

ANNEXURE- 1**CHECK LIST**

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

A	Name and Address of the Supplier		
B	GSTN No. the Supplier (Place of Execution of Contract / Purchase Order)		
C	Details of Contact person for this Tender	Name: Mr./ Ms. Designation: Telephone No: Mobile No: Email ID:	
D	EMD DETAILS	Not Applicable	
E	DESCRIPTION	APPLICABILITY (BY BHEL)	ENCLOSED BY BIDDER
i.	Whether Pre - Qualification Criteria is understood and provided proper supporting documents.	Applicable/ Not Applicable	YES / NO
ii.	Whether all pages of the Tender documents including annexures, appendices etc are read and understood	Applicable/ Not Applicable	YES / NO
iii.	Audited Balance Sheet and profit & Loss Account for the last three years	Applicable/ Not Applicable	YES / NO
iv.	Copy of PAN Card & GST registration	Applicable/ Not Applicable	YES / NO
v.	Submission of MSE certificate as specified in Tender	Applicable/ Not Applicable	YES / NO
vi.	Offer forwarding letter / tender submission letter as per Annexure – 2	Applicable/ Not Applicable	YES / NO
vii.	Submission of Certificate of No Deviation as per Annexure – 3	Applicable/ Not Applicable	YES / NO
viii.	Declaration regarding Insolvency/ Liquidation/ Bankruptcy Proceedings as per Annexure – 4	Applicable/ Not Applicable	YES / NO
ix.	Declaration by Authorized Signatory as per Annexure – 5	Applicable/ Not Applicable	YES / NO
x.	Declaration by Authorized Signatory regarding Authenticity of submitted Documents Annexure – 6	Applicable/ Not Applicable	YES / NO
xi.	Submission of Non-Disclosure Certificate as per Annexure – 7	Applicable/ Not Applicable	YES / NO
xii.	Submission of Integrity Pact as specified in Tender as per Annexure – 8	Applicable/ Not Applicable	YES / NO

xiii.	Declaration confirming knowledge about Site Conditions as per Annexure – 9	Applicable/ Not Applicable	YES / NO
xiv.	Declaration reg. Related Firms & their areas of Activities as per Annexure – 10	Applicable/ Not Applicable	YES / NO
xv.	Declaration for relation in BHEL as per Annexure – 11	Applicable/ Not Applicable	YES / NO
xvi.	Declaration reg. minimum local content in line with revised public procurement as per Annexure – 12	Applicable/ Not Applicable	YES / NO
xvii.	Declaration regarding compliance to Restrictions under Rule 144 (xi) of GFR 2017 as per Annexure – 13	Applicable/ Not Applicable	YES / NO
xviii.	Bank Account Details for E-Payment as per Annexure – 14	Applicable/ Not Applicable	YES / NO
xix.	Power of Attorney for submission of tender as per Annexure – 15	Applicable/ Not Applicable	YES / NO
xx.	Proforma of Bank Guarantee for Earnest Money as per Annexure – 16	Applicable/ Not Applicable	YES / NO

NOTE: Strike off 'YES' or 'NO', as applicable. Tender not accompanied by the prescribed **above applicable documents** are liable to be summarily rejected.

DATE :

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

ANNEXURE - 2**OFFER FORWARDING LETTER / TENDER SUBMISSION LETTER**

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

Offer Reference No:

Date:

To,

(Write Name & Address of Officer of BHEL inviting the Tender)

Dear Sir,

Sub: Submission of Offer against GeM Bid No:

Having examined the tender documents against your GeM Bid No. _____ dated _____ and having understood the provisions of the said tender documents and having thoroughly studied the requirements of BHEL related to the work tendered for, in connection with _____ (name of work & project site), we hereby submit our offer for the proposed work in accordance with terms and conditions mentioned in the tender documents, at the prices quoted by us and as per the indicated delivery schedule.

Should our Offer be accepted by BHEL for Award, I/we further agree to furnish 'Performance Security' 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 herewith the requisite Earnest Money Deposit (EMD) as per details furnished in the Check List.

Authorised Representative of Bidder

Signature:

Name:

Address:

Place:

Date:

ANNEXURE- 3**CERTIFICATE OF NO DEVIATION**

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

To,

(Write Name & Address of Officer of BHEL inviting the Tender)

Dear Sir,

Subject: **No Deviation Certificate**

Ref: 1) GeM Bid No:
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 GeM Bid.

We further confirm our unqualified acceptance to all Terms and Conditions, unqualified compliance to Tender Conditions.

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:
Place:

ANNEXURE- 4**UNDERTAKING**

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

To,

(Write Name & Address of Officer of BHEL inviting the Tender)

Dear Sir/Madam,

Sub: DECLARATION REGARDING INSOLVENCY/ LIQUIDATION/ BANKRUPTCY PROCEEDINGS

Ref: GeM Bid Specification No:

I/We, _____ declare that,

I/We am/are not admitted under insolvency resolution process or liquidation under Insolvency and Bankruptcy Code, 2016, as amended from time to time or under any other law as on date, by NCLT or any adjudicating authority/authorities.

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

Place:

Date:

ANNEXURE – 5

DECLARATION BY AUTHORISED SIGNATORY OF BIDDER

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

To,

(Write Name & Address of Officer of BHEL inviting the Tender)

Dear Sir,

Sub: **Declaration by Authorised Signatory**

Ref: 1) GeM Bid Specification No:

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 also enclosed.

Yours faithfully,

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

Date:

Enclosed: Power of Attorney

ANNEXURE – 6**DECLARATION BY AUTHORISED SIGNATORY OF BIDDER**

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

To,

(Write Name & Address of Officer of BHEL inviting the Tender)

Dear Sir,

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

Ref : 1) GeM Bid No. & Date:

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 contract) 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:

ANNEXURE- 7**NON-DISCLOSURE CERTIFICATE**

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

I/We understand that BHEL <PS- Region> is committed to Information Security Management System as per their Information Security Policy.

Hence,

I/We

M/s

who are submitting offer for providing services to BHEL <PS- Region> against GeM Bid No..... hereby undertake to comply with the following in line with Information Security Policy of <PS- Region>.

- 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 <PS- Region>.

**(Signature, date & seal of Authorized
Signatory of the bidder)**

Date:

ANNEXURE – 8**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

_____. 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.

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)

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.

2.1.1 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 will 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 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 from the tender process prior to the award according to Section 3, the Principal is entitled to demand and recover the damages equivalent 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.

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 Principal will enter into agreements with identical conditions as this one with all Bidders and Contractors. In case of sub-contracting, the Principal contractor shall be responsible for the adoption of IP by his sub-contractors and shall continue to remain responsible for any default by his sub-contractors.

6.2 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 /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 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.
- 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 in line with Non- disclosure agreement.
- 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 The role of IEMs is advisory, would not be legally binding and it is restricted to resolving issues raised by an intending bidder regarding any aspect of the tender which allegedly restricts competition or bias towards some bidders. At the same time, it must be understood that IEMs are not consultants to the Management. Their role is independent in nature and the advice once tendered would not be subject to review at the request of the organization.
- 8.6 For ensuring the desired transparency and objectivity in dealing with the complaints arising out of any tendering process, the matter should be examined by the full panel of IEMs jointly as far as possible, who would look into the records, conduct an investigation, and submit their joint recommendations to the Management.
- 8.7 The IEMs would examine all complaints received by them and give their recommendations/ views to CMD, BHEL, at the earliest. They may also send their report directly to the CVO and the Commission,

in case of suspicion of serious irregularities requiring legal/ administrative action. IEMs will tender their advice on the complaints within 10 days as far as possible.

- 8.8 The CMD, BHEL shall decide the compensation to be paid to the Monitor and its terms and conditions.
- 8.9 IEM 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 organization should be looked into by the CVO of the concerned organisation.
- 8.10 If the Monitor has 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 Monitor may also transmit this information directly to the Central Vigilance Commissioner, Government of India.
- 8.11 The number of Independent External Monitor(s) shall be decided by the CMD, BHEL.
- 8.12 The word 'Monitor' would include both singular and plural.

Section 9 - Pact Duration

- 9.1 This Pact shall be operative from the date IP is signed by both the parties till the final completion of contract for successful bidder and for all other bidders 6 months after the contract has been awarded. Issues like warranty / guarantee etc. should be outside the purview of IEMs.
- 9.2 If any claim is made/ lodged during currency of IP, 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

- 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.

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 – 9**DECLARATION CONFIRMING KNOWLEDGE ABOUT SITE CONDITIONS**

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

To,

(Write Name & Address of Officer of BHEL inviting the Tender)

Dear Sir,

Sub: Declaration confirming knowledge about Site conditions

Ref: 1) GeM Bid Specification No:

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:

ANNEXURE – 10**DECLARATION**

Date: _____

To,

(Write Name & Address of Officer of BHEL inviting the Tender)

Dear Sir/ Madam,

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

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 _____

Supplier Code: _____

Address: _____

ANNEXURE – 11**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 & Address of Officer of BHEL inviting the Tender)

Dear Sir,

Sub: Declaration for relation in BHEL

Ref: 1) GeM Bid Specification No:

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/Contractor.

ANNEXURE – 12

**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 & Address of Officer of BHEL inviting the Tender)

Dear Sir,

Sub: Declaration reg. minimum local content in line with Public Procurement (Preference to Make in India), Order 2017-Revision, dated 04th June, 2020 and subsequent order(s).

Ref: 1) GeM Bid Specification No:

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 04.06.2020 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. _____

3. _____ 4. _____

...

Thanking you,
Yours faithfully,

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

** - Strike out whichever is not applicable.

Note:

1. Bidders to note that above format, duly filled & signed by authorized signatory, shall be submitted along with the techno-commercial offer.
2. In case the bidder's quoted value is in excess of Rs. 10 crores, the authorized signatory for this declaration shall necessarily be the 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).
3. In the event of false declaration, actions as per the above order and as per BHEL Guidelines shall be initiated against the bidder.

ANNEXURE – 13**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 & Address of Officer of BHEL inviting the Tender)

Dear Sir,

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

Ref: 1) GeM Bid Specification No:

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. 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).*

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.

ANNEXURE – 14**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 MICR 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

ANNEXURE – 15**POWER OF ATTORNEY for SUBMISSION OF TENDER**

(To be typed on non-judicial stamp paper of minimum Rs. 100/- and Notarized)

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 GeM Bid No: _____, 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

ANNEXURE – 16**PROFORMA OF BANK GUARANTEE FOR EARNEST MONEY**

(On non-Judicial paper of appropriate value)

Bank Guarantee No.....

Date.....

To

(Employer's Name and Address)

.....

Dear Sirs,

In accordance with the terms and conditions of Invitation for Bids/Notice Inviting Tender No.....¹(Tender Conditions), M/s. having its registered office at² (hereinafter referred to as the 'Tenderer'), is submitting its bid for the work of.....³ invited by⁴.(name of the Employer) through its Unit at(

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 of⁵ 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.

.....⁵ (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 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.....⁶ 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 the⁷ we shall be discharged from all liabilities under this Guarantee.

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

Courts at 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.....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

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.....

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*

⁷ *Date of Expiry of Claim Period*

Notes:

1. Units are advised that expiry of claim period may be kept 3-6 months after validity date. It may be ensured that the same is in line with the agreement/ contract entered with the Vendor.
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 Contractor/sub-contractor /vendor/ Bank issuing the guarantee.
3. In line with the GCC, SCC or contractual terms, Unit may carry out minor modifications in the Standard BG Formats. If required, such modifications may be carried out after taking up appropriately with the Unit/Region's Law Deptt.
4. **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.

ANNEXURE – 17**BANK GUARANTEE FOR PERFORMANCE SECURITY**

(On non-Judicial paper of appropriate value)

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 _____¹ through its Unit at.....(name of the Unit) having awarded to (Name of the Vendor / Contractor / Supplier) with its registered office at _____² 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.....dated³ valued at Rs.....⁴ (Rupees -----) / FC.....(in words.....) for⁵ (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 -----⁶ (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.

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.....⁷ 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 the⁸ we 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 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.....⁶
- b. This Guarantee shall be valid up to⁷
- c. Unless the Bank is served a written claim or demand on or before⁸ 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

⁸ DATE OF EXPIRY OF CLAIM PERIOD

Note:

1. Units are advised that expiry of claim period may be kept 3-6 months after validity date. It may be ensured that the same is in line with the agreement/ contract entered with the Vendor.
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 line with the GCC, SCC or contractual terms, Unit may carry out minor modifications in the Standard BG Formats. If required, such modifications may be carried out after taking up appropriately with the Unit/Region's Law Deptt.
4. **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.

ANNEXURE – 18**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	Standard Chartered Bank
16	Indian Overseas Bank
17	Kotak Mahindra Bank Limited
18	Federal Bank Limited
19	Hongkong and Shanghai Banking Corporation Ltd

ONE SIDED**NON DISCLOSURE AGREEMENT**

THIS NON DISCLOSURE AGREEMENT (this "**Agreement**") entered into on this day of June, 20.. (the "**Effective Date**")

By and Between

Bharat Heavy Electricals Limited (a Public Sector Undertaking of Government of India), a company incorporated under the Companies Act, 1956 and having its registered office at having its registered office at "BHEL House", Siri Fort, New Delhi - 110 049, India (hereinafter referred to as "**BHEL**" of which the expression shall unless repugnant to the context or the meaning thereof be deemed to include its successors and permitted assigns) (hereinafter referred to as "BHEL"),

And

ABC, a Company incorporated under the laws of and having its registered office at (hereinafter referred to as "ABC").

The party who is receiving information would be referred as Receiving Party and the party who is disclosing information would be referred as Disclosing Party, as the context requires.

WHEREAS

- (A) The Disclosing Party and The Receiving Party wish to explore and discuss the potential of certain mutually advantageous business relationships for _____, for the purpose ofproducts in India ('the Purpose');
- (B) The Disclosing Party, in furtherance of such business relationship, will disclose certain information, including but not limited to, scientific, development, financial, marketing, sales or other proprietary information;
- (C) The Receiving Party and the Disclosing Party wish to protect and preserve the confidentiality of such information provided by the Disclosing Party to the Receiving Party by preventing its unauthorized disclosure and use, in accordance with the terms of this Agreement; and
- (D) The Receiving Party agrees to hold such information in strict confidence and not to disclose or to use, directly or indirectly, for any purpose other than the performance of this Agreement

NOW, THEREFORE and in consideration of the promises made herein, their mutual and individual interests, and other good and valuable consideration, the receipt and sufficiency of all of which is hereby acknowledged, the Parties agree as follows:

1. **PURPOSE:** Purpose to ne mentioned here.
2. **DISCLOSING PARTY.** means a Party that discloses the confidential information to the other party under this agreement.
3. **RECEIVING PARTY** means a Party that receives the confidential information from the other party under this agreement.
4. **Confidential Information**
 - (a) Subject to the provisions of this Agreement, all information disclosed by the Disclosing Party to the Receiving Party, shall be deemed to be "Confidential Information" for the purposes of this Agreement.
 - (b)
 - (i) It is clarified that Confidential Information shall include, but is not limited to, any trade secret, technique, strategy, component, concept, program, report, study, memorandum, correspondence, documentation, information, manual, record, data, technology, product, plan, design, procedure, method, invention, sample, notes, summaries, analyses, compilations and other writings, producing any such sample, medium, test data relating to any research project, work in progress, future development, engineering, manufacturing, marketing, pricing, billing, servicing, financing, personnel matter, its present or future products, sales, suppliers, clients, customers, employees, investors, or any other information which the Disclosing Party provides to the Receiving Party whether in oral, written, graphic or electronic form and whether or not such information is identified as such by an appropriate stamp or marking. The Confidential Information shall also include all reports, notes or other material prepared by the Receiving Party based on the Confidential Information and/ or any discussion thereon.
 - (ii) Confidential Information includes information disclosed by the Disclosing Party or by any individual, firm or corporation controlled by, controlling, or under the common control of the Disclosing Party.
 - (c) Confidential Information shall not include any information which the Receiving Party can demonstrate to the Disclosing Party:
 - (1) is now, or has become, through no act or failure to act on the part of the Receiving Party, generally known or available to the public;
 - (2) is known by the Receiving Party at the time of receiving such information as evidenced by its records;
 - (3) is discovered/independently developed by the Receiving Party independent of any disclosures by the Disclosing Party; or

- (4) is hereafter furnished to the Receiving Party by a third party, as a matter of right and without restriction on disclosure.

- (d) Notwithstanding any other provision of this Agreement, the Receiving Party shall be permitted to disclose Confidential Information if such disclosure is in response to a valid order of a court or other governmental body, provided, however, that the Receiving Party shall be required to give prior notice in writing to the Disclosing Party so that the Disclosing Party may seek an appropriate protective order including that the Confidential Information so disclosed be used only for the purposes for which the order was issued;

5. **Disclosure**

In consideration of the disclosure of Confidential Information by, the Recipient hereby agrees to:

- (a) Shall treat as confidential and safeguard all information disclosed and/or its Affiliates in connection
- (b) to hold the Confidential Information in strict confidence and to take all necessary precautions to protect such Confidential Information (including, without limitation, all precautions the Recipient employs with respect to its own confidential materials);
- (c) limit disclosure of any Confidential Information to its concerned directors, officers and employees, (collectively "Representatives") strictly only to who have a need to know such Confidential Information in connection with the Transaction between the parties to which this Agreement relates, and only for that purpose;
- (d) advise its Representatives of the proprietary nature of the Confidential Information and of the obligations set forth 2 in this Agreement and require in writing such Representatives to keep the Confidential Information confidential;
- (e) shall keep all Confidential Information strictly confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information;
- (f) not disclose any Confidential Information received by it to any third party; and
- (g) not to copy or reverse engineer any such Confidential Information.
- (h) not to use the Confidential Information for any purpose other than the Transaction.
- (i) not use the information for any scientific research or any other research.
- (j) Confidential information does not include information:
 - a. Which is generally available to the public other than as a result of a breach of this Agreement; or
 - b. Which is already in the possession of Recipient without restriction prior to any disclosure hereunder: or

- c. Which is or has been lawfully disclosed to Recipient by someone who is free lawfully to disclose the same without confidentiality restrictions; or
 - d. Which is independently developed by Recipient or its Affiliates and no Confidential information disclosed hereunder has been used directly or indirectly in such development; or
 - e. Whose applicable period of confidentiality pursuant hereto, or such other period specifically agreed to in writing by the parties, has ended
- (k) This agreement is not intended to, and does not, oblige either party to enter into any further agreements or to proceed with the transaction, any possible relationship or other transaction. Recipient acknowledges that Discloser makes no representation or warranty whether express or implied, as to the accuracy or completeness of Confidential information, and Discloser disclaims any and all liability unless contained in any definitive agreement.

Each Party will comply with all applicable data protection laws and regulations. Where applicable in particular if one Party receives access to and processes personal data on behalf of the other party in connection with this Agreement and such processing agreement, the Parties will enter into any required data processing of other data protection agreement

6. Restriction on Use

- (a)** The Receiving Party and its Representatives shall hold the Confidential Information received from the Disclosing Party in confidence, and shall not, directly or indirectly:
 - (i) disclose the Confidential Information to any third party; or
 - (ii) use the Confidential Information for any purpose other than the permitted Purpose.
- (b)** The Receiving Party shall not use the Confidential Information for any purpose or in any manner, which would constitute a violation of any applicable laws or regulations, directly or indirectly.
- (c)** The Confidential Information shall be the property of the Disclosing Party. No rights, licenses or interests including, but not limited to, trademarks, inventions, copyrights or patents are implied, transferred or granted in relation to the Confidential Information provided by the Disclosing Party to the Receiving Party under this Agreement.
- (d)** The Receiving Party shall not reproduce the Confidential Information in any form except as needed for the Purpose of the Agreement as set out above or with the prior written consent of the Disclosing Party.

(e) All the title and rights in the Confidential Information shall be reserved with the respective Discloser and/or its licensors and no rights or obligations other than those expressly set out in this Agreement are granted or to be implied from this Agreement. In particular no license is granted to the Recipient, directly or indirectly, by this Agreement relating to any invention, discovery, patent, copyright or other industrial or intellectual property right now or in the future.

7. Protection of Confidential Information

- (a) The Receiving Party represents and warrants that it shall protect the Confidential Information received with utmost care and diligence.
- (b) All Confidential Information shall be promptly returned to the Disclosing Party after the Receiving Party's need for it has expired, or upon request of the Disclosing Party, and in any event, upon completion or termination of this Agreement.

8. No Further Warranties

The Confidential Information shall be disclosed on an "**as is**" basis only and without any warranties of any kind, including but not limited to, warranties of merchantability or fitness for a particular purpose.

9. No Further Business Arrangement

Nothing contained herein shall be construed to obligate either Party to enter into any further agreements with each other. This Agreement does not create any other business arrangement, including but not limited to any partnership, agency or joint venture, between the Parties.

10. Term

The term of this Agreement shall commence on the Effective Date and valid for the period of two (2) years. The Disclosing party shall have a right to terminate this Agreement by giving a written notice of 30 days to the Receiving Party. However, the Receiving Party obligation to protect and restrict the use of Confidential Information under this Agreement shall continue until such time as the Disclosing Party discloses it to the public or when it otherwise becomes part of the public domain through no action of the Receiving Party.

11. Injunctive remedy

The Recipient acknowledges that the Confidential Information to be disclosed hereunder is commercially sensitive of a unique and valuable character, and that the unauthorized dissemination of the Confidential Information would destroy or diminish the value of such information. The damages that would result from the unauthorized dissemination of the

Confidential Information would be impossible to calculate. Therefore, Recipient hereby agrees that the affected Discloser shall be entitled to injunctive relief preventing the dissemination of any Confidential Information in violation of the terms hereof. Such injunctive relief shall be in addition to any other remedies available hereunder, whether at law or in equity. The affected Discloser shall be entitled to recover all its damages, costs and fees, including reasonable attorneys' fees, incurred in obtaining any such relief. Further, in the event of litigation relating to this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and expenses.

12. Return of Confidential Information

Recipient shall immediately return and redeliver to the respective Discloser all tangible material embodying the Confidential Information provided hereunder and all notes, summaries, memoranda, drawings, manuals, records, excerpts or derivative information deriving there from and all other documents or materials ("Notes") (and all copies of any of the foregoing, including "copies" that have been converted to computerized media in the form of image, data or word processing files either manually or by image capture) based on or including any Confidential Information, in whatever form of storage or retrieval, upon the earlier of (i) the completion or termination of the dealings between the parties contemplated hereunder; (ii) the termination of this Agreement; or (iii) any breach of this agreement, in which case the party in breach shall also be liable towards the Disclosers under the law and this Agreement or (iv) at such time as the respective Discloser may so request; provided however that the Recipient may retain such of its documents as is necessary to enable it to comply with its document retention policies. Alternatively, the Recipient, with the written consent of the respective Discloser may immediately destroy any of the foregoing embodying Confidential Information (or the reasonably non-recoverable data erasure of computerized data) and, upon request, certify in writing such destruction by an authorized officer of the Recipient supervising the destruction).

13. Notice of Breach

Recipient shall notify the Disclosers immediately upon discovery of any unauthorized use or disclosure of Confidential Information by Recipient or its Representatives, or any other breach of this Agreement by Recipient or its Representatives, and will cooperate with efforts by the Discloser regain possession of Confidential Information and prevent its further unauthorized use.

14. Survival

The provisions of Clauses 8, 9 & 10 of this Agreement, and the rights and obligations contained there under shall not terminate upon termination of this Agreement.

15. Governing Law & Dispute Resolution

The contract shall be governed by the Law for the time being in force in the Republic of India. Civil Court having original Civil Jurisdiction at (name of Place) shall alone have exclusive jurisdiction in regard to all matters in respect of this agreement.

Except as provided elsewhere in this Contract, in case amicable settlement is not reached between the Parties, 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, then, either Party may, by a notice in writing to the other Party refer such dispute or difference to arbitration. The arbitration shall be conducted by three arbitrators, one to be appointed by each of the Parties and a third arbitrator to be appointed by the mutual consent of the two arbitrators so appointed by the Parties.

The Arbitrator shall pass a reasoned award and the award of the Arbitrator shall be final and binding upon the Parties. Subject as aforesaid, the provisions of Arbitration and Conciliation Act 1996 (India) or statutory modifications or re-enactments thereof and the rules made thereunder and for the time being in force shall apply to the arbitration proceedings under this clause. The seat of arbitration shall be _____(the place from where the contract is issued)

16. No Publication

Neither Party shall disclose, publicise or advertise in any manner the discussions or negotiations contemplated by the Agreement without the prior written consent of the other Party, except as may be required by law.

17. Miscellaneous

- (a) This Agreement constitutes the entire understanding between the parties and supersedes any and all prior or contemporaneous understandings and agreements, whether oral or written, between the parties, with respect to the subject matter hereof. This Agreement can only be modified by a written amendment signed by the party against whom enforcement of such modification is sought.
- (b) Any failure by a Discloser to enforce the Recipient's strict performance of any provision of this Agreement will not constitute a waiver of its right to subsequently enforce such provision or any other provision of this Agreement.

- (c) Although the restrictions contained in this Agreement are considered by the parties to be reasonable for the purpose of protecting the Confidential Information, if any such restriction is found by a court of competent jurisdiction to be unenforceable, such provision will be modified, rewritten or interpreted to include as much of its nature and scope as will render it enforceable. If it cannot be so modified, rewritten or interpreted to be enforceable in any respect, it will not be given effect, and the remainder of the Agreement will be enforced as if such provision was not included.
- (d) Any notices or communications required or permitted to be given hereunder may be delivered by hand, deposited with a nationally recognized overnight carrier, electronic-mail, or mailed by certified mail, return receipt requested, postage prepaid, in each case, to the address of the other party first indicated above (or such other addressee as may be furnished by a party in accordance with this paragraph). All such notices or communications shall be deemed to have been given and received (a) in the case of personal delivery or electronic-mail, on the date of such delivery, and (b) in the case of delivery by a nationally recognized overnight carrier, on the third business day following dispatch.
- (e) Parties shall not directly or indirectly assign or transfer it by operation of law or otherwise without the prior written consent of the Disclosers, which consent will not be unreasonably withheld. All obligations contained in this Agreement shall extend to and be binding upon the parties to this Agreement and their respective successors, assigns and designees.
- (f) Paragraph headings used in this Agreement are for reference only and shall not be used or relied upon in the interpretation of this Agreement.

18. Notices

All notices, documents, consents, approvals or other communications (a 'Notice') to be given hereunder shall be in writing and shall be transmitted by first class registered or recorded delivery mail to the person at the address specified herein below, or by telex, facsimile or other electronic means in a form generating a record copy to the party being served at the relevant address for that party shown herein below. Any Notice sent by mail shall be deemed to have been duly served on receipt of delivery confirmation. Any Notice sent by telex facsimile or other electronic means shall be deemed to have been duly served at the time of transmission.

Notice if to:

BHEL, then to,

Phone :

Fax :

E-mail :

ABC, then to,

(Name)_____

(Designation)_____

Phone :

Fax :

E-mail :

19. Counterparts, Telefax Signatures

This Agreement may be signed in two counterparts, each of which is to be considered an original, and taken together as one and the same document.

IN WITNESS WHEREOF, of their Agreement to the terms and conditions contained herein, the undersigned have caused this Agreement to be executed by their duly authorized representatives:

For Bharat Heavy Electricals Limited	For ABC
Signature: Name: Designation:	Signature: Name: Designation:
Signature: Name: Designation:	Signature: Name: Designation:

BOTH SIDED

NON-DISCLOSURE AGREEMENT

THIS AGREEMENT (the "Agreement") is entered into at _____ on this ____ day of _____ ("Effective Date") by and between;

M/s ABC, a company incorporated under the Laws of Companies Act 1956 and having their registered office at New Delhi – (the "**Discloser**" or "ABC"), which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successor in interest, designates, and permitted assigns.

AND

M/S XYZ _____, a company incorporated under the laws of _____ and having its principle place of business _____ and registered office at _____ represented by its _____ (the "**Recipient**" or "_____"), which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successor in interest, designates, and permitted assigns

Where appropriate, the **Discloser**, the **Recipient** shall individually / neutrally be referred to as "**Party**", and both together as **Parties**. WHEREAS....

- A) In connection with (describe transaction/cooperation) or any successor or replacement transaction (the Transaction), the Parties may have exchanged and wish further to exchange certain information on a confidential basis
- B) The Parties wish to define their rights and obligations with regard to such information and protect its confidentiality

1. Definition of Confidential Information

- (a) For purposes of this Agreement, "Confidential Information" means the information as well as any data or information that is proprietary of the Discloser and not generally known to the public, whether in tangible or intangible form, whenever and however disclosed, including, but not limited to: (i) any scientific or technical information, invention, design, process, procedure, formula, improvement, technology or method; (ii) any concepts, reports, data, know-how, works-in-progress, designs, development tools, specifications, computer software, source code, object code, flow charts, databases, inventions, information and trade secrets; (iii) any marketing strategies, plans, financial information, or projections, operations, sales estimates, business plans and performance results relating

to the past, present or future business activities of such party, its affiliates, subsidiaries and affiliated companies; (iv) plans for products or services, and customer or supplier lists. Confidential Information need not be novel, unique, patentable, copyrightable or constitute a trade secret in order to be designated Confidential Information. The Recipient acknowledges that the Confidential Information is proprietary to the respective Discloser and that the Discloser regards all of its Confidential Information as secrets.

- (b) Notwithstanding anything in the foregoing to the contrary, Confidential Information shall not include information which: (i) was known to the Recipient without a duty of confidentiality prior to receiving the Confidential Information from the respective Discloser; (ii) becomes rightfully known to the Recipient from a third-party source not known (after diligent inquiry) by the Recipient to be under an obligation to the respective Discloser to maintain confidentiality; (iii) is or becomes publicly available through no fault of or failure to act by the Recipient in breach of this Agreement; (iv) is required to be disclosed in a judicial or administrative proceeding, or is otherwise requested or required to be disclosed by law or regulation, but only to the extent of any such disclosure, although the requirements of paragraph 4 hereof shall apply prior to any disclosure being made; and (v) is or has been independently developed by the Recipient without violation of the terms of this Agreement or reference or access to any Confidential Information.

2. Disclosure of Confidential Information

In consideration of the disclosure of Confidential Information by, the Recipient hereby agrees to:

- (l) treat as confidential and safeguard all information disclosed and/or its Affiliates in connection
- (m) hold the Confidential Information in strict confidence and to take all necessary precautions to protect such Confidential Information (including, without limitation, all precautions the Recipient employs with respect to its own confidential materials);
- (n) limit disclosure of any Confidential Information to its concerned directors, officers and employees, (collectively "Representatives") strictly only to who have a need to know such Confidential Information in connection with the Transaction between the parties to which this Agreement relates, and only for that purpose;
- (o) advise its Representatives of the proprietary nature of the Confidential Information and of the obligations set forth 2 in this Agreement and require in writing such Representatives to keep the Confidential Information confidential;

- (p) shall keep all Confidential Information strictly confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information;
- (q) not disclose any Confidential Information received by it to any third party; and
- (r) not to copy or reverse engineer any such Confidential Information.
- (s) not to use the Confidential Information for any purpose other than the Transaction.
- (t) not use the information for any scientific research or any other research.
- (u) Confidential information does not include information:
 - a. Which is generally available to the public other than as a result of a breach of this Agreement; or
 - b. Which is already in the possession of Recipient without restriction prior to any disclosure hereunder: or
 - c. Which is or has been lawfully disclosed to Recipient by someone who is free lawfully to disclose the same without confidentiality restrictions: or
 - d. Which is independently developed by Recipient or its Affiliates and no Confidential information disclosed hereunder has been used directly or indirectly in such development; or
 - e. Whose applicable period of confidentiality pursuant hereto, or such other period specifically agreed to in writing by the parties, has ended
- (v) This agreement is not intended to, and does not, oblige either party to enter into any further agreements or to proceed with the transaction, any possible relationship or other transaction. Recipient acknowledges that Discloser makes no representation or warranty whether express or implied, as to the accuracy or completeness of Confidential information, and Discloser disclaims any and all liability unless contained in any definitive agreement.
- (w) Each Party will comply with all applicable data protection laws and regulations. Where applicable in particular if one Party receives access to and processes personal data on behalf of the other party in connection with this Agreement and such processing agreement, the Parties will enter into any required data processing of other data protection agreement.

3. Use of Confidential Information

The Recipient agrees to use the Confidential Information solely for the Transaction and not for any purpose other than as authorized by this Agreement without the prior express written consent of an authorized representative of **parties**. No other right or license, whether expressed or implied, in the Confidential Information is granted to the Recipient hereunder. Nothing contained herein is intended to modify the parties' existing agreement of the Transaction.

All the title and rights in the Confidential Information shall be reserved with the respective Discloser and/or its licensors and no rights or obligations other than those expressly set out in this Agreement are granted or to be implied from this Agreement. In particular no license is granted to the Recipient, directly or indirectly, by this Agreement relating to any invention, discovery, patent, copyright or other industrial or intellectual property right now or in the future.

4. Term

This Agreement will terminate (i) 5 (five) years after its effective date or (ii) upon effectiveness of a Transaction related agreement provided that such agreement contains confidentiality/non-disclosure provisions- whichever occurs earlier.

Notwithstanding the foregoing, the Recipient's and Discloser's duty to hold in confidence Confidential Information that was disclosed during such term as above.

5. Remedies

The Recipient acknowledges that the Confidential Information to be disclosed hereunder is commercially sensitive of a unique and valuable character, and that the unauthorized dissemination of the Confidential Information would destroy or diminish the value of such information. The damages that would result from the unauthorized dissemination of the Confidential Information would be impossible to calculate. Therefore, Recipient hereby agrees that the affected Discloser shall be entitled to injunctive relief preventing the dissemination of any Confidential Information in violation of the terms hereof. The affected Discloser shall be entitled to recover all its damages and costs.

6. Return of Confidential Information

Recipient shall immediately return and redeliver to the respective Discloser all tangible material embodying the Confidential Information provided hereunder and all notes, summaries, memoranda, drawings, manuals, records, excerpts or derivative information deriving there from and all other documents or materials ("Notes") (and all copies of any of the foregoing, including "copies" that have been converted to computerized media in the form of image, data or word processing files either manually or by image capture) based on or including any Confidential Information, in whatever form of storage or retrieval, upon the earlier of (i) the completion or termination of the dealings between the parties contemplated hereunder; (ii) the termination of this Agreement; or (iii) any breach of this agreement, in which case the party in breach shall also be liable towards the Disclosers under the law and this Agreement or (iv) at such time as the respective Discloser may so request; provided however that the Recipient may retain such

of its documents as is necessary to enable it to comply with its document retention policies. Alternatively, the Recipient, with the written consent of the respective Discloser may immediately destroy any of the foregoing embodying Confidential Information (or the reasonably non-recoverable data erasure of computerized data) and, upon request, certify in writing such destruction by an authorized officer of the Recipient supervising the destruction).

7. Notice of Breach

Recipient shall notify the Disclosers immediately upon discovery of any unauthorized use or disclosure of Confidential Information by Recipient or its Representatives, or any other breach of this Agreement by Recipient or its Representatives, and will cooperate with efforts by the Discloser regain possession of Confidential Information and prevent its further unauthorized use.

8. No Binding Agreement for Transaction

The parties agree that neither party will be under any legal obligation of any kind whatsoever with respect to the Transaction by virtue of this Agreement, except for the matters specifically agreed to herein.

9. Applicable Law and Disputes

This Agreement shall be governed by and interpreted in accordance with the laws of India. Any dispute or difference arising out of or in relation to this Agreement, which cannot be resolved through negotiation, would be settled through arbitration in accordance with the Arbitration & Conciliation Act, 1996 time being in force, by appointing sole arbitrator with mutual consent. The seat of arbitration shall be New Delhi. The language of be used in the arbitral proceedings shall be English.

Any dispute or difference arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination or the legal relationships established by this Agreement, which cannot be settled amicably within sixty (60) calendar days from the notification by one Party to the other Party of such dispute, shall be resolved by appointing sole arbitrator with mutual consent. The parties shall choose a retired judge of High court of Delhi from the panel list of Delhi International Arbitration Center, High Court of Delhi with mutual consent within 30 days from the date of failure of settlement. The fee of the arbitrator shall be shared by both the parties. The parties however shall bear the cost of arbitration its own.

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

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

10. Miscellaneous

- (g) This Agreement constitutes the entire understanding between the parties and supersedes any and all prior or contemporaneous understandings and agreements, whether oral or written, between the parties, with respect to the subject matter hereof. This Agreement can only be modified by a written amendment signed by the party against whom enforcement of such modification is sought.
- (h) Any failure by a Discloser to enforce the Recipient's strict performance of any provision of this Agreement will not constitute a waiver of its right to subsequently enforce such provision or any other provision of this Agreement.
- (i) Although the restrictions contained in this Agreement are considered by the parties to be reasonable for the purpose of protecting the Confidential Information, if any such restriction is found by a court of competent jurisdiction/arbitral tribunal to be unenforceable, such provision will be modified, rewritten or interpreted to include as much of its nature and scope as will render it enforceable. If it cannot be so modified, rewritten or interpreted to be enforceable in any respect, it will not be given effect, and the remainder of the Agreement will be enforced as if such provision was not included.
- (j) Any notices or communications required or permitted to be given hereunder may be delivered by hand, deposited with a nationally recognized overnight carrier, electronic-mail, or mailed by certified mail, return receipt requested, postage prepaid, in each case, to the address of the other party first indicated above (or such other addressee as may be furnished by a party in accordance with this paragraph). All such notices or communications shall be deemed to have been given and received (a) in the case of personal delivery or electronic-mail, on the date of such delivery, and (b) in the case of delivery by a nationally recognized overnight carrier, on the third business day following dispatch.
- (k) Parties shall not directly or indirectly assign or transfer it by operation of law or otherwise without the prior written consent of the Disclosers, which consent will not be unreasonably withheld. All obligations contained in this Agreement shall extend to and be binding upon the parties to this Agreement and their respective successors and permitted assigns, and designees.
- (l) Paragraph headings used in this Agreement are for reference only and shall not be used or relied upon in the interpretation of this Agreement.

For Recipient: _____

<<<Mr. _____, designation (_____)>>>

For Discloser : _____

<<<Mr. _____, designation (_____)>>>

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

Witness 1: _____

Witness 2: _____