.6 Micro and Small Enterprises (MSEs) or Startups as recognized by Department for Promotion of Industry and Internal Trade (DPIIT) shall be exempted from payment of EMD.

2.13 PERFORMANCE SECURITY / SECURITY DEPOSIT:

2.13.1 Successful bidder awarded the contract should deposit performance security, as mentioned in TCC, towards fulfilment of all contractual obligations, including warranty obligations.

2.13.2 Performance Security is to be furnished within 14 days after issuance of Contract/PO and should remain valid for a period of 60 (sixty) days beyond the date of completion of all contractual obligations of the supplier/Vendor, including warranty obligations.

2.13.3 Modes of deposit:

a) Performance security may be furnished in the following forms:

- i. Local cheques of Scheduled Banks (subject to realization)/ Pay Order/Demand Draft/ Electronic Fund Transfer in favour of 'Bharat Heavy Electricals Limited' and payable at Regional HQ.
- ii. Bank Guarantee shall be from BHEL Consortium Banks Only. The Bank Guarantee should be in the prescribed format of BHEL as mentioned in GCC Annexures.
- iii. Fixed Deposit Receipt (FDR) issued by Scheduled Banks / Public Financial Institutions as defined in the Companies Act (FDR should be in the name of the Supplier / Vendor, a/c BHEL).
- iv. Securities available from Indian Post offices such as National Savings Certificates, Kisan Vikas Patras etc. (held in the name of Supplier / Vendor furnishing the security and duly endorsed/ hypothecated/ pledged, as applicable, in favour of BHEL).
- v. Insurance Surety Bond.

Note: BHEL will not be liable or responsible in any manner for the collection of interest or renewal of the documents or in any other matter connected therewith.

b) In case of GTE tenders, the performance security should be in the same currency as the contract and must conform to Uniform Rules for Demand Guarantees (URDG 758) - an international convention regulating international securities.



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2.13.4 The performance security will be forfeited and credited to BHEL's account in the event of a breach of contract by the supplier/Vendor as provided herein or elsewhere in the Contract/PO.

2.13.5 Performance Security shall be refunded to the Supplier / Vendor without interest, after the Supplier / Vendor duly performs and completes the contract in all respects but not later than 60(sixty) days of completion of all such obligations including the warranty under the contract.

2.13.6 The Performance Security shall not carry any interest.

2.13.7 There is no exemption of Performance security deposit submission for MSE Vendors.

2.14 GUARANTEE / WARRANTY FOR EQUIPMENT/ STORES: As per clause no 2.23 of TCC

2.15 RECOVERY OF OUTSTANDING AMOUNT:

Unless otherwise specified in the TCC, in event of any amount of money being claimed to be payable at any point of time against the Supplier /Vendor / Contractor due to excess payment or any other reason whatsoever, in the present order/ contract or any other order/ contract from any BHEL Unit, the claimed amount shall be recovered from the payments due to the

Supplier /Vendor / Contractor at any appropriate time and manner/ mode as deemed fit by the BHEL from this or any other order/ contract of any BHEL unit at its sole discretion.

2.16 INDEMNIFICATION:

Supplier /Vendor / Contractor shall fully indemnify and keep indemnified the BHEL against all claims /losses/damages/demands/expenses of whatsoever nature arising during the course and out of the execution of this Order/Contract.

2.17 ISSUE OF NOTICE:

2.17.1 Service of notice to the Contractor:

Any notice to be given to the Contractor under the terms of the contract shall be served by sending the same by Email/ Registered Post/Speed Post to or leaving the same at the Supplier /Vendor / Contractor's last known address of the principal place of business (or in the event of the contractor being a company, to or at its Registered Office). In case of change of address, the notice shall be served at changed address as notified in writing by the Supplier /Vendor / Contractor to BHEL. Such dispatch or display of the notice as the case may be shall be deemed to be good service of such notice and the time mentioned to the condition for doing any act after notice shall be reckoned from the date so mentioned in such notice.

2.17.2 Service of notice to BHEL:

Any notice to be given to BHEL In-charge / Resident Manager under the terms of the Contract shall be served by sending the same by Registered / AD or Speed Post to BHEL address or changed address as notified in writing by BHEL to the Supplier /Vendor / Contractor.

2.18 VOID

2.19 VOID

2.20 VOID



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2.21 VOID

2.22 LIMITATION ON LIABILITY:

Notwithstanding anything to the contrary in this Contract or LOA or Work Order or Purchase Order or any other mutually agreed document between the parties, the maximum liability, for damages, of the Supplier / Vendor / Contractor, its servants or agents, shall under no circumstances exceed an amount equal to the Price of the Contract or the Work Order or Purchase Order. Neither party shall be liable to the other for any indirect or consequential loss or damage, including but not limited to loss of use, loss of profits, or loss of contracts, or special, punitive, exemplary losses whatsoever, arising out of or in connection with this contract.

This shall not be applicable on the recoveries made by Customer from BHEL on account of Supplier / Vendor / Contractor, any other type of recoveries for workmanship, material, T&P etc. due from the contractor.

2.23 DELAY/ TIME EXTENSION:

2.23.1 The Supplier / Vendor / Contractor shall timely dispatch/ deliver and complete other schedules as stipulated in Order/ Contract. If the Vendor/Contractor fails to complete the dispatch/ delivery and other schedules within the time period stipulated in Order/ Contract, or within any extension of time granted by BHEL, it shall be lawful for BHEL to recover damages for the breach of Order/ Contract without prejudice to any other rights and/ or remedies provided for, in the Order/ Contract and hereunder. For any delay not attributable to the Supplier / Vendor / Contractor, the Supplier / Vendor / Contractor must report the same to the BHEL immediately in writing only.

2.24 VOID

2.25 VOID

2.26 VOID

2.27 VOID

2.28 VOID

2.29 VOID

2.30 VOID



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2.31 LIQUIDATED DAMAGES: As per TCC.

2.32 TERMINATION:

2.32.1 BHEL, without prejudice to any other rights or remedies it may possess, may terminate the Contract in the following circumstances:

- a) If the Vendor / Contractor becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, if the Vendor / Contractor is a corporation, a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Vendor / Contractor being an individual or if a firm on a partnership thereof, is adjudged insolvent or has a receiving order for administration of his estate made against him or takes any proceeding for composition under any Insolvency Act for the time being in force or if the Vendor / Contractor takes or suffers any other analogous action in consequence of debt.
- b) If the Vendor / Contractor assigns or transfers the Contract or any right or interest therein in violation of the provision of Clause 2.33 (Assignment).
- c) If the Vendor / Contractor, has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

For the purpose of this Sub-Clause :

"**Corrupt practice**" means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.

"**Fraudulent practice**" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the BHEL and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the BHEL of the benefits of free and open competition.

- d) If the Vendor / Contractor has abandoned or repudiated the Contract without assigning any reason.
- e) If the Vendor / Contractor has without valid reason failed to commence work on the contract promptly or has suspended the progress of Contract performance for more than 07 (seven) days after receiving a written instruction from the BHEL to proceed.
- f) If the Vendor / Contractor persistently fails to execute the Contract in accordance with the Contract or persistently neglects to carry out its obligations under the Contract without just cause.
- g) If the Vendor / Contractor refuses or is unable to provide sufficient goods or materials or any instalment thereof in the manner specified and within the Time specified in the contract.

2.32.2 BHEL shall have the right to cancel Order/ Contract, wholly or in part, in case they are constrained to do so on account of any decline, diminution, curtailment or stoppage of their business. In such eventuality, the Vendor / Contractor shall make compensation claim in writing upon the BHEL. Thereafter, both the parties shall arrive at mutually acceptable compensation to be accorded to the Vendor / Contractor. The mutually acceptable compensation shall be final and binding upon both the parties.

2.32.3 In case either the Vendor / Contractor himself or any of his representative or agent is found to have been an employee of BHEL or has within a period of two years of his retirement accepted



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the employment of the Vendor / Contractor either as a Vendor / Contractor or as an employee without having obtained prior permission of BHEL, the BHEL shall have the right to cancel order/ contract under the provision of Breach of Contract (**Clause no. 2.40.2**).

2.32.4 In case of cancellation of main supply order/ contract, all other associated orders/ contracts like mandatory spares/ recommended spares/ E&C/ supervision of E&C shall stand cancelled.

2.32.5 Subject to **Sub-Clause 2.32.6**, the Vendor / Contractor shall be entitled to be paid the Contract Price attributable to the materials supplied as on the date of termination. Any sums due to the BHEL from the Vendor / Contractor accruing prior to the date of termination shall be deducted from the amount to be paid to the Vendor / Contractor under this Contract.

2.32.6 In case BHEL so desires, may procure upon such terms and in such manner as deemed appropriate, stores not so delivered or others of similar description where stores exactly complying with particulars are not, in the opinion of BHEL, which shall be final, readily procurable, at the cost of the Vendor/Contractor plus overheads. Vendor/Contractor shall be liable to BHEL for any excess costs provided that the Vendor/Contractor shall continue the performance of the Order/ Contract to the extent not cancelled under the provisions of this clause. The Vendor/Contractor shall on no account be entitled to any gain on such repurchases. Cost of the purchases made by BHEL at the cost of Vendor / Contractor shall be worked out as follows:

"Excess cost (difference in values of new Awarded Contract/Purchase Order and old Awarded Contract/Purchase Order) plus 5% of Excess cost as overheads (Departmental charges) along with Liquidated Damages as applicable".

2.33 TRANSFER, SUB-LETTING/ ASSIGNMENT SUB-CONTRACTING:

Vendor / Contractor shall not sublet, transfer or assign order/ contract or any part thereof or interest therein or benefit or advantage thereof save with the prior consent in writing of BHEL. In the event Vendor / Contractor sub-lets, transfers or assigns order/ contract or any part thereof or interest therein or benefit or advantage thereof without such permission, BHEL shall be entitled to cancel the Order/ Contract and to purchase the stores from elsewhere / get the Work executed at the costs of Vendor / Contractor, under the provision of Breach of Contract (**Clause no. 2.40.2**). In such eventuality, the Vendor / Contractor shall be liable for any loss or damage which BHEL may sustain in consequence of or arising out of such risk purchase.

2.34 FORCE MAJEURE:

2.34.1 "Force Majeure" shall mean circumstance which is:

- a) beyond control of either of the parties to contract,
- b) either of the parties could not reasonably have provided against the event before entering into the contract,
- c) having arisen, either of the parties could not reasonably have avoided or overcome, and
- d) is not substantially attributable to either of the parties and Prevents the performance of the contract, Such circumstances include but shall not be limited to:

- i. War, hostilities, invasion, act of foreign enemies.
- ii. Rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war.
- iii. Riot, commotion or disorder by persons other than the contractor's personnel and other employees of the contractor and sub-contractors.



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- iv. Strike or lockout not solely involving the contractor's personnel and other employees of the contractor and sub-contractors.
- v. Encountering munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the contractor's use of such munitions, explosives, radiation or radio- activity.
- vi. Natural catastrophes such as earthquake, tsunami, volcanic activity, hurricane or typhoon, flood, fire, cyclones etc.
- vii. Epidemic, pandemic etc.

2.34.2 The following events are explicitly excluded from Force Majeure and are solely the responsibilities of the non-performing party: a) any strike, work-to-rule action, go-slow or similar labour difficulty (b) late delivery of equipment or material (unless caused by Force Majeure event) and (c) economic hardship.

2.34.3 If either party is prevented, hindered or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances thereof within 15 (fifteen) days after the occurrence of such event.

2.34.4 The party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such party's performance is prevented, hindered or delayed. The Time for Completion shall be extended by a period of time equal to period of delay caused due to such Force Majeure event.

2.34.5 Delay or non-performance by either party hereto caused by the occurrence of any event of Force Majeure shall not

- (a) Constitute a default or breach of the Contract.
- (b) Give rise to any claim for damages or additional cost expense occasioned thereby, if and to the extent that such delay or non-performance is caused by the occurrence of an event of Force Majeure.

2.34.6 BHEL at its discretion may consider short closure of contract after 1 year of imposition of Force Majeure in line with extant guidelines. In any case, Vendor/Contractor cannot consider deemed short-closure after 1 year of imposition of Force Majeure.

2.35 SETTLEMENT OF DISPUTES:

If any dispute or difference of any kind whatsoever shall arise between BHEL and the Vendor/Contractor, arising out of the contract for the performance of the work whether during the progress of contract termination, abandonment or breach of the contract, it shall in the first place referred to Designated Engineer for amicable resolution by the parties. Designated Engineer (to be nominated by BHEL for settlement of disputes arising out of the contract) who within 60 days after being requested shall give written notice of his decision to the contractor. Save as hereinafter provided, such decision in respect of every matter so referred shall forthwith be given effect to by the Vendor/Contractor who shall proceed with the work with all due diligence, whether he or BHEL desires to resolve the dispute as hereinafter provided or not.

If after the Designated Engineer has given written notice of this decision to the party and no intention to pursue the dispute has been communicated to him by the affected party within



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30 days from the receipt of such notice, the said decision shall become final and binding on the parties. In the event the Vendor/Contractor being dissatisfied with any such decision or if amicable settlement cannot be reached then all such disputed issues shall be resolved through conciliation in terms of the BHEL Conciliation Scheme 2018 as per Clause 2.37.3

2.36 VOID

2.37 ARBITRATION & CONCILIATION:

2.37.1 ARBITRATION:

- 2.37.1.1** Except as provided elsewhere in this Contract, in case Parties are unable to reach amicable settlement (whether by Conciliation to be conducted as provided in Clause 2.35 herein above or otherwise) in respect of any dispute or difference; arising out of the formation, breach, termination, validity or execution of the Contract; or, the respective rights and liabilities of the Parties; or, in relation to interpretation of any provision of the Contract; or, in any manner touching upon the Contract (hereinafter referred to as the 'Dispute'), then, either Party may, refer the disputes to Arbitral Institution i.e., "**India International Arbitration Centre (IIAC) Delhi**" and such dispute to be adjudicated by Sole Arbitrator appointed in accordance with the Rules of said Arbitral Institution.
- 2.37.1.2** A party willing to commence arbitration proceeding shall invoke Arbitration Clause by giving notice to the other party in terms of section 21 of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as the 'Notice') before referring the matter to arbitral institution. The Notice shall be addressed to the **Resident Manager, BHEL, executing the Contract** and shall contain the particulars of all claims to be referred to arbitration with sufficient detail and shall also indicate the monetary amount of such claim including interest, if any.
- 2.37.1.3** After expiry of 60 days from the date of receipt of aforesaid notice, the party invoking the Arbitration shall submit that dispute to the Arbitral Institutions and that dispute shall be adjudicated in accordance with their respective Arbitration Rules. The matter shall be adjudicated by a Sole Arbitrator who shall necessarily be a Retd Judge having considerable experience in commercial matters to be appointed/nominated by the respective institution. The cost/expenses pertaining to the said Arbitration shall also be governed in accordance with the Rules of the respective Arbitral Institution. The decision of the party invoking the Arbitration for reference of dispute to a specific Arbitral institution for adjudication of that dispute shall be final and binding on both the parties and shall not be subject to any change thereafter. The institution once selected at the time of invocation of dispute shall remain unchanged.
- 2.37.1.4** The fee and expenses shall be borne by the parties as per the Arbitral Institutional rules.
- 2.37.1.5** The Arbitration proceedings shall be in English language and the seat and venue of Arbitration shall be **Delhi, India**.
- 2.37.1.6** Subject to the above, the provisions of Arbitration & Conciliation Act 1996 and any amendment thereof shall be applicable. All matters relating to this Contract and arising out of invocation of Arbitration clause are subject to the exclusive jurisdiction of the Court(s) situated at **Delhi, India**.



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2.37.1.7 Notwithstanding any reference to the Designated Engineer or Conciliation or Arbitration herein, a. the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree. Settlement of Dispute clause cannot be invoked by the Contractor, if the Contract has been mutually closed or 'No Demand Certificate' has been furnished by the Contractor or any Settlement Agreement has been signed between the Employer and the Contractor.

2.37.1.8 It is agreed that Mechanism of resolution of disputes through arbitration shall be available only in the cases where the value of the dispute is less than Rs. 10 Crores.

2.37.1.9 In case the disputed amount (Claim, Counter claim including interest is Rs. 10 crores and above, the parties shall be within their rights to take recourse to remedies other than Arbitration, as may be available to them under the applicable laws after prior intimation to the other party. Subject to the aforesaid conditions, provisions of the Arbitration and Conciliation Act, 1996 and any statutory modifications or re-enactment thereof as amended from time to time, shall apply to the arbitration proceedings under this clause.

2.37.1.10 In case, multiple arbitrations are invoked (whether sub-judice or arbitral award passed) by any party to under this contract, then the cumulative value of claims (including interest claimed or awarded) in all such arbitrations shall be taken in account while arriving at the total claim in dispute for the subject contract for the purpose of clause 2.37.1.9. Disputes having cumulative value of less than 10 crores shall be resolved through arbitration and any additional dispute shall be adjudicated by the court of competent jurisdiction.

2.37.2 In case of Contract with Public Sector Enterprise (PSE) or a Government Department, the following shall be applicable:

2.37.2.1 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 (Administrative Mechanism for Resolution of CPSEs Disputes) as mentioned in DPE OM No. 05/0003/2019-FTS-10937 dated 14-12-2022 as amended from time to time.

2.37.3 No Interest payable to Contractor:

Notwithstanding anything to the contrary contained in any other document comprising in the Contract, no interest shall be payable by BHEL to Contractor on any moneys or balances including but not limited to the Security Deposit, EMD, Retention Money, RA Bills or the Final Bill, or any amount withheld and/or appropriated by BHEL etc., which becomes or as the case may be, is adjudged to be due from BHEL to Contractor whether under the Contract or otherwise.



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2.37.4 CONCILIATION:

Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the "Dispute") shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure as per BHEL Conciliation Scheme 2018. The proceedings of Conciliation shall broadly be governed by Part-III of the Arbitration and Conciliation Act 1996 or any statutory modification thereof and as provided in - "Procedure for conduct of conciliation proceedings" (as available in www.bhel.com)).

Note: Ministry of Finance has issued OM reference No. 1/2/24 dated 03.06.2024 regarding "Guidelines for Arbitration and Mediation in Contracts of Domestic Public Procurement. In the said OM it has been recommended that Government departments/Entities/agencies are to encourage mediation under the Mediation Act. 2023. The said Act has not yet been notified by the Government. Therefore, the clause "Settlement of Disputes" shall be modified accordingly as and when the Mediation Act 2023 gets notified.

2.38 GOVERNING LAWS:

The contract shall be governed by the Law for the time being in force in the Republic of India.

2.39 JURISDICTION OF COURT:

This contract shall be governed by the Law for the time being in force in the Republic of India. Subject to **clause 2.37.1** of this contract, the Civil Court having original Civil Jurisdiction at **Delhi, India** shall alone have exclusive jurisdiction in regard to all matters in respect of the Contract.

2.40 RIGHTS OF BHEL:

BHEL reserves the following rights in respect of this contract during the original contract period or its extensions if any, as per the provisions of the contract, without entitling the Supplier/ Vendor / Contractor for any compensation.

2.40.1 To withdraw any portion of work/supply and/or to restrict/alter quantum of work/supply as indicated in the contract during the progress of work and get it done through other agencies/vendors/suppliers/Contractors to fulfil BHEL's commitment to its customer or the date of completion is advanced due to other emergent reasons/ BHEL's obligation to its customer.

2.40.2 BREACH OF CONTRACT AND REMEDIES:

2.40.2.1 The following shall amount to breach of contract:

- i. Non-supply of material/ non-completion of work by the Vendor/Contractor within scheduled delivery/ completion period as per contract or as extended from time to time.
- ii. The Vendor/Contractor fails to perform as per the activity schedule and there are sufficient reasons even before expiry of the delivery/ completion period to justify that supplies shall be inordinately delayed beyond contractual delivery/ completion period.
- iii. The Vendor/Contractor delivers equipment/ material not of the contracted quality.



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- iv. The Vendor/Contractor fails to replace the defective equipment/ material/ component as per guarantee clause.
- v. Withdrawal from or abandonment of the work by the Vendor/Contractor before completion as per contract.
- vi. Assignment, transfer, subletting of Contract by the Vendor/Contractor without BHEL's written permission resulting in termination of Contract or part thereof by BHEL.
- vii. Non-compliance to any contractual condition or any other default attributable to Vendor/Contractor.
- viii. Any other reason(s) attributable to Vendor towards failure of performance of contract.
- ix. Any of the declarations furnished by the contractor at the time of bidding and/ or entering into the contract for supply are found untruthful and such declarations were of a nature that could have resulted in non-award of contract to the contractor or could expose BHEL and/ or Owner to adverse consequences, financial or otherwise.
- x. Vendor/Contractor is convicted of any offence involving corrupt business practices, antinational activities or any such offence that compromises the business ethics of BHEL, in violation of the Integrity Pact entered into with BHEL has the potential to harm the overall business of BHEL/ Owner.

Note : a) Once BHEL considers that a breach of contract has occurred on the part of Vendor/Contractor, BHEL shall notify the Vendor/Contractor by way of notice in this regard. Contractor shall be given an opportunity to rectify the reasons causing the breach of contract within a **period of 14 days**.

b) In case the contractor fails to remedy the breach, as mentioned in the notice, to the satisfaction of BHEL, BHEL shall have the right to take recourse to any of the remedial actions available to it under the relevant provisions of contract.

LD against delay in executed work/supply in case of Termination of Contract:

LD against delay in executed work shall be calculated in line with LD **clause no. 2.31 of GCC**, for the delay attributable to contractor. For limiting the maximum value of LD, contract value shall be taken as Executed Value of work till termination of contract.

Method for calculation of "LD against delay in executed work in case of termination of contract" is given below.

- i. Let the time period from scheduled date of start of work till termination of contract excluding the period of Hold (if any) not attributable to contractor = T1
- ii. Let the value of executed work till the time of termination of contract = X
- iii. Let the Total Executable Value of work for which inputs/fronts were made available to contractor and were planned for execution till termination of contract = Y
- iv. Delay in executed work attributable to contractor i.e. $T2 = [1 - (X/Y)] \times T1$
- v. LD shall be calculated in line with LD clause (**clause 2.31**) of the Contract for the delay attributable to contractor taking "X" as Contract Value and "T2" as period of delay attributable to contractor.

2.40.2.2 Remedies in case of Breach of Contract:

i). Wherein the period as stipulated in the notice issued under Note sl. No. (i) of **clause 2.40.2.1** has expired and Contractor has failed to remedy the breach, BHEL will have the right to terminate the contract, either in whole or in part thereof without any compensation to the Vendor/Contractor, on the ground of "Breach of Contract" without any further notice to contractor.



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ii). Upon termination of contract, BHEL shall be entitled to recover an amount equivalent to 10% of the Contract Value for the damages on account of breach of contract committed by the Contractor. This amount shall be recovered by way of encashing the security instruments like performance bank guarantee etc available with BHEL against the said contract. In case the value of the security instruments available is less than 10% of the contract value, the balance amount shall be recovered from other financial remedies (i.e. available bills of the contractor, retention amount, from the money due to the Contractor etc. with BHEL) or the other legal remedies shall be pursued.

iii) wherever the value of security instruments like performance bank guarantee available with BHEL against the said contract is 10% of the contract value or more, such security instruments to the extent of 10% contract value will be encashed. In case no security instruments are available or the value of the security instruments available is less than 10% of the contract value, the 10% of the contract value or the balance amount, as the case may be, will be recovered in all or any of the following manners:

a) From dues available in the form of Bills payable to defaulted Contractor against the same contract.

b) In case the amount recovered under sub clause (a) above is not sufficient to fulfil the amount recoverable then a demand notice to deposit the balance amount within 30 days shall be issued to Contractor.

c) If contractor fails to deposit the balance amount within the period as prescribed in demand notice, following action shall be taken for recovery:

i). If it is not possible to recover the dues available from the same contract or dues are insufficient to meet the recoverable amount, balance amount shall be recovered from any money(s) payable to Contractor under any contract with other Units of BHEL including recovery from security deposits or any other deposit available in the form of security instruments of any kind against Security deposit or EMD

ii). In-case recoveries are not possible with any of the above available options, Legal action shall be initiated for recovery against contractor.

iv. It is an agreed term of contract that this amount shall be a genuine pre-estimate of damages that BHEL would incur in completion of balance contractual obligation of the contract through any other agency and BHEL will not be required to furnish any other evidence to the Contractor for the purpose of estimation of damages.

v. In addition to the above, imposition of liquidated damages, debarment, termination, de-scoping, short-closure, etc., shall be applied as per provisions of the contract.

Note:

The defaulting Vendor/ Contractor shall not be eligible for participation in any of the future enquiries floated by BHEL to complete the balance work. The defaulting contractor shall mean and include:

a) In case defaulted contractor is the Sole Proprietorship Firm, any Sole Proprietorship Firm owned by same Sole Proprietor.



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b) In case defaulted contractor is The Partnership Firm, any firm comprising of same partners/ some of the same partners (but not including any new partner); or sole proprietorship firm owned by any partner(s) as a sole proprietor.

2.40.3 VOID

2.40.4 To terminate the contract or to restrict the quantum of work and pay for the portion of work executed in case BHEL's contract with their customer are terminated for any reason whatsoever.

2.40.5 Whenever any Claim or Claims for payment of any sum of money(s) arises under this or any other contract against the contractor, BHEL shall be entitled to withhold and also have a lien to retain such sum of money(s) in whole or in part from any money(s) payable to contractor and/or security deposits furnished or deducted in cash from the bills of contractor, (if any) under this contract. In the event of the securities or the amounts payable to Contractor, being insufficient to cover BHEL claims, then BHEL shall be entitled to withhold and have a lien to the extent of such claims from any sum or sums found payable or which at any time thereafter may become payable to the contractor under this or any other contract with BHEL.

i. Claim or Claims for payment of any sum of money(s) arising from the Contractor under this or any other contract against the contractor, shall mean, the sum of money(s) actually incurred by BHEL in fulfilling the contractual responsibilities of contractor under the contract, to which he has failed to fulfil plus applicable overheads (@ 5%) along with interest as applicable under the Contract on total amount (i.e. money actually incurred plus overheads).

ii. It is an agreed term of the contract that, the sum or sums of money so withheld or retained under the lien by BHEL will be kept withheld or retained as such by BHEL till the claims arising out of this or any other contract are finally adjudicated wither through Arbitration or a Court of competent jurisdiction as the case may be in accordance with the terms of contract. Intimation given by the BHEL Engineer regarding withholding of such money(s) shall be considered as sufficient and relevant date for all purposes. No Interest shall be payable on such sum(s) of money which becomes due or as the case may be adjudged to be due from BHEL to Contractor, whether under contract or otherwise.

iii. Where the contractor is a partnership firm, BHEL shall be entitled to withhold and also have a lien to retain towards such claims in whole or in part, from any other money(s) payable to any partner, whether in his individual capacity or otherwise.

iv. VOID

v. Where the Contractor fails to repay to BHEL such moneys along with applicable overheads (@ 5%) and interest, as aforesaid within seven days of being demanded, BHEL shall be entitled to recover the same from Contractor's bills/ Security Deposit or any other money(s) payable to Contractor under this Contract or any other Contract with BHEL.

2.40.6 While every endeavor will be made by BHEL to this end, yet BHEL cannot guarantee uninterrupted work/supply due to conditions beyond its control. In case of idling of resources, BHEL shall review such claims, which shall be as decided by BHEL and decision of BHEL shall be final and binding on the contractor.



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**GENERAL
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TERMS &
CONDITIONS**

2.40.7 VOID

2.40.8 VOID

2.41 VOID

2.42. CLOSING OF SUPPLY CONTRACTS:

The Supply Contract shall be considered completed and closed upon completion of contractual obligations and completion of Guarantee period whichever is later. Upon completion /closing of Supply Contract, BHEL shall issue a performance/ experience certificate as per standard format, based on specific request of Contractor as per extant BHEL guidelines through the online portal available at <https://suvidha.bhel.in/suvidha/> only.

.....



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ANNEXURE - I

OFFER SUBMISSION AS PER NIT

(To be typed and submitted in the Letter Head of the Company/Firm of Bidder)

Offer Reference No:

Date:

To,

_____ (Write Name and Designation of Officer of BHEL inviting the Tender);

Bharat Heavy Electricals Limited,
Central Procurement Cell (CPC), 8th Floor, BHEL SADAN,
Plot No. 25, Sector-16A, Noida, U.P.-201301

Dear Sir,

Sub: Submission of Offer against Tender Enquiry No: **BHEL/CPC/ FA/ DECK_CLADDING SHEET/27/026**

I/We hereby offer to carry out the work detailed in the Tender Specification issued by Bharat Heavy Electricals Limited, Central Procurement Cell (CPC) in accordance with the terms and conditions thereof.

I/We have carefully perused the following listed documents connected with the above work and agree to abide by the same.

1. Amendments/Clarifications/Corrigenda/Errata/etc., issued in respect of the Tender documents by BHEL
2. Notice Inviting Tender (NIT)
3. Price Bid
4. Technical Conditions of Contract
5. Special Conditions of Contract
6. General Conditions of Contract
7. Forms and Procedures

Should our Offer be accepted by BHEL for Award, I/we further agree to furnish 'Security Deposit' for the work as provided for in the Tender Conditions within the stipulated time as may be indicated by BHEL.

I/We further agree to execute all the works referred to in the said Tender documents upon the terms and conditions contained or referred to therein and as detailed in the appendices annexed thereto.

I/We have deposited/depositing herewith the requisite Earnest Money Deposit (EMD) as per details furnished in the Check List.

Authorised Representative of Bidder

Signature:

Name:

Address:

Place:

Date:



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ANNEXURE - II

CHECK LIST

NOTE: - Vendor/Contractor are required to fill in the following details in their Letterhead and no column should be left blank

A	Name of the Tenderer	
B	Address of the Tenderer	
C	Type of the Firm/ Company	
(i)	In case of Individual	His / her full name, address and place & nature of business shall be furnished along with the offer.
(ii)	In case of Partnership Firm	The names of all the partners and their addresses, A copy of the partnership deed/instrument of partnership duly certified by the Notary Public shall be furnished along with the offer.
(iii)	In case of Companies	a) Date and place of registration including date of commencement certificate in case of Public Companies (certified copies of Memorandum and articles of Association are also to be furnished). b) Nature of business carried on by the Company and the provisions of the Memorandum relating thereof.
D	GSTN No. the Vendor/Contractor (Place of Execution of Contract / Purchase Order)	
E.a	Details of Contact person for this Tender	Name : Mr./Ms. Designation: Telephone No: Mobile No: Email ID:
E.b	Details of alternate Contact person for this Tender	Name : Mr./Ms. Designation: Telephone No: Mobile No: Email ID:
F	Validity of Offer	To be valid for Six Months from due date
G	EMD Details (Remittance of EMD should be in line with Mode of Deposit as detailed in clause 2.12 of General Conditions of Contract (Volume IC Book-II))	
	A) Cash portion of EMD (Minimum Rs 2 Lakhs)	Mode of Remittance: Ref No: Date:



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		Amount:	
	B) Balance portion of EMD	Mode of Remittance:	
		Ref No:	
		Date:	
		Amount:	
H	DESCRIPTION	APPLICABILITY (BY BHEL)	BIDDER'S CONFIRMATION (YES/ NO)
1	Whether the format for compliance with PRE-QUALIFICATION CRITERIA (ANNEXURE – 1) is understood and filled with proper supporting documents referenced in the specified format.	Applicable	YES / NO
2	In case Balance portion of EMD is submitted in the form of Bank Guarantee (BG),	Applicable	YES / NO
	a) Copy of SFMS (Structured Financial Message System) to be attached along with the bank guarantee towards verification of authenticity of BG. - or -		
	b) Declaration by contractor / vendor with list of their banks along with a confirmation that none of their banks are SFMS compliant and Paper Bank Guarantee sent to BHEL directly by the issuing bank under Registered Post (A.D.) / Speed Post/ Courier/ By Hand along with a covering letter.		YES / NO
3	Whether all pages of the Tender documents including annexures, appendices etc are read and understood.	Applicable	YES / NO
4	Submission of Technical specifications/ write-ups / Catalogues, literature & drawings/data sheets / Quality plans/ all other details & documents as required in tender documents.	Applicable	YES / NO
5	Submission of copy of Registration /Incorporation Certificate, Partnership Deed (Certified by Notary Public) as applicable for firm	Applicable	YES / NO
6	Audited Balance Sheet and profit & Loss Account for the last three years as mentioned in Financial QR.	Applicable	YES / NO
7	Copy of PAN Card & GST registration	Applicable	YES / NO
8	Organization Chart of the tenderer's organization, including the names, addresses and contact information of the Directors/Partners shall be furnished along with the offer.	Applicable	YES / NO
9	Submission of format for seeking clarification as per Annexure – III	Applicable	YES / NO



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10	Submission of Certificate of No Deviation as per Annexure – IV	Applicable	YES / NO
11	Void	Void	Void
12	Submission of Reverse Auction Format as per Annexure – VI	NOT Applicable	YES / NO
13	Submission of Reverse Auction Process Compliance Form as per Annexure - VII	NOT Applicable	YES / NO
14	Submission of Reverse Auction price confirmation and breakup as per Annexure - VIII	NOT Applicable	YES / NO
15	Submission of Non-Disclosure Certificate as per Annexure - IX	Applicable	YES / NO
16	Declaration regarding Insolvency/ Liquidation/ Bankruptcy Proceedings as per Annexure – X	Applicable	YES / NO
17	Declaration by Authorized Signatory as per Annexure – XI	Applicable	YES / NO
18	Power of Attorney for Submission of Tender/Signing Contract Agreement as per Annexure – XII	Applicable	YES / NO
19	Declaration by Authorized Signatory regarding Authenticity of submitted Documents as per Annexure – XIII	Applicable	YES / NO
20	Submission of Integrity Pact as specified in Tender as per Annexure – XIV	Applicable	YES / NO
21	Declaration confirming knowledge about Site Conditions as per Annexure – XV	Applicable	YES / NO
22	Declaration reg. Related Firms & their areas of Activities as per Annexure – XVI	Applicable	YES / NO
23	Declaration for relation in BHEL as per Annexure – XVII	Applicable	YES / NO
24	Declaration reg. minimum local content in line with revised public procurement as per Annexure – XVIII	Applicable	YES / NO
25	Declaration regarding compliance to Restrictions under Rule 144 (xi) of GFR 2017 as per Annexure – XIX	Applicable	YES / NO
26	Bank Account Details for E-Payment as per Annexure – XX	Applicable	YES / NO
27	Submission of Unpriced Format as specified in Tender	Applicable	YES / NO
28	Submission of Signed Tender Documents (NIT, TCC & GCC)	Applicable	YES / NO
29	Analysis of Unit rates Quoted as	Applicable	YES / NO
30	Capacity Evaluation of Bidder for current Tender	Applicable	YES / NO

NOTE: TENDER NOT ACCOMPANIED BY THE PRESCRIBED ABOVE APPLICABLE DOCUMENTS ARE LIABLE TO BE SUMMARILY REJECTED.

Date:

(Signatures of the Bidder with Name, Designation & Company's Seal)



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ANNEXURE- III

FORMAT FOR SEEKING CLARIFICATION

(To be Typed & submitted in the Letter Head of the Company/Firm of Bidder)

To,

_____ (Write Name and Designation of Officer of BHEL inviting the Tender);
Bharat Heavy Electricals Limited,
Central Procurement Cell (CPC), 8th Floor, BHEL SADAN,
Plot No. 25, Sector-16A, Noida, U.P.-201301

Dear Sir,

Subject: **Request for Clarification**

Ref: 1) NIT/Tender Enquiry No: **BHEL/CPC/ FA/ DECK_ CLADDING SHEET/27/026**

2) All other pertinent issues till date

Sl. No.	Reference Clause of Tender Document	Existing provision of Tender Document	Bidder's Queries / Clarification	BHEL's clarification

Yours faithfully,

(Signature, date & seal of authorized representative of the bidder)

Date:

Place:



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ANNEXURE- IV

CERTIFICATE OF NO DEVIATION

(To be Typed & submitted in the Letter Head of the Company/Firm of Bidder)

To,

_____ (Write Name and Designation of Officer of BHEL inviting the Tender);
Bharat Heavy Electricals Limited,
Central Procurement Cell (CPC), 8th Floor, BHEL SADAN,
Plot No. 25, Sector-16A, Noida, U.P.-201301

Dear Sir,

Subject : **No Deviation Certificate**

Ref: 1) NIT/Tender Enquiry No: **BHEL/CPC/ FA/ DECK_CLADDING SHEET/27/026**

2) All other pertinent issues till date

We hereby confirm that we have not changed/ modified/materially altered any of the tender documents as downloaded from the website/ issued by BHEL and in case of such observance at any stage, it shall be treated as null and void.

We also hereby confirm that we have neither set any Terms and Conditions and nor have we taken any deviation from the Tender conditions together with other references applicable for the above referred NIT/Tender Specification.

We further confirm our unqualified acceptance to all Terms and Conditions, unqualified compliance to Tender Conditions, Integrity Pact (if applicable) and acceptance to Reverse Auctioning process.

We confirm to have submitted offer in accordance with tender instructions and as per aforesaid references.

Thanking you,

Yours faithfully,

**(Signature, date & seal of authorized
representative of the bidder)**

Date:



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Place:

ANNEXURE – V

-VOID-



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ANNEXURE- VI

**NOT APPLICABLE
REVERSE AUCTION (RA) FORMAT**

Authorization of representative who will participate in the on-line Reverse Auction Process:

1	Name of the Bidder	
2	Name & Designation of Official	
3	Postal address (complete)	
4	Telephone nos. (land line & mobile both)	
5	E-mail address	
6	Name of place/ state/country, wherefrom s/he will participate in the reverse auction	



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ANNEXURE – VII

NOT APPLICABLE

REVERSE AUCTION PROCESS COMPLIANCE FORM

(The bidders are required to print this on their company's letterhead and sign, stamp before RA)

To

- M/s. {Service provider

- Postal address}

Sub: Agreement to the Process related Terms and Conditions

Dear Sir,

This has reference to the Terms & Conditions for the Reverse Auction mentioned in the RFQ document for {Items} against BHEL enquiry/ RFQ no. {**BHEL/CPC/FA/HSFG_BOLT/26/039**} dtd {.....}

This letter is to confirm that:

- ~~1. The undersigned is authorized official/ representative of the company to participate in RA and to sign the related documents.~~
- ~~2. We have studied the Reverse Auction guidelines (as available on www.bhel.com), and the Business rules governing the Reverse Auction as mentioned in your letter and confirm our agreement to them.~~
- ~~3. We also confirm that we have taken the training on the auction tool and have understood the functionality of the same thoroughly.~~
- ~~4. We also confirm that, in case we become L1 bidder, we will FAX/ email the price confirmation & break up of our quoted price as per Annexure – VIII within **two** working days (of BHEL) after completion of RA event, besides sending the same by registered post/ courier both to M/s. BHEL and M/s. {Service provider.}~~

~~We, hereby confirm that we will honor the Bids placed by us during the auction process.~~

With regards

Signature with company seal

Name:

Company / Organization:

Designation within Company / Organization:

Address of Company / Organization:

~~Sign this document and FAX/ email it to M/s {Service provider} at {.....} prior to start of the Event.~~



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ANNEXURE – VIII

NOT APPLICABLE

~~RA PRICE CONFIRMATION AND BREAKUP~~

~~(To be submitted by L1 bidder after completion of RA)~~

To

~~M/s. Service provider~~

~~Postal address~~

CC: M/s BHEL

{Unit-
Address-}

Sub: ~~Final price quoted during Reverse Auction and price breakup~~

Dear Sir,

We confirm that we have quoted.

Rs. { _____ in value & in words _____ } for item(s) covered under tender enquiry No. { } Dtd. { }

Total price of the items covered under above cited enquiries is inclusive of {Packing & forwarding, GST freight and insurance charges up to { } District, { } State and Type Test Charges etc., other as per NIT}

as our final landed prices as quoted during the Reverse Auction conducted today {date} which will be valid for a period of { _____ in nos. & in words _____ } days.

The price break-up is as given below.

_____ =====
 _____ Total - Rs. in value & in words
 _____ =====

Yours sincerely,

For _____

Name:

Company:

Date:

Seal:



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ANNEXURE- IX

NON-DISCLOSURE CERTIFICATE

(To be Typed & submitted in the Letter Head of the Company/Firm of Bidder)

I/We understand that BHEL, Central Procurement Cell (CPC) is committed to Information Security Management System as per their Information Security Policy.

Hence, I/We M/sWho are submitting offer for providing services to BHEL against Tender Enquiry No. **BHEL/CPC/ FA/ DECK_CLADDING SHEET/27/026** hereby undertake to comply with the following in line with Information Security Policy of BHEL.

- To maintain confidentiality of documents & information which shall be used during the execution of the Contract.
- The documents & information shall not be revealed to or shared with third party which shall not be in the business interest of BHEL, Central Procurement Cell (CPC).

Date:

**(Signatures of the Bidder with Name,
Designation & Company's Seal)**



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ANNEXURE – X

DECLARATION REGARDING INSOLVENCY/ LIQUIDATION/ BANKRUPTCY PROCEEDINGS

(To be typed and submitted in the Letter Head of the Company/Firm of Bidder)

To,

_____ (Write Name and Designation of Officer of BHEL inviting the Tender);
Bharat Heavy Electricals Limited,
Central Procurement Cell (CPC), 8th Floor, BHEL SADAN,
Plot No. 25, Sector-16A, Noida, U.P.-201301

Dear Sir/Madam,

Sub: DECLARATION REGARDING INSOLVENCY/ LIQUIDATION/ BANKRUPTCY PROCEEDINGS

Ref: NIT/Tender Specification No: BHEL/CPC/ FA/ DECK_CLADDING SHEET/27/026

I/We, _____ declare that, I/We
am/are not under insolvency resolution process or liquidation or Bankruptcy Code Proceedings (IBC) as on date, by
NCLT or any adjudicating authority/authorities, which will render us ineligible for participation in this tender.

**Sign. of the AUTHORISED SIGNATORY
(With Name, Designation and Company seal)**

Place:

Date:



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ANNEXURE – XI

DECLARATION BY AUTHORISED SIGNATORY OF BIDDER

(To be typed and submitted in the Letter Head of the Company/Firm of Bidder)

To,

_____ (Write Name and Designation of Officer of BHEL inviting the Tender);
Bharat Heavy Electricals Limited,
Central Procurement Cell (CPC), 8th Floor, BHEL SADAN,
Plot No. 25, Sector-16A, Noida, U.P.-201301

Dear Sir,

Sub: **Declaration by Authorised Signatory**

Ref: 1) NIT/Tender Specification No: ***BHEL/CPC/ FA/ DECK_ CLADDING SHEET/27/026***

2) All other pertinent issues till date

I/We, hereby certify that all the information and data furnished by me with regard to the above Tender Specification are true and complete to the best of my knowledge. I have gone through the specifications, conditions, stipulations and all other pertinent issues till date, and agree to comply with the requirements and Intent of the specification.

I further certify that I am authorised to represent on behalf of my Company/Firm for the above mentioned tender and a valid Power of Attorney to this effect is likewise enclosed.

Yours faithfully,

(Signature, Date & Seal of Authorized
Signatory of the Bidder)

Date:

Enclosed: Power of Attorney



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ANNEXURE – XII

Power of Attorney for Submission of Tender/Signing Contract Agreement

(To be typed on non-judicial Stamp Papers of appropriate value as applicable and Notarised)

KNOW ALL MEN BY THESE PRESENTS, that I/We do hereby make, nominate, constitute and appoint Mr. , whose signature given below herewith to be true and lawful Attorney of M/s..... hereinafter called 'Company', for submitting Tender/entering into Contract and inter alia, sign, execute all papers and to do necessary lawful acts on behalf of Company with M/s Bharat Heavy Electricals Ltd, Central Procurement Cell (CPC), in connection with.....
 vide Tender Specification No: **BHEL/CPC/ FA/ DECK_ CLADDING SHEET/27/026**, dated _____.

And the Company do hereby agree to ratify and confirm all acts, deeds, things or proceedings as may be lawfully done by the said attorney and by or on behalf of the company and in the name of the company, by virtue of the powers conferred herein and the same shall be binding on the company and shall have full force and effect.

IN WITNESS WHEREOF, the common seal of the company has been hereunto affixed in the manner hereinafter appearing on the document.

Dated at _____, this _____ day of _____

Director/CMD/Partner/Proprietor

Signature of Mr. (Attorney)

Attested by: Director/CMD/Partner/Proprietor

Witness

Notary Public



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ANNEXURE – XIII

DECLARATION BY AUTHORISED SIGNATORY OF BIDDER

(To be typed and submitted in the Letter Head of the Company/Firm of Bidder)

To,

_____ (Write Name and Designation of Officer of BHEL inviting the Tender);
Bharat Heavy Electricals Limited,
Central Procurement Cell (CPC), 8th Floor, BHEL SADAN,
Plot No. 25, Sector-16A, Noida, U.P.-201301

Dear Sir,

Sub : **Declaration by Authorised Signatory regarding Authenticity of submitted documents.**

Ref : 1) NIT/Tender Enquiry No. & Date: **BHEL/CPC/ FA/ DECK_CLADDING SHEET/27/026**

Dated:

2) All other pertinent issues till date

I/We, hereby certify that all the documents submitted by us in support of possession of "Qualifying Requirements" are true copies of the original and are fully compliant required for qualifying / applying in the bid and shall produce the original of same as and when required by Bharat Heavy Electricals Limited.

I / We hereby further confirm that no tampering is done with documents submitted in support of our qualification as bidder. I / We understand that at any stage (during bidding process or while executing the awarded works) if it is found that fake / false / forged bid qualifying / supporting documents / certificates were submitted, it would lead to summarily rejection of our bid / termination of contract. BHEL shall be at liberty to initiate other appropriate actions as per the terms of the Bid / Contract and other extant policies of Bharat Heavy Electricals Limited.

Yours faithfully,

**(Signature, Date & Seal of Authorized
Signatory of the Bidder)**

Date:

Place:



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ANNEXURE – XIV

INTEGRITY PACT

Between

Bharat Heavy Electricals Ltd. (BHEL), a company registered under the Companies Act 1956 and having its registered office at "BHEL House", Siri Fort, New Delhi – 110049 (India) hereinafter referred to as "The Principal", which expression unless repugnant to the context or meaning hereof shall include its successors or assigns of the ONE PART

and

_____, (description of the party along with address), hereinafter referred to as "The Bidder/ Contractor" which expression unless repugnant to the context or meaning hereof shall include its successors or assigns of the OTHER PART

Preamble

The Principal intends to award, under laid-down organizational procedures, contract(s) for _____

(hereinafter referred to as "Contract"). The Principal values full compliance with all relevant laws of the land, rules and regulations, and the principles of economic use of resources, and of fairness and transparency in its relations with its Bidder(s)/ Contractor(s).

In order to achieve these goals, the Principal will appoint panel of Independent External Monitor(s) (IEMs), 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

- 1.1. The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles: -
 - 1.1.1 No employee of the Principal, personally or through family members, will in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.
 - 1.1.2 The Principal will, during the tender process treat all Bidder(s) with equity and reason. The Principal will in particular, before and during the tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential/ additional information through which the Bidder(s) could obtain an advantage in relation to the tender process or the contract execution.
 - 1.1.3 The Principal will exclude from the process all known prejudiced persons.
- 1.2. If the Principal obtains information on the conduct of any of its employees which is a penal offence under the Indian Penal Code 1860 and Prevention of Corruption Act 1988 or any other statutory penal enactment, 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(s)/ Contractor(s)



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- 2.1. The Bidder(s)/ Contractor(s) commit himself to take all measures necessary to prevent corruption. The Bidder(s)/ Contractor(s) commits himself to observe the following principles during participation in the tender process and during the contract execution.
- 2.1.1. The Bidder(s)/ Contractor(s) will not, directly or through any other person or firm, offer, promise or give to the Principal or 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, immaterial or any other 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.
- 2.1.2. The Bidder(s)/ Contractor(s) will not enter with other Bidder(s) into any illegal or 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.
- 2.1.3. The Bidder(s)/ Contractor(s) will not commit any penal offence under the relevant Indian Penal Code (IPC) and Prevention of Corruption Act; further the Bidder(s)/ Contractor(s) 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.
- 2.1.4. Foreign Bidder(s)/ Contractor(s) shall disclose the name and address of agents and representatives in India and Indian Bidder(s)/ Contractor(s) to disclose their foreign principals or associates. The Bidder(s)/ Contractor(s) will, when presenting his bid, disclose any and all payments he has made, and is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.
- 2.2. The Bidder(s)/ Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.
- 2.3. The Bidder(s)/ Contractor(s) shall not approach the Courts while representing the matters to IEMs and shall await their decision in the matter.

Section 3 - Disqualification from tender process and exclusion from future contracts

If the Bidder(s)/ Contractor(s), before award or during execution has committed a transgression through a violation of Section 2 above, or acts in any other manner such as to put his reliability or credibility in question, the Principal is entitled to disqualify the Bidder(s)/ Contractor(s) from the tender process, terminate the contract, if already awarded, exclude from future business dealings and/ or take action as per the separate "Guidelines on Banning of Business dealings with Suppliers/ Contractors", framed by the Principal.

Section 4 - Compensation for Damages

- 4.1. If the Principal has disqualified the Bidder (s) from the tender process before award / order acceptance according to Section 3, the Principal is entitled to demand and recover the damages equivalent to Earnest Money Deposit/ Bid Security.
- 4.2. If the Principal is entitled to terminate the Contract according to Section 3, or terminates the Contract in application of Section 3 above, the Bidder(s)/ Contractor (s) transgression through a violation of Section 2 above shall be construed breach of contract and the Principal shall be entitled to demand and recover from the Contractor an amount equal to 5% of the contract value or the amount equivalent to Security Deposit/



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Performance Bank Guarantee, whichever is higher, as damages, in addition to and without prejudice to its right to demand and recover compensation for any other loss or damages specified elsewhere in the contract.

Section 5 - Previous Transgression

- 5.1. The Bidder declares that no previous transgressions occurred in the last 3 (three) years (to be reckoned from date of bid submission) with any other company in any country conforming to the anti-corruption approach in India that could justify his exclusion from the tender process. The date of such transgression, for the purpose of disclosure by the bidders in this regard, would be the date on which cognizance of the said transgression was taken by the competent authority. The transgression(s), for which cognizance was taken even before the said period of three years, but are pending conclusion, shall also be reported by the bidders.
- 5.2. 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 or action can be taken as per the separate "Guidelines on Suspension of Business dealings with Suppliers/Contractors", framed by the Principal.

Section 6 - Equal treatment of all Bidder (s)/ Contractor (s) / Sub-contractor (s)

- 6.1. The Principal will enter into Integrity Pacts with identical conditions as this Integrity Pact with all Bidders and Contractors.
- 6.2. In case of a joint venture, all the partners of the joint venture should sign the Integrity Pact. In case of Sub-contracting, the Principal Contractor shall be solely responsible for the adherence to the provisions of IP by the sub-contractor(s).
- 6.3. The Principal will disqualify from the tender process all Bidders who do not sign this Integrity Pact or violate its provisions.

Section 7 - Criminal Charges against violating Bidders/ Contractors /Subcontractors

If the Principal obtains knowledge of conduct of a Bidder, Contractor or Subcontractor, or of an employee or a representative or an associate of a Bidder, Contractor 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 Monitor(s)

- 8.1. The Principal appoints competent and credible panel of Independent External Monitor (s) (IEMs) for this Integrity Pact. The task of the IEMs is to review independently and objectively, whether and to what extent the parties comply with the obligations under this Integrity Pact on receipt of any complaint by them from the bidder(s).
- 8.2. The IEMs are not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. He reports to the CMD, BHEL.
- 8.3. The IEMs shall be provided access to all documents/ records pertaining to the Contract, for which a complaint or issue is raised before them as and when warranted. However, the documents/records/information having National Security implications and those documents which have been classified as /Top Secret are not to be disclosed.



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- 8.4. The Principal will provide to the IEMs sufficient information about all meetings among the parties related to the Contract provided such meetings could have an impact on the contractual relations between the Principal and the Contractor. The parties offer to the IEMs the option to participate in such meetings.
- 8.5. The role of IEM is advisory and the advice of IEM is non-binding on the Organization. However, as IEMs are invariably persons with rich experience who have retired as senior functionaries of the government, their advice would help in proper implementation of the IP.
- 8.6. For ensuring the desired transparency and objectivity in dealing with the complaints arising out of the tendering process, the matter should be examined by the full panel of IEMs jointly, who would look into the records, conduct an examination, and submit their joint recommendations to the Management. In case the full panel is not available due to some unavoidable reasons, the available IEM(s) will conduct examination of the complaints. Consent of the IEM(s), who may not be available, shall be taken on record.
- 8.7. The IEMs shall examine all the representations/grievances/ complaints received by them from the bidders or their authorized representative related to any discrimination on account of lack of fair play in modes of procurement and bidding systems, tendering method, eligibility conditions, bid evaluation criteria, commercial terms & conditions, choice of technology/ specifications etc.
- 8.8. The CMD, BHEL shall decide the compensation to be paid to the IEMs and its terms and conditions.
- 8.9. IEMs should examine the process integrity, they are not expected to concern themselves with fixing of responsibility of officers. Complaints alleging mala fide on the part of any officer of the Principal should be looked into by the CVO of the Principal.
- 8.10. If the IEMs have reported to the CMD, BHEL, a substantiated suspicion of an offence under relevant Indian Penal Code / Prevention of Corruption Act, and the CMD, BHEL has not, within reasonable time, taken visible action to proceed against such offence or reported it to the Vigilance Office, the IEMs may also transmit this information directly to the Central Vigilance Commissioner, Government of India.
- 8.11. After award of work, the IEMs shall look into any issue relating to execution of Contract, if specifically raised before them. As an illustrative example, if a Contractor who has been awarded the Contract, during the execution of Contract, raises issue of delayed payment etc. before the IEMs, the same shall be examined by the panel of IEMs.
- 8.12. However, the IEMs may suggest systemic improvements to the management of the Principal, if considered necessary, to bring about transparency, equity and fairness in the system of procurement.
- 8.13. The word 'Monitor' would include both singular and plural.

Section 9 - Pact Duration

- 9.1. This Integrity Pact shall be operative from the date this Integrity Pact is signed by both the parties. Any violation of the same would entail disqualification of the bidders and exclusion from future business dealings.
- 9.2. If any claim is made/ lodged during currency of this Integrity Pact, 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 the CMD, BHEL.

Section 10 - Other Provisions



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- 10.1. This Integrity Pact is subject to Indian Laws and exclusive jurisdiction shall be of the competent Courts as indicated in the Tender or Contract, as the case may be.
- 10.2. Changes and supplements as well as termination notices need to be made in writing.
- 10.3. If the Bidder(s)/ Contractor(s) is a partnership or a consortium or a joint venture, this Integrity Pact shall be signed by all partners of the partnership or joint venture or all consortium members.
- 10.4. Should one or several provisions of this Integrity Pact turn out to be invalid, the remainder of this Integrity Pact remains valid. In this case, the parties will strive to come to an agreement to their original intentions.
- 10.5. Only those bidders / contractors who have entered into this Integrity Pact with the Principal would be competent to participate in the bidding. In other words, entering into this Integrity Pact would be a preliminary qualification.
- 10.6. In the event of any dispute between the Principal and Bidder(s)/ Contractor(s) relating to the Contract, in case, both the parties are agreeable, they may try to settle dispute through Mediation before the panel of IEMs in a time bound manner. If required, the Principal may adopt any mediation rules for this purpose. However, not more than five meetings shall be held for a particular dispute resolution. The fees/expenses on dispute resolution shall be equally shared by both the parties. In case, the dispute remains unresolved even after mediation by the panel of IEMs, either party may take further action as per the terms & conditions of the Contract.

For & On behalf of the Principal
(Office Seal)

For & On behalf of the Bidder/ Contractor
(Office Seal)

Place _____
Date _____

Witness: _____
(Name & Address) _____

Witness: _____
(Name & Address) _____



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ANNEXURE – XV

DECLARATION CONFIRMING KNOWLEDGE ABOUT SITE CONDITIONS

(To be typed and submitted in the Letter Head of the Company/Firm of Bidder)

To,

_____ (Write Name and Designation of Officer of BHEL inviting the Tender);

Bharat Heavy Electricals Limited,
Central Procurement Cell (CPC), 8th Floor, BHEL SADAN,
Plot No. 25, Sector-16A, Noida, U.P.-201301
Dear Sir,

Sub: Declaration confirming knowledge about Site conditions

Ref: 1) NIT/Tender Specification No: **BHEL/CPC/ FA/ DECK_CLADDING SHEET/27/026**
2) All other pertinent issues till date

I/We, _____ hereby declare and confirm that we have visited the Project Site as referred in BHEL Tender Specifications and acquired full knowledge and information about the Site conditions including Wage structure, Industrial Climate, the Law & Order and other conditions prevalent at and around the Site.

We further confirm that the above information is true and correct and we shall not raise any claim of any nature due to lack of knowledge of Site conditions.

I/We, hereby offer to carry out work as detailed in above mentioned Tender Specification, in accordance with Terms & Conditions thereof.

Yours faithfully,
(Signature, Date & Seal of Authorized
Representative of the Bidder)
Date :
Place:



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ANNEXURE – XVI

DECLARATION

Date: _____

To,

_____ (Write Name and Designation of Officer of BHEL inviting the Tender);
Bharat Heavy Electricals Limited,
Central Procurement Cell (CPC), 8th Floor, BHEL SADAN,
Plot No. 25, Sector-16A, Noida, U.P.-201301

Sub: **Details of related firms and their area of activities**

Dear Sir/ Madam,

Please find below details of firms owned by our family members that are doing business/ registered for same item with BHEL, _____ (NA, if not applicable)

1	Material Category/ Work Description	
	Name of Firm	
	Address of Firm	
	Nature of Business	
	Name of Family Member	
	Relationship	
2	Material Category/ Work Description	
	Name of Firm	
	Address of Firm	
	Nature of Business	
	Name of Family Member	
	Relationship	
...		

Note: I certify that the above information is true and I agree for penal action from BHEL in case any of the above information furnished is found to be false.

Regards,

(_____)

From: M/s _____
Vendor/Contractor Code: _____
Address: _____



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ANNEXURE – XVII

DECLARATION FOR RELATION IN BHEL

(To be typed and submitted in the Letter Head of the Company/Firm of Bidder failing which the offer of Bidder is liable to be summarily rejected)

To,

_____ (Write Name and Designation of Officer of BHEL inviting the Tender);
Bharat Heavy Electricals Limited,
Central Procurement Cell (CPC), 8th Floor, BHEL SADAN,
Plot No. 25, Sector-16A, Noida, U.P.-201301

Dear Sir,

Sub: **Declaration for relation in BHEL**

Ref: 1) NIT/Tender Specification No: ***BHEL/CPC/ FA/ DECK_CLADDING SHEET/27/026***

I/We hereby submit the following information pertaining to relation/relatives of Proprieter/Partner(s)/ Director(s) employed in BHEL

Tick (✓) any one as applicable:

1. The Proprieter, Partner(s), Director(s) of our Company/Firm DO NOT have any relation or relatives employed in BHEL

OR

2. The Proprieter, Partner(s), or Director(s) of our Company/Firm HAVE relation/relatives employed in BHEL and their particulars are as below:

i.

ii.

**(Signature, Date & Seal of Authorized
Signatory of the Bidder)**

Note:

1. Attach separate sheet, if necessary.
2. If BHEL Management comes to know at a later date that the information furnished by the Bidder is false, BHEL reserves the right to take suitable against the Bidder/ Vendor/Contractor.



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ANNEXURE – XVIII

**DECLARATION REGARDING MINIMUM LOCAL CONTENT IN LINE WITH
REVISED PUBLIC PROCUREMENT (PREFERENCE TO MAKE IN INDIA), ORDER 2017 DATED 04TH JUNE,
2020 AND SUBSEQUENT ORDER(S)**

(To be typed and submitted in the Letter Head of the Entity/Firm providing certificate as applicable)

To,

_____ (Write Name and Designation of Officer of BHEL inviting the Tender);
Bharat Heavy Electricals Limited,
Central Procurement Cell (CPC), 8th Floor, BHEL SADAN,
Plot No. 25, Sector-16A, Noida, U.P.-201301

Dear Sir,

Sub: Declaration reg. minimum local content in line with Public Procurement (Preference to Make in India), Order 2017-Revision, dated 19th July, 2024 and subsequent order(s).

Ref : 1) NIT/Tender Specification No: **BHEL/CPC/ FA/ DECK_ CLADDING SHEET/27/026**

2) All other pertinent issues till date

We hereby certify that the items/works/services offered by..... (specify the name of the organization here) has a local content of _____ % and this meets the local content requirement for 'Class-I local supplier' / 'Class II local supplier' ** as defined in Public Procurement (Preference to Make in India), Order 2017-Revision dated 19.07.2024 issued by DPIIT and subsequent order(s).

The details of the location(s) at which the local value addition is made are as follows:

- | | | |
|----------|----------|----------|
| 1. _____ | 2. _____ | 5. _____ |
| 3. _____ | 4. _____ | 6. _____ |

Thanking you,
Yours faithfully,

**(Signature, Date & Seal of
Authorized Signatory of the Bidder)**

** - *Strike out whichever is not applicable.*

Note:

1. The Bidder to submit self-certification for the local content in the above format along with the techno-commercial offer.
2. In case the bidder's quoted value is in excess of Rs. 10 crores, the contractor shall be required to give local content certification duly certified by statutory auditor or cost auditor of the company (in the case of companies) or a practising cost accountant or practicing chartered accountant (in respect of suppliers other than companies) at the time of execution of project.
3. In case the contractor/supplier does not meet the stipulated requirement and the category of the supplier changes from Class -I to Class-II/Non-local or from Class-II to Non-local, a penalty up to 10% of the contract value shall be imposed.
4. In the event of false declaration, actions as per the above order and as per BHEL Guidelines shall be initiated against the bidder.



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ANNEXURE – XIX

**DECLARATION REGARDING COMPLIANCE TO RESTRICTIONS UNDER RULE 144 (xi) OF
GFR 2017**

(To be typed and submitted in the Letter Head of the Entity/ Firm providing certificate as applicable)

To,

_____ (Write Name and Designation of Officer of BHEL inviting the Tender);
Bharat Heavy Electricals Limited,
Central Procurement Cell (CPC), 8th Floor, BHEL SADAN,
Plot No. 25, Sector-16A, Noida, U.P.-201301

Dear Sir,

Sub: Declaration regarding compliance to Restrictions under Rule 144 (xi) of GFR 2017

Ref: 1) NIT/Tender Specification No: **BHEL/CPC/ FA/ DECK_CLADDING SHEET/27/026**
2) All other pertinent issues till date

I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India and on sub-contracting to contractors from such countries. I certify that _____ (SPECIFY THE NAME OF THE ORGANIZATION HERE), is not from such a country/ has been registered with the Competent Authority (attach valid registration by the Competent Authority, i.e., the Registration Committee constituted by the Dept. for Promotion of Industry and Internal Trade (DPIIT); and will not sub-contract any work to a contractor from such countries unless such contractor is registered with the Competent Authority. (attach relevant valid registration, if applicable).

I hereby certify that we fulfil all requirements in this regard and is eligible to be considered.

Thanking you,
Yours faithfully,

**(Signature, Date & Seal of
Authorized Signatory of the Bidder)**

Note: Bidders to note that in case above certification given by a bidder, whose bid is accepted, is found to be false, then this would be a ground for immediate termination and for taking further action in accordance with law and as per BHEL guidelines.



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ANNEXURE – XX

BANK ACCOUNT DETAILS FOR E-PAYMENT

(To be given on Letter head of the Company /Firm of Bidder, and **ENDORSED (SIGNED & STAMPED) BY THE BANK** to enable BHEL release payments through Electronic Fund Transfer (EFT/RTGS)

1. Beneficiary Name :
2. Beneficiary Account No. :
3. Bank Name & Branch :
4. City/Place :
5. 9 digit M ICR Code of Bank Branch :
6. IFSC Code of Bank Branch :
7. Beneficiary E-mail ID :
(for payment confirmation)

NOTE: In case Bank endorsed certificate regarding above has already been submitted earlier, kindly submit photocopy of the same

NOTE:

- THE DETAILS MAY EITHER BE ATTESTED BY YOUR BANKERS OR ACCOMPANIED BY A CANCELLED CHEQUE LEAF WITH IFSC CODE & A/C NO.PRINTED ON IT.
- UNDERTAKING TO REPORT IMMEDIATELY ANY CHANGES IN THE ABOVE TO BE SUBMITTED ON THE COMPANY'S LETTER HEAD



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ANNEXURE – XXI

PROFORMA OF BANK GUARANTEE FOR EARNEST MONEY

(On non-Judicial paper of appropriate value)

Bank Guarantee No.....
Date.....

To
BHARAT HEAVY ELECTRICALS LIMITED
CPC, 8th Floor, BHEL Sadan,
PS-HQ, Noida-201301

Dear Sirs,
In accordance with the terms and conditions of Invitation for Bids/Notice Inviting Tender No.....(Tender Conditions), M/s. having its registered office at(hereinafter referred to as the 'Tenderer'), is submitting its bid for the work of.....invited by Bharat Heavy Electricals Limited, Central Procurement Cell (CPC), 8th Floor, BHEL SADAN, Plot No. 25, Sector-16A, Noida, U.P.-201301. The Tender Conditions provide that the Tenderer shall pay a sum of Rs as Earnest Money Deposit in the form therein mentioned. The form of payment of Earnest Money Deposit includes Bank Guarantee executed by a Scheduled Bank.

In lieu of the stipulations contained in the aforesaid Tender Conditions that an irrevocable and unconditional Bank Guarantee against Earnest Money Deposit for an amount of is required to be submitted by the Tenderer as a condition precedent for participation in the said Tender and the Tenderer having approached us for giving the said Guarantee,

we, the[Name & address of the Bank] having our Registered Office at(hereinafter referred to as the Bank) being the Guarantor under this Guarantee, hereby irrevocably and unconditionally undertake to forthwith and immediately pay to the Employer without any demur, merely on your first demand any sum or sums of Rs.....(in words Rupees.....) without any reservation, protest, and recourse and without the beneficiary needing to prove or demonstrate reasons for its such demand.

Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs. _____.

We undertake to pay to the Employer any money so demanded notwithstanding any dispute or disputes raised by the Vendor/Contractor/Vendors in any suit or proceeding pending before any Court or Tribunal, Arbitrator or any other authority, our liability under this present being absolute and unequivocal.

The payment so made by us under this Guarantee shall be a valid discharge of our liability for payment hereunder and the Tenderer shall have no claim against us for making such payment.

We Bank further agree that the Employer shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Tender or to extend the time of



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submission of from time to time or to postpone for any time or from time to time any of the powers exercisable by the Employer against the said Tenderer and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Tenderer or for any forbearance, act or omission on the part of the Employer or any indulgence by the Employer to the said Tenderer or by any such matter or thing whatsoever which under the law relating to sureties would but for this provision have effect of so relieving us.

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

This Guarantee shall be irrevocable and shall remain in force upto and including..... and shall be extended from time to time for such period as may be desired by the Employer.

This Guarantee shall not be determined or affected by liquidation or winding up, dissolution or change of constitution or insolvency of the Tenderer but shall in all respects and for all purposes be binding and operative until payment of all money payable to the Employer in terms hereof. However, unless a demand or claim under this Guarantee is made on us in writing on or before the we shall be discharged from all liabilities under this Guarantee.

We, Bank lastly undertake not to revoke this guarantee during its currency except with the previous consent of the Employer in writing.

This Bank Guarantee shall be governed, construed and interpreted in accordance with the laws of India. Courts at Delhi shall alone have exclusive jurisdiction over any matter arising out of or in connection with this Bank Guarantee

Notwithstanding anything to the contrary contained hereinabove:

- a) The liability of the Bank under this Guarantee shall not exceed.....
- b) This Guarantee shall be valid up to
- c) Unless the Bank is served a written claim or demand on or before _____ all rights under this guarantee shall be forfeited and the Bank shall be relieved and discharged from all liabilities under this guarantee irrespective of whether or not the original bank guarantee is returned to the Bank

We, _____ Bank, have power to issue this Guarantee under law and the undersigned as a duly authorized person has full powers to sign this Guarantee on behalf of the Bank.

For and on behalf of
(Name of the Bank)

Date.....

Place of Issue.....



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¹ Details of the Invitation to Bid/Notice Inviting Tender

² Name and Address of the Tenderer

³ Details of the Work

⁴ Name of the Employer

⁵ BG Amount in words and Figures

⁶ Validity Date : This shall be the duration of Offer Validity Date

⁷ Date of Expiry of Claim Period : The Claim period may be kept 3 to 6 months beyond the validity date

Notes:

1. Bidders are advised that expiry of claim period may be kept 3-6 months after validity date.
2. The should be on Non-Judicial Stamp paper/e-stamp paper of appropriate value as per Stamp Act prevailing in the State(s) where the BG is submitted or is to be acted upon or the rate prevailing in the State where the BG was executed, whichever is higher. The Stamp Paper/e-stamp paper shall be purchased in the name of Contractor/sub-contractor /vendor/ Bank issuing the guarantee.
3. **In Case of Bank Guarantees submitted by Foreign Vendors-**
 - a. **From Nationalized/Public Sector / Private Sector/ Foreign Banks (BG issued by Branches in India)** can be accepted subject to the condition that the Bank Guarantee should be enforceable in the town/city or at nearest branch where the Unit is located i.e. Demand can be presented at the Branch located in the town/city or at nearest branch where the Unit is located.
 - b. **From Foreign Banks (wherein Foreign Vendors intend to provide BG from local branch of the Vendor country's Bank)**
 - b.1 In such cases, in the Tender Enquiry/ Contract itself, it may be clearly specified that Bank Guarantee issued by **any of the Consortium Banks only** will be accepted by BHEL. As such, Foreign Vendor needs to make necessary arrangements for issuance of Counter- Guarantee by Foreign Bank in favour of the Indian Bank's (BHEL's Consortium Bank) branch in India. It is advisable that all charges for issuance of Bank Guarantee/ counter- Guarantee should be borne by the Foreign Vendor. The tender stipulation should clearly specify these requirements.
 - b.2 **In case, Foreign Vendors intend to provide BG from Overseas Branch of our Consortium Bank** (e.g. if a BG is to be issued by SBI Frankfurt), the same is acceptable. However, the procedure at **sl.no. b.1** will required to be followed.
 - b.3 The BG issued may preferably be subject to Uniform Rules for Demand Guarantees (URDG) 758 (as amended from time to time). The BG Format provided to them should clearly specify the same.



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ANNEXURE – XXII

PROFORMA OF INSURANCE SURETY BOND TOWARDS EARNEST MONEY DEPOSIT
(To be stamped in accordance with Stamp Act of India)

Insurance Surety Bond No.

Date.....

To
Bharat Heavy Electricals Limited,
Central Procurement Cell (CPC), 8th Floor, BHEL SADAN,
Plot No. 25, Sector-16A, Noida, U.P.-201301

Dear Sirs,

In accordance with Invitation for Bids under your Tender Ref. No., M/s..... [Bidder's Name] having its Registered/Head Office at (hereinafter called the 'Bidder') wish to participate in the said bid for [Name of Package] as an irrevocable

Insurance Surety Bond against Earnest Money Deposit for an amount of(*) valid for(**) days from(***) required to be submitted by the Bidder as a condition precedent for participation in the said bid which amount is liable to be forfeited on the happening of any contingencies as mentioned under the Bidding Documents.

We, the [Name & address of the Insurer] having our Head Office at(#) guarantee and undertake to pay immediately on demand by **Bharat Heavy Electricals Limited** (hereinafter called the 'Employer') the amount of(*) without any reservation, protest, demand and recourse. Any such demand made by the 'Employer' shall be conclusive and binding on us irrespective of any dispute or difference raised by the Bidder and/or any right/remedy available to the bidder in terms thereof.



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This Insurance Surety Bond shall be unconditional as well as irrevocable and remain in full force for a period of(**) days from the latest due date of bid opening and a claim period of(@)days. If any further extension of this Insurance Surety Bond is required, the same shall be extended to such required period (not exceeding one year) on receiving instructions from M/s [Bidder's Name] on whose behalf this Insurance Surety Bond is issued.

In witness where of the Insurer, through its authorized officer, has set its hand and stamp on this.....day of..... 20..... at

(Signature)
.....
(Name)
.....
(Designation with Insurer Stamp)
Authorised Vide Power of Attorney
No.....
Date.....

WITNESS:

1.(Signature)
.....(Name)
.....(Official Address)
2.(Signature)
.....(Name)
.....(Official Address)

NOTE:

1. (*) The amount as specified in the Notice inviting Tender (NIT).
(**) This shall be the duration of Offer Validity Date.
(***) This shall be the latest date of opening of Techno-Commercial bids.
(#) Complete mailing address of the Head Office of the Insurer to be given.
(@) This date shall be expiry of claim period & may be kept 3-6 months beyond the validity date
2. The Insurance Surety Bond shall be from an Insurer as per guidelines issued by Insurance Regulatory and Development Authority of India (IRDAI) as amended from time to time.
3. The Employer shall be the Creditor, the Bidder shall be the Principal debtor and the Insurance company/Insurer shall be the Surety in respect of the Insurance Surety Bond to be issued by the Insurer.
4. The Insurance Surety Bond should be on Non-Judicial stamp paper/e-stamp paper of appropriate value as per Stamp Act prevailing in the state (s) where the Insurance Surety Bond is submitted or is to be acted upon or the



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rate prevailing in State where the Insurance Surety Bond is executed, whichever is higher. The Stamp Paper/e-stamp paper shall be purchased in the name of Bidder/Insurer issuing the Insurance Surety Bond.

5. While getting the Insurance Surety Bond issued, Bidders are required to ensure compliance to the points mentioned in Form of Bank Guarantee/Insurance Surety Bond Verification Check List enclosed in this Section of Bidding Documents. Further, Bidders are required to fill up this Form and enclose the same with the Insurance Surety Bond.



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ANNEXURE – XXIII

BANK GUARANTEE FOR PERFORMANCE SECURITY
(To be stamped in accordance with Stamp Act of India)

Bank Guarantee No:
Date:

To
NAME
& ADDRESSES OF THE BENEFICIARY

Dear Sirs,
In consideration of Bharat Heavy Electricals Limited (hereinafter referred to as the 'Employer' which expression shall unless repugnant to the context or meaning thereof, include its successors and permitted assigns) incorporated under the Companies Act, 1956 and having its registered office at _____ through its Unit at.....(name of the Unit) having awarded to (Name of the Vendor / Contractor / Supplier) with its registered office at _____ hereinafter referred to as the 'Vendor / Contractor / Supplier', which expression shall unless repugnant to the context or meaning thereof, include its successors and permitted assigns), a contract Ref No.....dated valued at Rs..... (Rupees ----- --)/FC.....(in words.....) for (hereinafter called the 'Contract') and the Vendor / Contractor / Supplier having agreed to provide a Contract Performance Bank Guarantee, equivalent to% (... Percent) of the said value of the Contract to the Employer for the faithful performance of the Contract,

we, (hereinafter referred to as the Bank), having registered/Head office at and inter alia a branch at being the Guarantor under this Guarantee, hereby, irrevocably and unconditionally undertake to forthwith and immediately pay to the Employer any sum or sums upto a maximum amount of Rs ----- (Rupees -----) without any demur, immediately on first demand from the Employer and without any reservation, protest, and recourse and without the Employer needing to prove or demonstrate reasons for its such demand.

Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs. _____.

We undertake to pay to the Employer any money so demanded notwithstanding any dispute or disputes raised by the Vendor / Contractor / Supplier in any suit or proceeding pending before any Court or Tribunal, Arbitrator or any other authority, our liability under this present being absolute and unequivocal.



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The payment so made by us under this Guarantee shall be a valid discharge of our liability for payment thereunder and the Vendor / Contractor / Supplier shall have no claim against us for making such payment.

We thebank further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Contract/satisfactory completion of the performance guarantee period as per the terms of the Contract and that it shall continue to be enforceable till all the dues of the Employer under or by virtue of the said Contract have been fully paid and its claims satisfied or discharged.

WeBANK further agree with the Employer that the Employer shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Contract or to extend time of performance by the said Vendor / Contractor / Supplier from time to time or to postpone for any time or from time to time any of the powers exercisable by the Employer against the said Vendor / Contractor / Supplier and to forbear or enforce any of the terms and conditions relating to the said Contract and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Vendor / Contractor / Supplier or for any forbearance, act or omission on the part of the Employer or any indulgence by the Employer to the said Vendor / Contractor / Supplier or by any such matter or thing whatsoever which under the law relating to sureties would but for this provision have effect of so relieving us.

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

This Guarantee shall remain in force upto and including..... and shall be extended from time to time for such period as may be desired by Employer.

This Guarantee shall not be determined or affected by liquidation or winding up, dissolution or change of constitution or insolvency of the Vendor / Contractor / Supplier but shall in all respects and for all purposes be binding and operative until payment of all money payable to the Employer in terms thereof.

Unless a demand or claim under this guarantee is made on us in writing on or before thewe shall be discharged from all liabilities under this guarantee thereafter.

This Bank Guarantee shall be governed, construed and interpreted in accordance with the laws of India.

Courts at Delhi shall alone have exclusive jurisdiction over any matter arising out of or in connection with this Bank Guarantee.

We, BANK lastly undertake not to revoke this guarantee during its currency except with the previous consent of the Employer in writing.

Notwithstanding anything to the contrary contained hereinabove:

- a) The liability of the Bank under this Guarantee shall not exceed.....
- b) This Guarantee shall be valid up to



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- c) Unless the Bank is served a written claim or demand on or before _____ all rights under this guarantee shall be forfeited and the Bank shall be relieved and discharged from all liabilities under this guarantee irrespective of whether or not the original bank guarantee is returned to the Bank.

We, _____ Bank, have power to issue this Guarantee under law and the undersigned as a duly authorized person has full powers to sign this Guarantee on behalf of the Bank.

For and on behalf of
(Name of the Bank)

Dated.....

Place of Issue.....

¹ NAME AND ADDRESS OF EMPLOYER I.e Bharat Heavy Electricals Limited

² NAME AND ADDRESS OF THE VENDOR /CONTRACTOR / SUPPLIER.

³ DETAILS ABOUT THE NOTICE OF AWARD/CONTRACT REFERENCE

⁴ CONTRACT VALUE

⁵ PROJECT/SUPPLY DETAILS

⁶ BG AMOUNT IN FIGURES AND WORDS

⁷ VALIDITY DATE : The validity of Bank Guarantee towards Security Deposit shall be till actual completion work (Contract period) + Guarantee Period + 3 months

⁸ DATE OF EXPIRY OF CLAIM PERIOD : The Claim period may be kept 3 to 6 months beyond the validity date

Note:

1. Bidders are advised that expiry of claim period may be kept 3-6 months after validity date.
2. The BG should be on Non-Judicial Stamp paper/e-stamp paper of appropriate value as per Stamp Act prevailing in the State(s) where the BG is submitted or is to be acted upon or the rate prevailing in the State where the BG was executed, whichever is higher. The Stamp Paper/e-stamp paper shall be purchased in the name of Vendor/Contractor/Supplier /Bank issuing the guarantee.
3. **In Case of Bank Guarantees submitted by Foreign Vendors-**
 - a. **From Nationalized/Public Sector / Private Sector/ Foreign Banks (BG issued by Branches in India)** can be accepted subject to the condition that the Bank Guarantee should be enforceable in the town/city or at nearest branch where the Unit is located i.e. Demand can be presented at the Branch located in the town/city or at nearest branch where the Unit is located.



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b. From Foreign Banks (wherein Foreign Vendors intend to provide BG from local branch of the Vendor country's Bank)

b.1 In such cases, in the Tender Enquiry/ Contract itself, it may be clearly specified that Bank Guarantee issued by **any of the Consortium Banks only** will be accepted by BHEL. As such, Foreign Vendor needs to make necessary arrangements for issuance of Counter- Guarantee by Foreign Bank in favour of the Indian Bank's (BHEL's Consortium Bank) branch in India. It is advisable that all charges for issuance of Bank Guarantee/ counter- Guarantee should be borne by the Foreign Vendor. The tender stipulation should clearly specify these requirements.

b.2 In case, Foreign Vendors intend to provide BG from Overseas Branch of our Consortium Bank (e.g. if a BG is to be issued by SBI Frankfurt), the same is acceptable. However, the procedure at **sl.no. b.1** will required to be followed.

b.3 The BG issued may preferably be subject to Uniform Rules for Demand Guarantees (URDG) 758 (as amended from time to time). The BG Format provided to them should clearly specify the same.



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ANNEXURE – XXIV

PROFORMA OF INSURANCE SURETY BOND TOWARDS PERFORMNCE SECURITY
(To be stamped in accordance with Stamp Act of India)

Insurance Surety Bond No.....
Date.....

To,
NAME
& ADDRESSES OF THE BENEFICIARY

Dear Sirs,

In consideration, to **Bharat Heavy Electricals Limited** (Hereinafter referred to as the 'Employer' which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators and assigns), for having awarded, **M/s ... (Contractor's name) ...** having its Registered /Head Office at ... (Address) ... (Hereinafter referred to as the 'Contractor', which expression shall unless repugnant to the context or meaning thereof, include its successors administrators, executors and assigns), a Contract by issue of Letter of Award No. **dated ...dd/mm/yyyy...** and the same having been unequivocally accepted by the contractor, valued at **Rs. (Rupees only)** and the Contractor having agreed to provide Security Deposit towards fulfilment of any obligations in terms of the provisions of the contract equivalent to ...% (percent) of the said value of the Contract to the Employer amounting **Rs. (Rupees Only).**

We **[Name & Address of the Insurer]** having its Head Office at (hereinafter referred to as the 'Insurer', which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns) do hereby guarantee and undertake to pay the Employer, on demand any and all amount payable by the Contractor in terms of the agreement to provide Security Deposit, to the extent of **Rs (Rupees Only)** as aforesaid at any time up to **...dd/mm/yyyy... [#]** without any condition, demur, reservation, contest, recourse or protest and/or without any reference to the Contractor. Any such demand made by the Employer on the Insurer shall be conclusive and binding notwithstanding any difference between the Employer and the Contractor or the Insurer and the Contractor or any dispute pending before any Court, Tribunal, Arbitrator or any other authority. The Insurer undertakes not to revoke this Insurance Surety Bond during its currency and or any period extended under the



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contract, without prior consent of the Employer and further agrees that the guarantee herein contained shall be enforceable till ...dd/mm/yyyy... [@].

The Employer shall have the fullest liberty, without affecting in any way the liability of the Insurer under this Insurance Surety Bond, from time to time to extend the performance of the Contract by the Contractor for the purpose of which, the Insurer shall be liable to extend the validity of the present Insurance Surety Bond without any demur, condition, protest and the Insurer shall at no point in time have an option of revoking the same, The Employer shall have the fullest liberty, without affecting this Insurance Surety Bond, to postpone from time to time the exercise of any powers vested in them or of any right which they might have against the Contractor, and to exercise the same at any time in any manner, and either to enforce or to forbear to enforce any covenants, contained or implied, in the Contract between the Employer and the Contractor or any other course or remedy or security available to the Employer. The Insurer shall not be released of its obligations under these presents by any exercise by the Employer of its liberty with reference to the aforesaid or any of them or by reason of any other act or forbearance or other acts of omission or commission on the part of the Employer or any other indulgence shown by the Employer or by any other matter or thing whatsoever which under law would, but for this provision, have the effect of relieving the Insurer.

The Insurer also agrees and undertakes that the Employer at its option shall be entitled to enforce this Insurance Surety Bond against the Insurer as a Surety, in the first instance without proceeding against the Contractor and notwithstanding any security or other guarantee that the Employer may have in relation to the Contractor's liabilities.

Notwithstanding anything contained herein above our liability under this Insurance Surety Bond is restricted to **Rs.** (**Rupees** **Only**) and it shall remain in force up to and including ...dd/mm/yyyy... [#] and shall be extended from time to time for such period, as may be desired by **M/s** ...(Contractor's name)... on whose behalf this Insurance Surety Bond has been given.

Dated this..... day of..... 20 at.....

(Signature)

.....
(Name)

.....
(Designation with Insurer Stamp)

Authorised Vide Power of Attorney

No.....

Date.....

WITNESS :

1.(Signature)

.....(Name)

.....(Official Address)



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2.(Signature)
.....(Name)
.....(Official Address)

Notes:

- 1) **# Validity date:** The validity of Insurance Surety Bond towards Security Deposit shall be till actual completion work (Contract period) + Guarantee Period + 3 months.
- 2) **@ Date of Expiry of Claim Period:** The Claim period may be kept 3 to 6 months beyond the validity date.
- 3) The Insurance Surety Bond shall be from an Insurer as per guidelines issued by Insurance Regulatory and Development Authority of India (IRDAI).
- 4) The Employer shall be the Creditor, the Contractor shall be the Principal debtor and the Insurance company/Insurer shall be the Surety in respect of the Insurance Surety Bond to be issued by the Insurer.
- 5) The Insurance Surety Bond should be on Non-Judicial stamp paper/e-stamp paper of appropriate value as per Stamp Act prevailing in the state(s) where the Insurance Surety Bond is executed, whichever is higher. The Stamp Paper/e-stamp paper shall be purchased in the name of Bidder/Insurer issuing the Insurance Surety Bond.



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ANNEXURE – XXV

PROFORMA OF BANK GUARANTEE (in lieu of RETENTION AMOUNT)

(To be stamped in accordance with Stamp Act of India)

Bank Guarantee No:

Date:

To,
NAME
& ADDRESSES OF THE BENEFICIARY

Dear Sirs,

In consideration of Bharat Heavy Electricals Limited (hereinafter referred to as the 'Employer' which expression shall unless repugnant to the context or meaning thereof, include its successors and permitted assigns) incorporated under the Companies Act, 1956 and having its registered office at BHEL House, Siri Fort, Asiad, New Delhi – 110049 ¹ through its Unit at _____, having agreed to exempt (Name of the Vendor / Contractor / Supplier) with its registered office at _____ ² (hereinafter called the said "Contractor" which term includes supplier), from demand under the terms and conditions of the Contract reference No. _____ dated _____ ³ valued at Rs. ⁴ (Rupees -----) ⁴ (hereinafter called the said Contract), of Retention Amount for the due fulfilment by the said Contractor of the terms and conditions contained in the said Contract, on production of a Bank Guarantee for Rs. _____ ⁵ (Rupees _____ only) ⁵.

We _____ (indicate the name and address of the Bank) having its Head Office at _____ (address of the head Office) (hereinafter referred to as the Bank), at the request of _____ [Contractor(s)], being the Guarantor under this Guarantee, do hereby irrevocably and unconditionally undertake to forthwith and immediately pay to the Employer, an amount not exceeding Rs. _____ without any demur, immediately on demand from the Employer and without any reservation, protest, and recourse and without the Employer needing to prove or demonstrate reasons for its such demand



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Any such demand made on the bank, shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs._____.

We undertake to pay to the Employer any money so demanded notwithstanding any dispute or disputes raised by the Contractor(s) in any suit or proceeding pending before any Court or Tribunal or Arbitrator or any other authority, our liability under this present being absolute and unequivocal.

The payment so made by us under this guarantee shall be a valid discharge of our liability for payment hereunder and the Contractor(s) shall have no claim against us for making such payment.

We, further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Contract and that it shall continue to be enforceable till all the dues of the Employer under or by virtue of the said Contract have been fully paid and its claims satisfied & the Employer certifies that the terms and conditions of the said Contract have been fully and properly carried out by the said contractor(s) or acceptance of the final bill or discharge of this guarantee by the Employer, whichever is earlier. This guarantee shall initially remain in force upto and including _____⁶ and shall be extended from time to time for such period as may be desired by the Employer. Unless a demand or claim under this guarantee is made on us in writing on or before the _____⁷, we shall be discharged from all the liability under this guarantee thereafter.

We, ____ (indicate the name of the Bank) ____ further agree with the Employer that the Employer shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Contract or to extend time of performance by the said contractor(s) from time to time or to postpone for any time or from time to time any of the powers exercisable by the Employer against the said contractor(s) and to forbear or enforce any of the terms and conditions relating to the said Contract and we shall not be relieved from our liability by any reason of any such variation or extension being granted to the said contractor(s) or for any forbearance, act or omission on the part of the Employer or any indulgence by the Employer to the said contractor(s) or by any such matter or thing whatsoever which under the law relating to sureties would but for this provision have effect of so relieving us.



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

This Guarantee shall not be determined or affected by liquidation or winding up, dissolution or change of constitution or insolvency of the Contractor but shall in all respects and for all purposes be binding and operative until payment of all money payable to the Employer in terms thereof. This guarantee will not be discharged due to the change in the constitution of the Bank or the Contractor(s).

We..... BANK lastly undertake not to revoke this guarantee during its currency except with the previous consent of the Employer in writing.

Notwithstanding anything to the contrary contained hereinabove:

- a) The liability of the Bank under this Guarantee shall not exceed.....⁵
- b) This Guarantee shall be valid up to⁶
- c) Unless the Bank is served a written claim or demand on or before _____⁷ all rights under this guarantee shall be forfeited and the Bank shall be relieved and discharged from all liabilities under this guarantee irrespective of whether or not the original bank guarantee is returned to the Bank.
- d) We, _____ Bank, have power to issue this Guarantee under law and the undersigned as a duly authorized person has full powers to sign this Guarantee on behalf of the Bank.

Date _____ Day of _____
for _____ (indicate the name of the Bank) _____

(Signature of Authorized signatory)

¹ ADDRESS OF THE EMPLOYER. i.e. Bharat Heavy Electricals Limited
² ADDRESS OF THE VENDOR /CONTRACTOR / SUPPLIER.
³ DETAILS ABOUT THE NOTICE OF AWARD/CONTRACT REFERENCE



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⁴ CONTRACT VALUE

⁵ BG AMOUNT IN FIGURES AND WORDS

⁶ VALIDITY DATE: *The validity of Bank Guarantee towards Retention amount shall be till actual completion work (Contract period) + 3 months*

⁷ DATE OF EXPIRY OF CLAIM PERIOD: *The Claim period may be kept 3 to 6 months beyond the validity date*

Note:

1. Bidders are advised that expiry of claim period may be kept 3-6 months after validity date.
2. The BG should be on Non-Judicial Stamp paper/e-stamp paper of appropriate value as per Stamp Act prevailing in the State(s) where the BG is submitted or is to be acted upon or the rate prevailing in the State where the BG was executed, whichever is higher. The Stamp Paper/e-stamp paper shall be purchased in the name of Vendor/Contractor/Supplier /Bank issuing the guarantee.
3. In Case of Bank Guarantees submitted by Foreign Vendors-
 - a. **From Nationalized/Public Sector / Private Sector/ Foreign Banks (BG issued by Branches in India)** can be accepted subject to the condition that the Bank Guarantee should be enforceable in the town/city or at nearest branch where the Unit is located i.e. Demand can be presented at the Branch located in the town/city or at nearest branch where the Unit is located.
 - b. **From Foreign Banks (wherein Foreign Vendors intend to provide BG from local branch of the Vendor Country's Bank)**
 - b.1 In such cases, in the Tender Enquiry/ Contract itself, it may be clearly specified that Bank Guarantee issued by **any of the Consortium Banks only** will be accepted by BHEL. As such, Foreign Vendor needs to make necessary arrangements for issuance of Counter- Guarantee by Foreign Bank in favour of the Indian Bank's (BHEL's Consortium Bank) branch in India. It is advisable that all charges for issuance of Bank Guarantee/ counter- Guarantee should be borne by the Foreign Vendor. The tender stipulation should clearly specify these requirements.
 - b.2 In case, Foreign Vendors intend to provide BG from Overseas Branch of our Consortium Bank (e.g. if a BG is to be issued by SBI Frankfurt), the same is acceptable. However, the procedure at sl.no. b.1 will required to be followed.

The BG issued may preferably be subject to Uniform Rules for Demand Guarantees (URDG) 758 (as amended from time to time). The BG Format provided to them should clearly specify the same.



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ANNEXURE – XXVI

PROFORMA OF INSURANCE SURETY BOND TOWARDS RETENTION AMOUNT

(To be stamped in accordance with Stamp Act of India)

Insurance Surety Bond No.....

Date.....

To,
NAME
& ADDRESSES OF THE BENEFICIARY

Dear Sirs,

In consideration, to **Bharat Heavy Electricals Limited** (Hereinafter referred to as the 'Employer' which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators and assigns), for having awarded, M/s ... (**Contractor's name**) ... having its Registered /Head Office at (Hereinafter referred to as the 'Contractor', which expression shall unless repugnant to the context or meaning thereof, include its successors administrators, executors and assigns), a Contract by issue of Letter of Award No. **dated ...dd/mm/yyyy...** and the same having been unequivocally accepted by the contractor, valued at **Rs. (Rupees only)** and the Contractor having agreed to provide Retention Amount for the due fulfilment by the said Contractor of the terms and conditions contained in the said Contract equivalent to% (percent) of the said value of the Contract to the Employer amounting **Rs. (Rupees Only).**

We [**Name & Address of the Insurer**] having its Head Office at (hereinafter referred to as the 'Insurer', which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns) do hereby guarantee and undertake to pay the Employer, on demand any and all amount payable by the Contractor in terms of the agreement to provide Retention amount, to the extent of **Rs (Rupees Only)** as aforesaid at any time up to ...**dd/mm/yyyy... [#]** without any condition, demur, reservation, contest, recourse or protest and/or without any reference to the Contractor. Any such demand made by the Employer on the Insurer shall be conclusive and binding notwithstanding any difference between the Employer and the Contractor or the Insurer and the Contractor or any dispute pending before any Court, Tribunal, Arbitrator or any other authority. The Insurer undertakes not to revoke this Insurance Surety Bond during its currency and or any period extended under the contract, without



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prior consent of the Employer and further agrees that the guarantee herein contained shall be enforceable till ...dd/mm/yyyy... [@].

The Employer shall have the fullest liberty, without affecting in any way the liability of the Insurer under this Insurance Surety Bond, from time to time to extend the performance of the Contract by the Contractor for the purpose of which, the Insurer shall be liable to extend the validity of the present Insurance Surety Bond without any demur, condition, protest and the Insurer shall at no point in time have an option of revoking the same, The Employer shall have the fullest liberty, without affecting this Insurance Surety Bond, to postpone from time to time the exercise of any powers vested in them or of any right which they might have against the Contractor, and to exercise the same at any time in any manner, and either to enforce or to forbear to enforce any covenants, contained or implied, in the Contract between the Employer and the Contractor or any other course or remedy or security available to the Employer. The Insurer shall not be released of its obligations under these presents by any exercise by the Employer of its liberty with reference to the aforesaid or any of them or by reason of any other act or forbearance or other acts of omission or commission on the part of the Employer or any other indulgence shown by the Employer or by any other matter or thing whatsoever which under law would, but for this provision, have the effect of relieving the Insurer.

The Insurer also agrees and undertakes that the Employer at its option shall be entitled to enforce this Insurance Surety Bond against the Insurer as a Surety, in the first instance without proceeding against the Contractor and notwithstanding any security or other guarantee that the Employer may have in relation to the Contractor's liabilities.

Notwithstanding anything contained herein above our liability under this Insurance Surety Bond is restricted to **Rs.** **(Rupees Only)** and it shall remain in force up to and including ...dd/mm/yyyy... **[/#]** and shall be extended from time to time for such period, as may be desired by **M/s ...(Contractor's name)...** on whose behalf this Insurance Surety Bond has been given.

Dated this..... day of..... 20 at.....

(Signature)

.....
(Name)

.....
(Designation with Insurer Stamp)
Authorised Vide Power of Attorney
No.....
Date.....



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WITNESS :

1.(Signature)
.....(Name)
.....(Official Address)
2.(Signature)
.....(Name)
.....(Official Address)

Notes:

- 1) **# Validity date:** The validity of Insurance Surety Bond towards Retention Amount shall be till actual completion work (Contract period) + 3 months
- 2) **@ Date of Expiry of Claim Period:** The Claim period may be kept 3 to 6 months beyond the validity date.
- 3) The Insurance Surety Bond shall be from an Insurer as per guidelines issued by Insurance Regulatory and Development Authority of India (IRDAI).
- 4) The Employer shall be the Creditor, the Contractor shall be the Principal debtor and the Insurance company/Insurer shall be the Surety in respect of the Insurance Surety Bond to be issued by the Insurer.
- 5) The Insurance Surety Bond should be on Non-Judicial stamp paper/e-stamp paper of appropriate value as per Stamp Act prevailing in the state(s) where the Insurance Surety Bond is executed, whichever is higher. The Stamp Paper/e-stamp paper shall be purchased in the name of Bidder/Insurer issuing the Insurance Surety Bond.



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ANNEXURE- XXIX

LIST OF CONSORTIUM BANK

Sl. No.	NAME OF THE BANK
1	State Bank of India
2	Canara Bank
3	IDBI Bank Limited
4	ICICI Bank Limited
5	HDFC Bank Limited
6	Axis Bank
7	IndusInd Bank Limited
8	Bank of Baroda
9	Exim Bank
10	Indian Bank
11	Punjab National Bank
12	Union Bank of India
13	Yes Bank Limited
14	RBL Bank Ltd.
15	Indian Overseas Bank
16	Kotak Mahindra Bank Limited
17	Federal Bank Limited
18	HSBC
19	South Indian Bank



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ANNEXURE – XXX

DECLARATION REGARDING ‘CONFLICT OF INTEREST’

(To be typed and submitted in the Letter Head of the Entity/ Firm providing certificate as applicable)

To,

_____ (Write Name and Designation of Officer of BHEL inviting the Tender);
Bharat Heavy Electricals Limited,
Central Procurement Cell (CPC), 8th Floor, BHEL SADAN,
Plot No. 25, Sector-16A, Noida, U.P.-201301

Dear Sir,

Sub: Declaration regarding ‘Conflict of Interest’.

Ref: 1. NIT/Tender Specification No.:
2. All other pertinent issues till date.

Treatment of cases regarding conflict of interest:

The bidder notes that a conflict of interest would said to have occurred in the tender process and execution of the resultant contract, in case of any of the following situations:

- i. If its personnel have a close personal, financial, or business relationship with any personnel of BHEL who are directly or indirectly related to the procurement or execution process of the contract, which can affect the decision of BHEL directly or indirectly;
- ii. The bidder (or his allied firm) provided services for the need assessment/ procurement planning of the Tender process in which it is participating;
- iii. Procurement of goods directly from the manufacturers/ suppliers shall be preferred. However, if the OEM/ Principal insists on engaging the services of an agent, such agent shall not be allowed to represent more than one manufacturer/ supplier in the same tender. Moreover, either the agent could bid on behalf of the manufacturer/ supplier or the manufacturer/ supplier could bid directly but not both. In case bids are received from both the manufacturer/ supplier and the agent, bid received from the agent shall be ignored. However, this shall not debar more than one Authorised distributor (with/ or without the OEM) from quoting equipment manufactured by an Original Equipment Manufacturer (OEM) in procurements under a Proprietary Article Certificate.
- iv. A bidder participates in more than one bid in this tender process. Participation in any capacity by a Bidder (including the participation of a Bidder as a partner/ JV member or sub-contractor in another bid or vice-versa) in more than one bid shall result in the disqualification of all bids in which he is a party. However, this does not limit the participation of an entity as a sub-contractor in more than one bid if he is not bidding independently in his own name or as a member of a JV.

The Bidder declares that they have read and understood the above aspects, and the bidder confirms that such conflict of interest does not exist and undertakes that they will not enter into any illegal or undisclosed agreement or understanding, whether formal or informal with other Bidder(s), in this regard. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other



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actions to restrict competitiveness or to introduce cartelization in the bidding process. In case, the Bidder is found having indulged in above activities, the same will be considered as a violation of the tender conditions, and suitable action shall be taken by BHEL as per extant policies/ guidelines.

Yours faithfully,

Date:
Place:

(Signature, Date & Seal of Authorized
Representative of the Bidder)



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ANNEXURE – XXXI

PROCEDURE FOR CONDUCT OF CONCILIATION PROCEEDINGS

1. The proceedings of Conciliation shall broadly be governed by Part-III of the Arbitration and Conciliation Act 1996 or any statutory modification thereof and as provided herein:
2. The party desirous of resorting to Conciliation shall send an invitation/notice in writing to the other party to conciliate specifying all points of Disputes with details of the amount claimed. The party concerned shall not raise any new issue thereafter. Parties shall also not claim any interest on claims/counter-claims from the date of notice invoking Conciliation till the conclusion of the Conciliation proceedings. If BHEL is to initiate Conciliation, then, the invitation to Conciliate shall be extended to the concerned Stakeholder in **Format-2** hereto. Where the stakeholder is to initiate the Conciliation, the notice for initiation of Conciliation shall be sent in **Format-3** hereto.
3. The party receiving the invitation/notice for Conciliation shall within 30 days of receipt of the notice of Conciliation intimate its consent for Conciliation along with its counter-claims, if any.
4. The Conciliation in a matter involving claim or counter-claim (whichever is higher) up to Rs 5 crores shall be carried out by sole Conciliator nominated by BHEL while in a matter involving claim or counter-claim (whichever is higher) of more than Rs 5 crores Conciliation shall be carried out by 3 Conciliators nominated by BHEL. The appointment of Conciliator(s) shall be completed and communicated by the concerned Department/Group of BHEL Unit/Division/Region/Business Group to the other party and the Conciliator(s) within 30 days from the date of acceptance of the invitation to conciliate by the concerned party in the **Format-4**. The details of the Claim, and counter-claim, if any, shall be intimated to the Conciliator(s) simultaneously in **Format-1**.
5. The Parties shall be represented by only their duly authorized in-house executives/officers and neither Party shall be represented by a Lawyer.
6. The first meeting of the IEC shall be convened by the IEC by sending appropriate communication/notice to both the parties as soon as possible but not later than 30 days from the date of his/their appointment. The hearings in the Conciliation proceeding shall ordinarily be concluded within two (2) months and, in exceptional cases where parties have expressed willingness to settle the matter or there exists possibility of settlement in the matter, the proceedings may be extended by the IEC by a maximum of further 2 months with the consent of the Parties subject to cogent reasons being recorded in writing.
7. The IEC shall thereafter formulate recommendations for settlement of the Disputes supported by reasons at the earliest but in any case within 15 days from the date of conclusion of the last hearing. The recommendations so formulated along with the reasons shall be furnished by the IEC to both the Parties at the earliest but in any case within 1 month from the date of conclusion of the last hearing.
8. Response/modifications/suggestions of the Parties on the recommendations of the IEC are to be submitted to the IEC within time limit stipulated by the IEC but not more than 15 days from the date of receipt of the recommendations from the IEC.



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9. In the event, upon consideration, further review of the recommendations is considered necessary, whether by BHEL or by the other Party, then, the matter can be remitted back to the IEC with request to reconsider the same in light of the issues projected by either/ both the Parties and to submit its recommendations thereon within the following 15 days from the date of remitting of the case by either of the Parties.
10. Upon the recommendations by the Parties, with or without modifications, as considered necessary, the IEC shall be called upon to draw up the Draft Settlement Agreement in terms of the recommendations.
11. When a consensus can be arrived at between the parties only in regard to any one or some of the issues referred for Conciliation the draft Settlement Agreement shall be accordingly formulated in regard to the said Issue(s), and the said Settlement Agreement, if signed, by the parties, shall be valid only for the said issues. As regards the balance issues not settled, the parties may seek to resolve them further as per terms and conditions provided in the contract.
12. In case no settlement can be reached between the parties, the IEC shall by a written declaration, pronounce that the Conciliation between the parties has failed and is accordingly terminated.
13. Unless the Conciliation proceedings are terminated in terms of para 22 (b), (c) & (d) herein below, the IEC shall forward his/its recommendations as to possible terms of settlement within one (1) month from the date of last hearing. The date of first hearing of Conciliation shall be the starting date for calculating the period of 2 months
14. In case of 3 members IEC, 2 members of IEC present will constitute a valid quorum for IEC and meeting can take place to proceed in the matter after seeking consent from the member who is not available. If necessary, videoconferencing may be arranged for facilitating participation of the members. However, the IEC recommendations will be signed by all members. Where there is more than one (1) Conciliator, as a general rule they shall act jointly. In the event of differences between the Members of IEC, the decision/recommendations of the majority of the Members of IEC shall prevail and be construed as the recommendation of the IEC.
15. The Draft Settlement Agreement prepared by the IEC in terms of the consensus arrived at during the Conciliation proceedings between the Parties shall be given by the IEC to both the parties for putting up for approval of their respective Competent Authority.
16. Before submitting the draft settlement agreement to BHEL's Competent Authority viz. the Board Level Committee on Alternative Dispute Resolution (BLCADR) for approval, concurrence of the other party's Competent Authority to the draft settlement agreement shall be obtained by the other party and informed to BHEL within 15 days of receipt of the final draft settlement agreement by it. Upon approval by the Competent Authority, the Settlement Agreement would thereafter be signed by the authorized representatives of both the Parties and authenticated by the members of the IEC.
17. In case the Draft Settlement Agreement is rejected by the Competent Authority of BHEL or the other Party, the Conciliation proceedings would stand terminated.
18. A Settlement Agreement shall contain a statement to the effect that each of the person(s) signing thereto (i) is fully authorized by the respective Party (ies) he/she represents, (ii) has fully understood the contents of the same and (iii) is signing on the same out of complete freewill and consent, without any pressure, undue influence.



19. The Settlement Agreement shall thereafter have the same legal status and effect as an arbitration award on agreed terms on the substance of the dispute rendered by an arbitral tribunal passed under section 30 of the Arbitration and Conciliation Act, 1996.
20. Acceptance of the Draft Settlement Agreement/recommendations of the Conciliator and/or signing of the Settlement Agreement by BHEL shall however, be subject to withdrawal/closure of any arbitral and/or judicial proceedings initiated by the concerned Party in regard to such settled issues.
21. Unless otherwise provided for in the agreement, contract or the Memorandum of Understanding, as the case may be, in the event of likelihood of prolonged absence of the Conciliator or any member of IEC, for any reason/incapacity, the Competent Authority/Head of Unit/Division/Region/Business Group of BHEL may substitute the Conciliator or such member at any stage of the proceedings. Upon appointment of the substitute Conciliator(s), such reconstituted IEC may, with the consent of the Parties, proceed with further Conciliation into the matter either de-novo or from the stage already reached by the previous IEC before the substitution.
22. The proceedings of Conciliation under this Scheme may be terminated as follows:
- a. On the date of signing of the Settlement agreement by the Parties; or,
 - b. By a written declaration of the IEC, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of the declaration; or,
 - c. By a written declaration of the Parties addressed to the IEC to the effect that the Conciliation proceedings are terminated, on the date of the declaration; or,
 - d. By a written declaration of a Party to the other Party and the IEC, if appointed, to the effect that the Conciliation proceedings are terminated, on the date of the declaration; or,
 - e. On rejection of the Draft Settlement Agreement by the Competent Authority of BHEL or the other Party.
23. The Conciliator(s) shall be entitled to following fees and facilities:

Sl. No.	Particulars	Amount
1	Sitting fees	Each Member shall be paid a Lump Sum fee of Rs 75,000/- for the whole case payable in terms of paragraph No. 27 herein below.
2	Towards drafting of settlement agreement	In cases involving claim and/or counter-claim of up to Rs 5crores. Rs 50,000/- (Sole Conciliator) In cases involving claim and/or counter-claim of exceeding Rs 5 crores but less than Rs 10 crores. Rs 75,000 (per Conciliator) In cases involving claim and/or counter-claim of more than Rs 10 crores. Rs 1,00,000/- (per Conciliator) Note: The aforesaid fees for the drafting of the Settlement Agreement shall be paid on the, Signing of the Settlement Agreement after approval of the Competent Authority or



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		Rejection of the proposed Settlement Agreement by the Competent Authority of BHEL.
3	Secretarial expenses	Rs 10,000/- (one time) for the whole case for Conciliation by a Sole Member IEC. Where Conciliation is by multi member Conciliators –Rs 30,000/- (one time) - to be paid to the IEC.
4	Travel and transportation and stay at outstation i) Retired Senior Officials of other Public Sector Undertakings (pay scale wise equivalent to or more than E-8 level of BHEL)	As per entitlement of the equivalent officer (pay scale wise) in BHEL.
	Others	As per the extant entitlement of whole time Functional Directors in BHEL. Ordinarily, the IEC Member(s) would be entitled to travel by air Economy Class.
5	Venue for meeting	Unless otherwise agreed in the agreement, contract or the Memorandum of Understanding, as the case may be, the venue/seat of proceedings shall be the location of the concerned Unit / Division / Region / Business Group of BHEL. Without prejudice to the seat/venue of the Conciliation being at the location of concerned BHEL Unit / Division / Region / Business Group, the IEC after consulting the Parties may decide to hold the proceedings at any other place/venue to facilitate the proceedings. Unless, Parties agree to conduct Conciliation at BHEL premises, the venue is to be arranged by either Party alternately.

24. The parties will bear their own costs including cost of presenting their cases/evidence/ witness (es)/expert(s) on their behalf. The parties agree to rely upon documentary evidence in support of their claims and not to bring any oral evidence in IEC proceedings.
25. If any witness (es) or expert(s) is/are, with the consent of the parties, called upon to appear at the instance of the IEC in connection with the matter, then, the costs towards such witness (es)/expert(s) shall be determined by the IEC with the consent of the Parties and the cost so determined shall be borne equally by the Parties.



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26. The other expenditures/costs in connection with the Conciliation proceedings as well as the IEC's fees and expenses shall be shared by the Parties equally.
27. Out of the lump sum fees of Rs 75,000/- for Sitting Fees, 50% shall be payable after the first meeting of the IEC and the remaining 50% of the Sitting Fees shall be payable only after termination of the conciliation proceedings in terms of para 22 hereinabove.
28. The travelling, transportation and stay at outstation shall be arranged by concerned Unit as per entitlements as per Serial No. 4 of the Table at para 23 above, and in case such arrangements are not made by the BHEL Unit, the same shall be reimbursed to the IEC on actuals limited to their entitlement as per Serial No. 4 of the Table at Para 23 above against supporting documents. The IEC Member(s) shall submit necessary invoice for claiming the fees/reimbursements.
29. The Parties shall keep confidential all matters relating to the conciliation proceedings. Confidentiality shall extend also to the settlement agreement, except where its disclosure is necessary for purposes of its implementation and enforcement or as required by or under a law or as per directions of a Court/Governmental authority/ regulatory body, as the case may be.
30. The Parties shall not rely upon or introduce as evidence in any further arbitral or judicial proceedings, whether or not such proceedings relate to the Disputes that is the subject of the Conciliation proceedings:
 - a. Views expressed or suggestions made by the other party in respect of a possible settlement of the Disputes;
 - b. admissions made by the other party in the course of the Conciliator proceedings;
 - c. proposals made by the Conciliator;
 - d. The fact that the other Party had indicated his willingness to accept a proposal for settlement made by the Conciliator.
31. The Parties shall not present the Conciliator(s) as witness in any Alternative Dispute Resolution or Judicial proceedings in respect of a Disputes that is/was the subject of that particular Conciliation proceeding.
32. None of the Conciliators shall act as an arbitrator or as a representative or counsel of a Party in any arbitral or judicial proceeding in respect of a Disputes that is/was the subject of that particular Conciliation proceeding.
33. The Parties shall not initiate, during the Conciliation proceedings, any arbitral or judicial proceedings in respect of a Disputes that is the subject matter of the Conciliation proceedings except that a Party may initiate arbitral or judicial proceedings where, in his opinion, such proceedings are necessary for preserving his rights including for preventing expiry of period of limitation. Unless terminated as per the provisions of this Scheme, the Conciliation proceedings shall continue notwithstanding the commencement of the arbitral or judicial proceedings and the arbitral or judicial proceedings shall be primarily for the purpose of preserving rights including preventing expiry of period of limitation.
34. The official language of Conciliation proceedings under this Scheme shall be English unless the Parties agree to some other language.



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FORMAT-1

**STATEMENT OF CLAIMS/COUNTER CLAIMS TO BE SUBMITTED TO THE IEC BY BOTH
THE PARTIES**

1. Chronology of the Disputes
2. Brief of the Contract/MoU/Agreement/LOI/LOA
3. Brief history of the Disputes:
4. Issues:
5. Details of Clam(s)/Counter Claim(s):

Sl. No.	Description of claim(s)/Counter Claim	Amount (in INR) Or currency applicable in the contract	Relevant contract clause

6. Basis/Ground of claim(s)/counter claim(s) (along with relevant clause of contract)

Note– *The Statement of Claims/Counter Claims may ideally be restricted to maximum limit of 20 pages. Relevant documents may be compiled and submitted along with the statement of Claims/Counter Claims. The statement of Claims/Counter Claims is to be submitted to all IEC members and to the other party by post as well as by email.*



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FORMAT-2

**FORMAT FOR NOTICE INVOKING CONCILIATION CLAUSE BY BHEL FOR REFERRING
THE DISPUTES TO CONCILIATION THROUGH IEC**

To,

M/s. (Stakeholder's name)

Subject: **NOTICE FOR INVOCATION OF THE CONCILIATION CLAUSE OF THE CONTRACT BY BHEL**

Ref: Contract No.../MoU/Agreement/LOI/LOA& date _____.

Dear Sir/Madam,

As you are aware, with reference to above referred Contract/MoU/Agreement/LOI/LOA, certain disputes have arisen, which, in spite of several rounds of mutual discussions and various correspondences have remained unresolved. The brief particulars of our claims which arise out of the above- referred Contract/MoU/Agreement/LOI/LOA are reproduced hereunder:

Sl. No.	Claim description	Amount involved

As you are aware, there is a provision in the captioned Contract/MoU/Agreement/LOI/ LOA for referring disputes to conciliation.

In terms of Clause -----of Procedure i.e., Annexure ----- to the Contract/MoU /Agreement / LOI / LOA, we hereby seek your consent to refer the matter to Conciliation by Independent Experts Committee to be appointed by BHEL. You are invited to provide your consent in writing to proceed with conciliation into the above mentioned disputes within a period of 30 days from the date of this letter along with details of counter-claims, if any, which you might have with regard to the subject Contract/ MoU/ Agreement/ LOI/ LOA.

Please note that upon receipt of your consent in writing within 30 days of the date of receipt of this letter by you, BHEL shall appoint suitable person(s) from the BHEL Panel of Conciliators.

This letter is being issued without prejudice to our rights and contentions available under the contract and law.

Thanking you.
Yours faithfully

Representative of BHEL

Note: The Format may be suitably modified, as required, based on facts and circumstances of the case.



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FORMAT-3

**FORMAT FOR NOTICE INVOKING CONCILIATION CLAUSE BY A STAKEHOLDER FOR
REFERRING THE DISPUTES TO CONCILIATION THROUGH IEC**

To,
BHEL (Head of the Unit/Division/Region/Business Group)

Subject: **NOTICE FOR INVOCATION OF THE CONCILIATION CLAUSE OF THE CONTRACT BY A STAKEHOLDER**

Ref: Contract No.../MoU/Agreement/LOI/LOA& date _____.

Dear Sir/Madam,

As you are aware, with reference to above referred Contract/MoU/Agreement/LOI/LOA, certain disputes have arisen, which, in spite of several rounds of mutual discussions and various correspondences have remained unresolved. The brief particulars of our claims which have arisen out of the above- referred Contract/MoU/Agreement/LOI/LOA are enumerated hereunder:

Sl. No.	Claim description	Amount involved

As you are aware, there is a provision in the captioned Contract/MoU/Agreement/LOI/ LOA for referring inter-se disputes of the Parties to conciliation.

We wish to refer the above-said disputes to Conciliation as per the said Clause of the captioned Contract/MoU/Agreement/LOI/ LOA. In terms of Clause -----of Procedure i.e., Annexure ----- to the Contract/MoU /Agreement / LOI / LOA, we hereby invite BHEL to provide its consent in writing to proceed with conciliation into the above mentioned disputes within a period of 30 days from the date of this letter along with details of counter-claims, if any, which it might have with regard to the subject Contract/ MoU/ Agreement/ LOI/ LOA and to appoint suitable person(s) as Conciliator(s) from the BHEL Panel of Conciliators.

This letter is being issued without prejudice to our rights and contentions available under the contract and law.

Thanking you
Yours faithfully

Representative of the Stakeholder

Note: The Format may be suitably modified, as required, based on facts and circumstances of the case.



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FORMAT-4

**FORMAT FOR INTIMATION TO THE STAKEHOLDER ABOUT APPOINTMENT OF
CONCILIATOR/IEC**

To,

M/s. (Stakeholder's name)

Subject: **INTIMATION BY BHEL TO THE STAKEHOLDER AND CONCILIATOR(S) ABOUT APPOINTMENT OF
CONCILIATOR/IEC**

Ref: Contract No.../MoU/Agreement/LOI/LOA & date _____.

Sir,

This is with reference to letter dated ----- regarding reference of the disputes arising in connection with the subject Contract No/MoU/Agreement/LOI/LOA to conciliation and appointment of Conciliator(s).

In pursuance of the said letter, the said disputes are assigned to conciliation and the following persons are nominated as Conciliator(s) for conciliating and assisting the Parties to amicably resolve the disputes in terms of the Arbitration & Conciliation Act, 1996 and the Procedure --- to the subject Contract/MoU/Agreement/LOI/LOA, if possible.

Name and contact details of Conciliator(s)

- a)
- b)
- c).....

You are requested to submit the Statement of Claims or Counter-Claims (strike off whichever is inapplicable) before the Conciliator(s) in Format 5 (enclosed herewith) as per the time limit as prescribed by the Conciliator(s).

Yours faithfully,

Representative of BHEL

CC: To Conciliator(s)... for Kind Information please.
Encl.: As above

Note: The Format may be suitably modified, as required, based on facts and circumstances of the case.