

TECHNICAL BID FORMAT Annexure-A

TB

Enquiry No. 658011E Dt. 30.04.2019_NIT 45918 - Short Description: Manufacture and Galvanizing of transmission Towers

Offer ref:		Offer date:	
vendor name & address			Vendor Code:
If approved by BHEL /NTPC	Vendor code /unit :		<u>Proof of approval to be submitted</u>
Facilities required	<u>General fabrication facility for carrying out the following operations :</u> - Gas cutting , Welding - Straightening - Drilling , Punching - Cropping , Stamping - Shearing - Bending of plates / Structurals <u>All testing facilities for carrying out :</u> - Weld Checks (MPI/LPI) - Measuring instruments / templates for dimensions check <u>Hot Dip Galvanizing facilities :</u> to meet the QP requirement vide QP ref: MAIT:TBG:R4R5 - R4R6 Rev.01 dt.19-03-2018 and PS:MAITREE-0-BFA-FF-100000-GEN Rev.03 Dt.04-06-2018		

Tender Requirement

Sl No	Project ref	RS Ref. No	Scope of work and Product Description	Grand Total	UNIT	Delivery to
1	MAITREE	TT01	Complete manufacture and galvanizing of transmission towers and its supporting items with vendors own raw-materials, strictly as per BHEL drawing and customer MQP Ref: MAIT:TBG:R4R5-R4R6 ren.01 dt.19-03-2018 AND Painting scheme ref:MAITREE-0-BFA-FF-100000-GEN, Rev.03 dt.04-06-2018. Jobs are to be cleaned and GALVANIZED as per the project painting scheme. Vendor scope includes delivery of finished jobs to BHEL : BAP : Ranipet : Pin:632406, TamilNadu. Vendor scope also includes all the QP requirements such as BHEL/Customer inspection on Proto assembly, Stage Inspections, testing etc.,	448 (+/-10%)	MT	BHEL:BAP: RANIPET TAMIL NADU

I/We hereby confirm that the above mentioned facilities are available with us to carry out the tender requirements in full and all other conditions of the tender vide all the clauses of all sections and Annexures is acceptable

(Stamped) Signature with date of authorised signatory
Name & Designation of Authorised Signatory

ANNEXURE - B

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

M/s

.....
(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 **Complete manufacture and Galvanizing of Transmission towers as per BHEL Drawings QP and Painting Scheme with Vendors own materials** as per **Enquiry No. 658011E Dt. 30.04.2019** 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 Independent External Monitor(s), who will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

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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:-
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.
- 1.2 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.
- 1.3 The Principal will exclude from the process all known prejudiced persons.
- 1.4 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)

- 2.1 The Bidder(s)/ Contractor(s) commit himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.
- 2.2 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.
- 2.3 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

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cartelization in the bidding process.

- 2.4 The Bidder(s)/ Contractor(s) will not commit any penal offence under the relevant IPC/ PC 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.
- 2.5 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.
- 2.6 The Bidder(s)/ Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

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

If the Bidder(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 Bidders(s)/ Contractor(s) from the tender process or take action as per “Guidelines for Suspension 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 prior to the award 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 has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to section 3, the Principal shall be entitled to demand and recover from the Contractor liquidated damages equivalent to 5% of the contract value or the amount equivalent to Security Deposit/Performance Bank Guarantee, whichever is higher.

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Section 5 – Previous Transgression

- 5.1 The Bidder declares that no previous transgressions occurred in the last 3 years with any other company in any country conforming to the anti-corruption approach or with any other Public Sector Enterprise in India that could justify his exclusion from the tender process.
- 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.

Section 6 – Equal treatment of all Bidders/ Contractors/ Sub-contractors

- 6.1 The Bidder(s)/ Contractor(s) undertake(s) to demand from his sub-contractors a commitment consistent with this Integrity Pact. This commitment shall be taken only from those sub-contractors whose contract value is more than 20% of Bidder's/ Contractor's contract value with the Principal.
- 6.2 The Principal will enter into agreements with identical conditions as this one with all Bidders and Contractors.
- 6.3 The Principal will disqualify from the tender process all bidders who do not sign this pact or violate its provisions.

Section 7 – Criminal Charges against violating Bidders/ Contractors /Sub-contractors

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 Independent External Monitor for this Pact. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.
- 8.2 The Monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. He reports to the CMD, BHEL.

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- 8.3 The Bidder(s)/ Contractor(s) accepts that the Monitor has the right to access without restriction to all contract documentation of the Principal including that provided by the Bidder(s)/ Contractor(s). The Bidder(s)/ Contractor(s) will grant the monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his contract documentation. The same is applicable to Sub-contractor(s). The Monitor is under contractual obligation to treat the information and documents of the Bidder(s)/ Contractor(s) / Sub-contractor(s) with confidentiality.
- 8.4 The Principal will provide to the Monitor 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 Monitor the option to participate in such meetings.
- 8.5 As soon as the Monitor notices, or believes to notice, a violation of this agreement, he will so inform the Management of the Principal and request the Management to discontinue or take corrective action, or heal the situation, or to take other relevant action. The Monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.
- 8.6 The Monitor will submit a written report to the CMD, BHEL within 8 to 10 weeks from the date of reference or intimation to him by the Principal and, should the occasion arise, submit proposals for correcting problematic situations.
- 8.7 The CMD, BHEL shall decide the compensation to be paid to the Monitor and its terms and conditions.
- 8.8 If the Monitor has reported to the CMD, BHEL, a substantiated suspicion of an offence under relevant IPC / PC 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 Monitor may also transmit this information directly to the Central Vigilance Commissioner, Government of India.
- 8.9 The number of Independent External Monitor(s) shall be decided by the CMD, BHEL.
- 8.10 The word 'Monitor' would include both singular and plural.

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Section 9 – Pact Duration

- 9.1 This Pact begins when both parties have legally signed it. It expires for the Contractor 12 months after the last payment under the respective contract and for all other Bidders 6 months after the contract has been awarded.
- 9.2 If any claim is made / lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified as above, unless it is discharged/ determined by the CMD, BHEL.

Section 10 – Other Provisions

- 10.1 This agreement is subject to Indian Laws and jurisdiction shall be registered office of the Principal, i.e. New Delhi.
- 10.2 Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.
- 10.3 If the Contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.
- 10.4 Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.
- 10.5 Only those bidders/ contractors who have entered into this agreement with the Principal would be competent to participate in the bidding. In other words, entering into this agreement would be a preliminary qualification.

10.6 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) _____

ANNEXURE C

CERTIFICATE FOR MSE

Certificate by Chartered Accountant on letter head

This is to Certify that M/S
(hereinafter referred to as 'company') having its registered office at
is registered under MSMED Act 2006, (Entrepreneur
Memorandum No (Part-II) dtd:.....
Category: (Micro/Small)). (Copy enclosed).

Further verified from the Books of Accounts that the investment of the company as per the latest audited financial year as per MSMED Act 2006 is as follows:

1. **For Manufacturing Enterprises:** Investment in plant and machinery (i.e. original cost excluding land and building and the items specified by the Ministry of Small Scale Industries vide its notification No.S.O.1722(E) dated October 5, 2006 :
Rs.....Lacs
2. **For Service Enterprises:** Investment in equipment (original cost excluding land and building and furniture, fittings and other items not directly related to the service rendered or as may be notified under the MSMED Act, 2006:
Rs.....Lacs

(Strike off whichever is not applicable)

The above investment of Rs.....Lacs is within permissible limit of Rs.....Lacs forMicro / Small (Strike off which is not applicable) Category under MSMED Act 2006.

Or

The company has been graduated from its original category (Micro/ Small) (Strike off which is not applicable) and the date of graduation of such enterprise from its original category is (dd/mm/yyyy) which is within the period of 3 years from the date of graduation of such enterprise from its original category as notified vide S.O. No. 3322(E) dated 01.11.2013 published in the gazette notification dated 04.11.2013 by Ministry of MSME.

Date:

(Signature)

Name -

Membership number -

Seal of Chartered Accountant

ANNEXURE – D

**DECLARATION BY THE BIDDER
(ON BIDDER'S LETTER HEAD)**

I / We M/s.Vendor Code: do hereby state as follows:

- 1) All the documents for Techno Commercial Bid as per “Annexure E – Checklist of Techno commercial offer” all the related documents have duly been filled, signed and have been submitted in the techno commercial bid. We also declare that all the documents of the techno-commercial bid are submitted without any modification.
- 2) I / We declare that the rates have been quoted after having read and understood the terms and conditions of Tender.
- 3) I / We accept to provide Performance BG as per clause 16.0 of Section IV B of this Tender as per the format as enclosed in this Tender.
- 4) I / we declare that I have read all the terms and conditions specified under all Sections and Annexures forming part of the Tender and agree to abide by the terms & conditions stipulated by BHEL.
- 5) It is confirmed that I/We HAVE NOT TAKEN ANY DEVIATION to any of the Tender terms as mentioned in the above section.
- 6) In case there is a lapse / omission or commission in fulfilling the Tender requirements as per the commitments given above we fully understand BHEL shall have the right to reject the offers and the decision of BHEL in this regard will be final and binding on us.
- 7) I/we have understood that No Corrections/ Revisions in the quoted rates will be accepted after the Tender opening date.
- 8) We have read and understood about the loading quantum, Delivery period, Liquidated damage, Submission of Bank guarantee and Elimination clauses.
- 9) I/We understood that, by submitting the duly signed Annexures/Sections against this Tender, it is presumed by BHEL that our firm is accepting all Tender terms & conditions.
- 10) I/we authorize the following person in authority to clarify the deviations.
Name of the person:
Desgn./Relationship with the firm :
Mobile No. & email Id:

Signature of Authorized person with seal

ANNEXURE E - CHECK LIST FOR TECHNO COMMERCIAL OFFER

I. VENDOR INFORMATION (to be filled by Vendor)

1. Vendor name :
2. Works Address :
3. Contact details:
4. Email id:
5. Whether approved already by any of BHEL units : Yes / No
6. If Yes, indicate vendor code and name of BHEL-Unit :
7. Whether approved by NTPC: Yes / No (if Yes - enclose approval letter for reference)

II. Annexure Summary (To be filled in by the Vendor)

Sl. No.	Particulars	DOCUMENTS ENCLOSED (YES/ NO)
1	ANNEXURE A: PRICE BID (To be uploaded by Vendor in Price bid section only)	
2	ANNEXURE B : Integrity Pact (duly signed)	
3	ANNEXURE- C : Certification for MSE	
4	ANNEXURE D: Declaration by the bidder (duly signed)	
5	ANNEXURE E: CHECK LIST (duly signed)	
6	ANNEXURE F : Affidavit	
7	ANNEXURE G: Not applicable	
8	ANNEXURE H - Non-Disclosure Agreement (duly signed)	
9	SECTION XII: PVC- NOT APPLICABLE	NOT APPLICABLE
10	ANNEXURE J: Vendor Declared capacity	
11	SECTION -II : Duly signed & sealed	
12	SECTION -IV A : Duly signed & sealed	
13	SECTION -IV B : Duly signed & sealed	
14	Attested Photocopy of valid MSE certificate	
15	Partnership certificate if applicable	

(NON-JUDICIAL STAMP PAPER VALUED RS.100/-AND DULY NOTARIZED)

ANNEXURE – F - AFFIDAVIT

I / We M/s. do hereby undertake the following:

01. We have not been presently put on hold, suspended, de-listed, banned or black listed by any of the BHEL units.

02. We have not been booked by CBI and/or indicted by a court of law in any criminal case relating to transportation during last 5 years.

03. Tick whichever is applicable

- i) ☐ One or more partners/directors/proprietor of us **DO HAVE a relation or relations** employed in the capacity of an Officer of BHEL, The details are given below:

Name:

Staff No:

Designation:

Department:

(Or)

- (ii) ☐ One or more partners/directors/proprietor of us **DO NOT HAVE a relation or relations** employed in the capacity of an Officer of BHEL.
Concealing the above information, & if found by BHEL, BHEL may cancel the Contract & forfeit BG

04. All Scope, Terms and Conditions, laid vide Sections I to XIII, technical / operational requirements of BHEL have been read and understood by me fully, and accepted without any deviation and then this offer is submitted unconditionally.

05. In case it comes to notice of BHEL during the finalization of Tender / after placement of Contract and while executing the Contract, that vendor has given incomplete, false, incorrect, suppressed information & data, forged documents, fake documents / certificates, fake Certificates or any information prejudicial to BHEL's interest, BHEL will suspend the business with the vendor at any stage and the Bank Guarantee will be forfeited.

Signature of Authorized person with seal

 BHEL – RANIPET	THIRD PARTY NON-DISCLOSURE AGREEMENT		Doc.No. : ISMS-04/RP/011
			Ver. No: 1.0 Rev. No: 00
	Date : 12-11.2018		

THIRD PARTY NON-DISCLOSURE AGREEMENT

I, _____, on behalf of the _____ (Name of Company), acknowledge that the information received or generated, directly or indirectly, while working with BHEL, Ranipet on contract is confidential and that the nature of the business of the BHEL, Ranipet is such that the following conditions are reasonable, and therefore:

I warrant and agree as follows:

I, or any other personnel employed or engaged by our company, agree not to disclose, directly or indirectly, any information related to the BHEL, Ranipet. Without restricting the generality of the foregoing, it is agreed that we will not disclose such information consisting but not necessarily limited to:

- Technical information: Methods, drawings, processes, formulae, compositions, systems, techniques, inventions, computer programs/data/configuration and research projects.
- Business information: Customer lists, project schedules, pricing data, estimates, financial or marketing data,

On conclusion of contract, I, or any other personnel employed or engaged by our company shall return to BHEL, Ranipet all documents and property of BHEL, Ranipet, including: drawings, blueprints, reports, manuals, computer programs/data/configuration, and all other materials and all copies thereof relating in any way to BHEL, Ranipet's business, or in any way obtained by me during the course of contract. I further agree that I, or any others employed or engaged by our company shall not retain copies, notes or abstracts of the foregoing.

This obligation of confidence shall continue after the conclusion of the contract also.

I acknowledge that the aforesaid restrictions are necessary and fundamental to the business of the BHEL, Ranipet and are reasonable given the nature of the business carried on by the BHEL, Ranipet. I agree that this agreement shall be governed by and construed in accordance with the laws of country.

I enter into this agreement totally voluntarily, with full knowledge of its meaning, and without duress.

Dated at _____, this ____ day of _____, 20__.

Name

Company

Signature

ANNEXURE J

Enq :- 658011E dt 30.04.2019 NIT_45918

Vendor Code:

Vendor Name:

SL No	RS REF	RATE SCHEDULE DESCRIPTION	Eligibility Criteria	Facility Confirmation please indicate	Monthly Sparable Capacity (In MT)
1	TT01	Complete manufacture and galvanizing of these transmission towers and its supporting items with vendors own raw-materials, strictly as per BHEL drawing and customer QP no:MAIT:TBG:R4R5-R4R6 Rev.01 dt.19-03-2018 .	General fabrication facility for carrying out the following operations - Gas cutting , Welding - Straightening - Drilling , Punching - Cropping , Stamping - Shearing - Bending of plates / Structural	Yes / No	
			All testing facilities for carrying out - Weld Checks (MPI/LPI) - Measuring instruments for dimension	Yes / No	
			Hot Dip Galvanizing facilities to meet the QP requirement vide QP ref: MAIT:TBG:R4R5 - R4R6 Rev.01 dt.19-03-2018 and PS:MAITREE-0-BFA-FF-100000-GEN Rev.03 dt.04-06-2018.	Yes / No	
			Raw-Materials are to be PROCURED from BHEL approved sources only (Refer Section:VIII) as per the material specification and approved manufacturing drawings /QP ref no: MAIT:TBG:R4R5 - R4R6 Rev.01 dt.19-03-2018	Yes / No	

DECLARATION:

WE DECLARE THAT WE HAVE THE ADEQUATE FACILITIES FOR

A)	Manufacture & Galvanizing together	Please ☒	
B)	Manufacturing only (Galvanizing will be done at our cost at the approved sources given by BHEL as below)	Please ☒	

NOTE: GALVANIZING IS TO BE DONE ONLY AT THE APPROVED VENDORS GIVEN BELOW :

National Galvanizer Unistar Galvanizer B.P Project Bajaj Pune Electrocare Industries	B.G.Shirke Gurpreet Galvanizer Sigma Radhakrishnan Shetty Karamtara	Poona Galvanizers Neha Galvanizers Unitech galvanizers Gurpreet Galvanizers DMP Projects	Patny Systems Passive Infra Brahmapuri Indmark formtek
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We declare that, ALL the facilities and sparable capacity given are FIRM and will be Strictly Adhered.

Seal & Signature of the FIRM

Enq :- 658011E dt 30.04.2019 NIT_45918

ANNEXURE K- GST DETAILS

Vendor's Name	Vendor's code	Updated Phone No.	Updated E-mail Id, if any	PAN of the Business	GSTIN No.	APPLICABLE GST RATE (IN %)	Application reference number (ARN)	HSN Code / SAC Code

Note:

Kindly fill the details as per above requirement.

After filling the details, kindly upload the same in EPS.

HSN: Harmonized System of Nomenclature

SAC : Services Accounting Code

Annexure L: Frame work Confidentiality Agreement cum undertaking
(NON-JUDICIAL STAMP PAPER VALUED RS.100/-AND DULY NOTARIZED)

This Agreement made on this the _____ day of (month) _____ 20__ (“Effective Date”) by and between

M/s BHARAT HEAVY ELECTRICALS LIMITED, having registered office at “BHEL House”, Siri Fort, New Delhi – 110049 (India), acting through its _____ Unit (hereinafter may be referred to as “BHEL” or “the Company”).

And

M/s _____ (address) _____
represented by authorized representative Sri _____ (herein after referred to as the “Supplier”).

The Supplier and the Company may, unless the context otherwise requires, hereinafter be collectively referred to as “Parties” or singly as the “Party”.

RECITALS

Whereas, BHEL is engaged in the design, engineering, manufacturing, construction, testing, commissioning and servicing of a wide range of products, systems and services for the core sectors of the economy, viz. Power, Transmission, Industry, Transportation, Renewable energy, Oil & Gas and Defense and providing associated services to varied customers in relation to which BHEL/its affiliates own valuable information of a secret and confidential nature.

Whereas the Company may, in connection with Contract(s) (as defined hereunder) placed or to be placed upon the Supplier, or otherwise, from time to time, make available, Technical Information as is defined hereunder.

And Whereas BHEL is willing to provide such Technical Information to the Supplier from time to time and the Supplier understands and acknowledges that such Technical Information is valuable for the Company and as such is willing to protect confidentiality of such information, subject to the terms and conditions set out hereunder.

Now therefore, in view of the foregoing premises and in consideration of the mutual covenants and agreements hereinafter set forth, the Parties agree as under:

1. Definitions:

Unless the context so requires, in this Agreement, the following terms will bear the meaning ascribed to the said term in this clause.

- A. **“Contract”** means the Contract entered into with a Supplier and includes a Purchase Order, or a Work Order for procurement of any goods or for provision of any services.
- B. **“Effective Date”** means the date of this Agreement as mentioned in the preamble of this Agreement.
- C. **“Supplier”** includes a Contractor or a Vendor of the Company whether for supplying of goods or for providing any services under a Contract or both.

- D. **“Technical Information”** includes Drawings, and/or Product Standards and/or Specifications and/or Corporate / Plant Specifications and/or Technological Process Sheets and/or Technical Data Sheets and/or Jigs & Fixtures and/or Pattern & Dies and/or Special Gauges and/or Tools etc. belonging to or wherein the Company has acquired from a third party a right of user and includes any improvement thereto from time to time whether carried out by the Company or by the Supplier.
- E. **“Intended Purpose”** means the purpose for which the Technical Information is provided to the Supplier under or in connection with a Contract.
- F. **“Improvement”** includes any modification made to, or adaptation of, the Technical Information which enhances or is calculated to enhance the performance (whether in terms of effectiveness or in terms of efficiency or both) of the product and/or the service to be provided by the Supplier under a Contract.
2. This Agreement shall come into force/deemed to have come into force, as the case may be, on the Effective Date; or, on the first date when the Technical Information or any part thereof is provided by BHEL to the Supplier; whichever is earlier.
3. **Agreement deemed to be incorporated in each Contract:** Unless and to the extent otherwise stipulated in the Contract, the conditions of this Agreement are deemed to be incorporated in all Contracts which may be entered into between the Company and the Supplier. Further, unless otherwise stipulated, the obligations under this Agreement are and will be independent of the obligations under the Contracts and such obligations of the Supplier hereunder will remain of full effect and validity notwithstanding that the period of validity of the Contracts has expired by efflux of time stipulated therein; or, the contract has been discharged by performance or breach; or, the termination of the Contracts for any reason whatsoever.
4. **Ownership:**
- 4.1 The Company may, from time to time, make available to the Supplier, Technical Information on a non-exclusive basis by way of loan.
- 4.2 The Supplier acknowledges and agrees that all Technical Information and copies thereof that are or may be provided by the Company to the Supplier, are and shall remain the property of BHEL or that of the concerned entity from whom BHEL has obtained the Technical Information and such Technical Information are and shall constitute trade secrets of the BHEL. Nothing in this Agreement or in any disclosures made hereunder by or on behalf of the Company shall be construed as granting upon the Supplier any patent, copyright or design or any other intellectual property rights of whatsoever description that subsists or may hereinafter exist in the Technical Information. Furthermore, nothing in this Agreement or in any disclosures made hereunder by or on behalf of the Company shall be construed as granting upon the Supplier any license or rights of use of such patent, copyright or design or any other intellectual property rights of whatsoever description which may now or hereafter exist in the Technical Information except for use of the Technical Information strictly in accordance with this Agreement and the Contract and/or as directed in writing by the Company, solely for the Intended Purpose under the Contract.

4.3 Neither Party is obligated by or under this Agreement to purchase from or provide to the other Party any service or product and that any such purchase/sale of any product and/or service by one Party to the other Party will be governed by the Contract if any, that may be entered into by and between the Company and the Supplier.

4.4 The Supplier is/has been made well aware and acknowledges that the Technical Information being/which may be shared with it by the Company has been either generated by the Company by incurring huge investment and cost or obtained from foreign collaborators under Technical Collaboration Agreement (TCA) with stringent confidentiality conditions.

4.5 The Supplier agrees and undertakes to adhere to confidentiality requirements as applicable to BHEL under a TCA and also ensure that the confidentiality requirements are adhered to by all its concerned employees or sub-contractors/suppliers (where permitted to be engaged by BHEL). Any damages, losses, expenses of any description whatsoever, arising out of or in connection with a breach of the confidentiality requirements under a TCA owing to any act or omission on the part of the Supplier or its employees or subcontractors/suppliers that is claimed by a foreign collaborator from the Company shall be wholly borne by the Supplier and it shall keep BHEL fully indemnified in this behalf. The demand by the Company shall be conclusive upon the Supplier who shall thereupon forthwith pay to the Company without demur, dispute or delay the amount as demanded without demanding any further proof thereof.

4.6 The Supplier agrees and undertakes that unless so decided and advised by the Company in writing all rights/title to any Improvement to the Technical Information shall vest in the Company. The Supplier undertakes and agrees to inform forthwith to the Company of any such Improvement made to the Technical Information and transfer all drawings/documents or other materials connected with such Improvement to the Company and also agrees to fully cooperate with the Company for protecting the Company's interests in such Improvement in the Technical Information including but not limited to obtaining necessary protection for the intellectual property rights in such improvement, if so desired by the Company. If a question arises whether a modification amounts to Improvement to the Technical Information, the same shall be decided by the Company and such decision shall be final and binding upon the Supplier.

5. Use and Non-Disclosure:

5.1 Unless otherwise stipulated by the Company, all Technical Information made available to the Supplier, by the Company shall be treated as Confidential irrespective of whether the same is marked or otherwise denoted to be Confidential or not.

5.2 The Supplier undertakes and agrees that the Technical Information in its possession shall be held in strict confidence and will be used strictly in accordance with this Agreement and solely for the Intended Purpose under the Contract. Use of the Technical Information for any other purpose other than Intended Purpose is prohibited.

- 5.3 In particular, the Supplier shall not use Technical Information or any Improvement in its possession for the manufacture or procurement of the Product(s) or components or parts thereof or use the Technical Information or any portion thereof or any modification or adaptation thereof in any form to provide any product and/or service to any third party, without the prior written consent of the Company.
- 5.4 The Supplier shall not disclose any of such Technical Information to any third party without the prior written consent of the Company. The Supplier agrees that without prior written consent of the Company, the Supplier shall not disclose to a third party about the existence of this Agreement, or of the fact that it is/was in possession of or has experience in the use of any Technical Information nor shall the Supplier share in any manner whatsoever, with a third party, the name or details of any Contract(s) awarded by the Company to it or performed by the Supplier or the scope of work thereof or share any document or correspondence by and between the Company and the Supplier in or in connection with this Agreement or such Contract(s). Notwithstanding what is stated elsewhere, the overall responsibility of any breach of the confidentiality provisions under this Agreement shall rest with the Supplier.
- 5.5 The Supplier undertakes and agrees not to make copies or extracts of and not to disclose to others any or all of the Technical Information in its possession, except as follows:
- (a) The Supplier may disclose the Technical Information to such of its officers and employees strictly to the extent as is necessary for such officer or employee for the Intended Purpose, provided that the Confidential Information (or copies thereof) disclosed shall be marked clearly as the confidential and proprietary information of Company and that such officers and employees shall similarly be bound by undertakings of confidence, restricted use and non-disclosure in respect of the Technical Information. The Supplier shall be responsible for any breach of such confidentiality provisions by such officers and employees.
 - (b) With the prior written consent of Company, the Supplier may disclose for the Intended Purpose such Technical Information as is provided for in such consent to such of its professional advisers: consultants, insurers and subcontractors who shall be similarly bound by undertakings of confidence, restricted use and non-disclosure in respect of such Technical Information.
 - (c) The Supplier shall not be prevented to make any disclosure required by (i) order of a court of competent jurisdiction or (ii) any competent regulatory authority or agency where such disclosure is required by law, provided that where the Supplier intends to make such disclosure, it shall first consult Company and take all reasonable steps requested by it to minimize the extent of the Technical Information disclosed and to make such disclosure in confidence and also shall cooperate with the Company in seeking any protective order or any other remedy from proper authority in this matter.

6. Exceptions:

The obligations of the Supplier pursuant to the provisions of this agreement shall not apply to any Confidential Information that:

- a) was/is known to, or in the possession of the Supplier prior to disclosure thereof by the Company;
- b) is or becomes publicly known, otherwise than as a result of a breach of this agreement by the Supplier.
- c) is developed independently of the Disclosing Party by the Supplier in circumstances that do not amount to a breach of the provisions of this Agreement or the Contract;
- d) is received from a third party in circumstances that do not result in a breach of the provisions of this Agreement.

7. The obligation of maintaining confidentiality of the Technical Information on each occasion, shall subsist for the entire duration during which the Technical Information / equipment is in possession of the Supplier and shall thereafter subsist for a further period of ----- years from the date when the complete Technical Information has been returned to the Company and if Technical Information has been returned in portions on different dates then, the period of ---- years will be reckoned from the date when the last portion of the Technical Information has been returned. Notwithstanding the expiry of the confidentiality obligation, the obligation of the Supplier under clause 5.4 shall continue to subsist for a further period of ----- years.

8. Warranties & Undertakings:

a) The Supplier undertakes to ensure the due observance of the undertakings of confidence, restricted use and non-disclosure by its persons to whom it discloses or releases copies or extracts of the Technical Information.

b) The Supplier shall keep the Technical Information or improvement made therein properly segregated and not mix up the same with any other material/documents belonging to him/it or to any other third party.

c) The Supplier further undertakes that he/it shall not hypothecate or give on lease or otherwise alienate or do away with any of the Technical Information and/or equipment of the Company, made available to him/it, and undertakes that he/it shall hold the same as a trustee, in capacity of custodian thereof and use/utilise the same solely for the purpose of executing the Contract awarded by the Company.

d) The Supplier further undertakes that he/it shall return all the equipment and/or Technical Information as far as practicable in the same condition in which the same was made available to him/it by the Company together with any Improvement thereon and the documents connected with such Improvement, to the Company forthwith upon completion of the scope of work or Contract for which such Technical Information was provided by the Company to it or as directed by the Company together with a confirmation by way of an affidavit or in such manner as directed by the Company that it has not retained any equipment and/or Technical Information/Improvement thereof. In case any such equipment and/or Technical Information or Improvement thereof shall remain in his possession or is not capable of being returned, the retention and use of such Technical Information or Improvement thereto shall continue to be governed by this Agreement.

e) The Supplier undertakes to indemnify the Company for all the direct, indirect and/or consequential losses, damages, expenses whatsoever including any consequential loss of business,

profits suffered by the Company owing to breach by the Supplier of its obligations under this Agreement and/or the confidentiality requirements, if any, contained in the Contract and that the Supplier hereby agrees that the decision of the Company in all such or any such matter/s shall be final and binding on the Supplier. On mere written demand of the Company, the Supplier shall forthwith and without demur or delay pay to the Company any such sum as determined by the Company as the amount of loss or damage or expense which has been suffered by the Company. The Supplier agrees that the Company shall be entitled to withhold and appropriate any amount payable to the Supplier under any Contract then existing between the Company and the Supplier, in case the Supplier fails to make payment, in terms of the written demand, within 7 days thereof. Without prejudice to the foregoing actions, in respect to any breach of this Agreement, the Company shall be entitled to take any other action against the Supplier as per applicable laws, the Contract, Company's applicable policies, guidelines rules, procedures, etc.

9. Without prejudice to any other mode of recovery as may be available to the Company for recovery of the amount determined as due as per Clause 9(f) hereinabove, the Company shall have a right to withhold, recover and appropriate the amount due towards such losses, damages, expenses, from any amount due to the Supplier in respect of any other Contract (s) placed on him/it by any department/office/Unit/Division of the said Company.

10. Governing Law & Jurisdiction:

This Agreement shall be governed by and be construed as per applicable Indian Laws in force at the relevant time.

Subject to clauses 10(a) and 10(d) hereinabove, all matters in connection with the subject agreement shall be subject to exclusive jurisdiction of Courts situated at _____ **(insert the name of the place where the Unit/Division is located)**

SIGNATURE

WITNESSES

1

Name

Address:

2.

Name:

Address:

Enquiry No. 658011E Dt. 30.04.2019_NIT_45918 - Short Description: Manufacture and Galvanizing of transmission Towers

Sl No	Project ref	RS Ref. No	Scope of work and Product Description	Grand Total	UNIT	Delivery to	"Please Quote Your rates per M.T basis for Manufacture and GALVANIZING as per BHEL QP, PS and Transportation to BHEL/BAP/Ranipet(F.O.R Ranipet)"
1	MAITREE	TT01	Complete manufacture and galvanizing of transmission towers and its supporting items with vendors own raw-materials, strictly as per BHEL drawing and customer MQP Ref: MAIT:TBG:R4R5-R4R6 ren.01 dt.19-03-2018 AND Painting scheme ref:MAITREE-0-BFA-FF-1000000-GEN, Rev.03 dt.04-06-2018. Jobs are to be cleaned and GALVANIZED as per the project painting scheme. Vendor scope includes delivery of finished jobs to BHEL : BAP : Ranipet : Pin:632406, TamilNadu. Vendor scope also includes all the QP requirements such as BHEL/Customer inspection on Proto assembly, Stage Inspections, testing etc.,	448 (+/-10%)	MT	BHEL:BAP: RANIPET TAMIL NADU	
SI	Aspects						Acceptance
C1	All the clauses of Annexure is acceptable						YES/NO
C2	Quantities shown are only approximate and liable for variation without entitling the contractor to any compensation.No Minimum Order qty is ensured and BHEL reserves the right to cancel the PO or reduce/increase the PO quantity according to the requirement						YES/NO
C3	No rate shall be claimed extra for the increase in work content due to manufacturing with substituted material.						YES/NO
C4	Acceptance for recovery under pro-rata basis, wherever the final weight owing to substitution is less than (-) 5% of the original netweight.						YES/NO
C5	All the requisite manufacturing Machines, Equipments, Tools & Accessories, consumables, Safety Equipments and accessories to Labour will be made availavle at the manufacturing site (List of Equipments & Accessories to be made available by the Contractor is separatly Annexed in the Technical Offer.						YES/NO
C6	Requisite man power will be made available to complete the contract. List of Man power (designation wise) to be provided by the vendorr viz. Supervisor, Welders, Fitters, Painters, Helpers etc... for completion of Supply with in 90 days is annexed to this offer.						YES/NO
C7	Delivery period:- Supply to be completed with in 90 days from the date of issue of P.O						YES/NO
C8	Submission of Performance Bank Guarantee(BG) / Fixed Deposit Receipt(FDR) for the value of 2.5% of the Order Value from Consortium Banks as per annexure						YES/NO
C9	All the Terms and Conditions specified in Section(s) and Annexures are read and accepted						YES/NO
D	GST as applicable						YES/NO
D1	GST NO						
D2	Acceptance for quoting your rtaes on F.O.R.RANIPET BASIS (to be delivered at BHEL : BAP : Ranipet : Pin:632406, TamilNadu. Packing & Forwarding, Freight are in Supplier's scope i.e. included in the quoted prices)						YES/NO
E1	Manufacture & Supply as per BHEL Drawing is to be Confirmed						YES/NO
E2	A separate Sheet is to be enclosed for Deviation proposed if any. Is such a sheet enclosed now.						YES/NO
E3	Levyng of BHEL's Std-LD on delayed delivery is acceptable. Viz. @ 0.5% Per week of delay subject to maximum of 10%. However, delivery extension is to be obtained by firm duly approved by Shipping Department for valid reasons and enclose the same with bills failing which LD will be automatically levied and no refund of the penalty will be entertained.						YES/NO
E4	Acceptance for submission of the Test Certificates for the material Procured and Used with out any extra charges						YES/NO

(Stamped) Signature with date of authorised signatory

