



**ANNEXURE – A to TENDER BAP/CAPITAL/2012-13/OT-4
STANDARD TERMS & CONDITIONS
(FOR GUIDANCE TO THE SUPPLIERS)**

A] Submission of Offer

TENDERS

Sealed tenders super-scribed with Tender Number, Due Date, Item Name & Supplier's Name shall be addressed to Manager / Purchase dept., Bharat Heavy Electricals Limited, Ranipet – 632 406, Tamilnadu, INDIA, so as to reach him on or before the date and time specified in the tender. It shall contain two separate sealed covers as under:-

Sealed envelope super-scribed "Cover I - Techno-commercial bid", with Tender Number, Item Name, Tender Due Date & Supplier's Name, containing:

- a) The VRF Unit shall be supplied by OEMs of the Air Conditioning Equipment. In case of the VRF AC being quoted by dealers / channel partners, the vendor should produce valid authorized dealership certificate of the associated OEM while submission of offer.
- b) The vendor should have supplied at least two similar / higher capacity (34TR and above) VRF units during the last seven years. Proof of supply to be enclosed.
- c) The vendor has to submit Performance Certificates issued by at least two customers / end users.
- d) **BHEL** reserves the right to verify the information provided by vendor. In case the information provided by vendor is found to be false/ incorrect, the offer shall be rejected
- e) **Business Ratings** given by International Rating sources like D&B etc., If applicable.
- f) **Earnest Money Deposit:** Tenderers will have to necessarily submit Earnest Money Deposit (EMD) for **Rs. 40,000.00**. This EMD is to be submitted in the form of Pay Order or Demand Draft. E-payment may be accepted in case of foreign bidders to the BHEL account as follows;

**Bank Name – State Bank of India
MR Puram, BHEL Project, Ranipet – 632406, India
Account No. – 10664849171
Swift code – SBININBB450**

Note:

- i. EMD by the Tenderer will be forfeited if, the successful bidder / vendor refuses to honour the Order after award of the same on him and/or withdraws his bid and/or unilaterally changes the offer and/or any of its terms & conditions within the validity period.
 - ii. EMD given by all unsuccessful Tenderers shall be refunded on acceptance of award / LOI / PO by successful tenderer. The EMD of the successful bidder will be returned after submission of Contract Execution Bank Guarantee (CEBG).
 - iii. EMD shall not carry any interest.
- g) **BHEL Order Reference:** If same or similar or higher capacity machine/s has been supplied to any other Unit of BHEL, the Purchase Order details (reference number and date) should be enclosed.
 - h) **Complete technical Offer** with details, catalogues, drawings,
 - i) **Un-priced bid** (i.e. Price bid without Price),
 - j) **Filled-in BHEL's Technical Specification format** enclosed with the Tender document,



- k) **Filled-in BHEL's Standard Terms & Conditions** for Procurement of Equipment enclosed with the Tender Document,
- l) **Deviation summary** submitted in two parts – giving the summary of technical deviations separately and the commercial deviations separately if any and
- m) **Shipping weight and cubage** (length, width & height) size of packing, including special shipping arrangements that may be required like flat bed containers, open top containers, number of containers required etc.

Note

- (i) The equipment offered, shall be strictly conforming to the specification and scope attached in each tender, for complete unit including accessories, called for, if any.
- (ii) Optional items offered, if any, would not be considered for evaluation. Procurement of such optional item/s will be at the sole discretion of BHEL.
- (iii) All taxes and duties payable as extra to the quoted price should be specifically stated in offers. Offer from within India shall be submitted along with CST & TIN No. / Tariff No. etc, failing which the purchaser will not be liable for payment of such taxes and duties. Our TIN No. 33243560005, CST No. 239383/11.06.91, BHEL ECC No. AAACB4146PXM008.
- (iv) The un-priced bid is to be used to indicate relevant commercial implications without indicating price.
- (v) Commercial terms including all applicable prevailing taxes and duties are to be indicated clearly in the offer.
- (vi) No changes shall be entertained once the bid is opened unless otherwise specifically agreed to by BHEL.
- (vii) Money values shall not be indicated anywhere in the un-priced bid.
- (viii) Obtaining the Export Licence, if required, is the responsibility of the Overseas Supplier.
- (ix) Time required for inspection (at Supplier's works), erection, commissioning and training the operators of BHEL, at BHEL, should be clearly given in terms of numbers of working days.
- (x) Techno-Commercial bid & its annexure if any should be serially numbered.
- (xi) **Authorization Letter:** Such of those tenderers who wish to participate in the Tender Opening, should come to attend the tender opening with an authorization letter which shall be duly signed and stamped in original, identifying the representative to be deputed for tender opening.

Sealed envelope super-scribed Cover – II (Price bid), with Tender Number, Item Name, Tender Due Date & Name of the Supplier, containing:

Price Bid (i.e. Un-priced bid but with Price duly filled-in) in conformance with the commercial terms as per Cover I.

The Prices shall be indicated in both figures and words, clearly specifying the currency used. Differential foreign currencies may not be used in a given offer.

Wherever there is a discrepancy between the figures and the words, the value as indicated by words shall be taken as the "Price" by the Purchaser. Similarly if there is a discrepancy between the Unit Price and the Value on account of arithmetical error in the computation of the Value (Price x Quantity), only the Unit Price would be taken by the Purchaser for consideration. No corrections would be permitted. Error statements should be completely erased / struck out and fresh values given in the offer, which should be initialled and attested by the tender submitting authority.



Note

- (i) The price break-up should be in line with technical specification / scope of the tender. (All charges like Cost of basic machine, accessories, spares, packing charges, forwarding charges {FOB / FCA}, freight, insurance, training, installation, erection and commissioning charges shall be shown Separately). Under no circumstances shall the Erection & Commissioning charges be included in supply.
- (ii) Additional Charges such as packing and forwarding (P&F) or FOB / FCA may be quoted either on lump sum basis or as a percentage of the basic cost of the machine.
- (iii) Erection & Commissioning (E&C) value will include services to be rendered at BHEL like erection, commissioning, job proving, performance tests, training to operators etc. The E&C value shall be quoted separately by the bidders.
- (iv) Charges for Erection & Commissioning (E&C) may preferably be given on lump-sum basis, clearly indicating the number of working / calendar days for which the charges are applicable. It should be noted by Supplier that Service Tax / Income Tax as levied by the Government of India is deductible from the E&C Charges. The Certificate of Income Tax deduction at source would be furnished by BHEL.
- (v) Where applicable, the charges for erection and commissioning, or for any such service, which involves deputation of experts / engineers from the Supplier, *per-diem* rates are also to be furnished.
- (vi) The estimated E&C value is (5%) of the Basic cost of the machine if not specified otherwise.
- (vii) In case where quoted value is less than the value (in %) specified herein or separate values are not mentioned in the offer, value for E&C portion shall be deemed to be considered as the value indicated herein (5%) and accordingly supply value will be adjusted from that quoted value and balance will be released as E&C payment as per the payment procedure mentioned in "Standard Commercial Terms & Conditions".
- (viii) Quotation for recommended spare parts as per O&M (with break-up) for two years should be indicated in the offer as essential spares.
- (ix) No offer for individual accessories or part of equipment will be accepted.
- (x) No Price Variation Clause will be entertained.
- (xi) In case, there is a discrepancy in the term quoted in techno-commercial bid and price bid, the term as per the techno-commercial bid (Cover I) shall hold good and the commercial term quoted in the Price Bid (Cover II) shall not be considered.
- (xii) In their own interest, all Tenderers are advised to double check their prices, applicable duties and taxes.
- (xiii) The quotation should be valid at least for a period of 180 days from the tender opening date.
- (xiv) Offers should be submitted in three sets, one original and two copies.
- (xv) The offers should invariably contain Signature (ink-signed) & Office Stamp of the Supplier. Any corrections / erasures in the offers should be initialled and stamped.
- (xvi) Indian bidders should submit the prices in Indian Rupees only.
- (xvii) Foreign bidders may submit their bid in their home currency. The currency should be clearly indicated in the un-priced commercial bid as well as in the price bid.
- (xviii) Indian Suppliers shall quote on FOR Destination basis only. Destination is BHEL, Ranipet Stores in India. Foreign Suppliers shall quote on FOB Delivery. Delivery shall be on FOB Sea-Port basis or FCA Air-Port Basis. No other delivery terms shall be acceptable. The Port of delivery shall be a popular and commonly used international port. Freight charges for carriage from port of dispatch to Chennai Sea / Airport shall also be separately indicated in the price bid. (C&F Charges)



- (xix) In case of FOB contracts, shipping arrangements including Insurance, from Port of Delivery to Port of Discharge (Chennai Port, India) and further carriage to BHEL factory at Ranipet would be to the account of BHEL. In case of C&F contracts, Insurance and carriage from Chennai Port to BHEL, Ranipet would be to the account of BHEL. However, Container charges and stuffing charges for container shipment would be to the account of the supplier, where the containers are to be stuffed at the works of the supplier.
- (xx) Port to Port carriage would be arranged through shipping agent nominated by Government of India / BHEL in the case of Sea Shipments and by nominated air-consolidation / freight forwarder agents of BHEL in case of carriage by air and
- (xxi) List of shipping agents would be a part of the Purchase Contract.

B] Opening of Offers

a) **Tenders shall be received up to 1400 Hours (P.M) on the said due date and be opened on the same day at 1430 Hours (P.M). Tenders received after 1400 Hours (P.M) would not be opened. The times indicated are Indian Standard Time (IST).**

b) **As per our purchase policy, any offer received after the appointed date and time specified in the tender document will be rejected. Such offers will not be taken up for consideration.**

c) If a Supplier submits only one envelope / cover containing all the bids or combined bids e.g. techno-commercial bid & price bid together, the bid is liable for rejection. The decision to accept such bids shall be the sole discretion of BHEL, which may be done by BHEL after segregating the bids so received.

d) Such of those Tenderers who wish so, may participate in the Tender Opening by deputing their representatives. The representatives would be allowed to participate in the Tender opening only on submission of a signed and stamped authorization letter issued by the Supplier. Representatives without the Authorization Letter would not be allowed to participate in the Tender Opening. Representatives who turn up after the Tender opening time / start of the Tender opening would not be allowed to participate. After tender opening the details would not be given to such suppliers who choose to be absent at the Tender opening.

e) Details such as the Technical Specification, Price, Delivery Terms, and Delivery Period alone would be read out by the Tender Opening Officer.

f) If so required, BHEL reserves the right to open the Price-Bids, '*in-camera*'. Intimation to this effect would be given to the Supplier by BHEL, before the opening of the Price-Bids.

Note

(i) Bids including all enclosures and supporting documents like catalogues, pamphlets, etc., shall be provided in ENGLISH language only.

(ii) Offers sent by e-mail / fax or any other mode other than the two cover system specified above may be rejected

(iii) At its option, BHEL may consider extending the due date/s for the tender openings. Sufficient notice would be given by BHEL for such extensions.

(iv) Specifications are the basic essence of the "Product". Mere copying of the tender specifications by the Bidder into their offer document shall not make them eligible for consideration. Appropriate and sufficient evidence of conformity by way of drawings, data etc., shall be furnished. There should be an item-by-item commentary on the Specifications demonstrating responsiveness of the offered equipment to the specifications, and all deviations shall be summarized and provided in a "Deviation Statement", listing the points and the deviation against each point, and

(v) At its option BHEL may choose to conduct a Reverse Auction (R/A) or bidding through the Internet for the price, instead of opening the Price-Bids.



C] Evaluation of Offers

- a) The price bids of the technically acceptable offers alone, contained in Cover II shall be opened.
- b) All bidders shall submit their offers by filling-in the format of the BHEL tender documents. Offers received in any other format are liable to be rejected. Offers are asked in BHEL's format for purpose of standardisation - to help in the offer evaluation.
- c) **All the bids, domestic and foreign as well, shall be evaluated based on the "total cost to BHEL" including Supply and Erection & Commissioning after taking into account the applicable loading factors for deviations, if any. (Please read the Standard Commercial Terms and conditions for the loading factors). For evaluation, exchange rate (TT selling rate of State Bank of India) as on scheduled date of tender opening (Part-I in case of two part bid) shall be considered.**
- d) Offer with any pre-conditions (like conditional discounts) for price are liable to be 'Not considered' / 'Rejected'.
- e) In the event of any change in scope arising out of the discussions, such tenderers would be given a chance to submit their revised offer. The revised offer shall contain only the price addition / deletion for such change in the scope, over and above the original scope and price quoted. The original price quoted shall not be changed on account of the technical discussions. However, if there are extensive changes to the specification, BHEL would agree for obtaining fresh price bids from the technically qualified vendors. In order to arrive at the lowest offer BHEL will include cost of essential spares in the total cost unless specified in Technical Specification / Approved Scope otherwise.
- f) BHEL reserves the right to reject without assigning any reasons / load any offer with factors other than already specified for such offers having deviations to BHEL Specifications, Standard Terms & Conditions at its discretion. The decision of BHEL in this regard shall be final.
- g) BHEL reserves the right to reject an offer during tender finalisation / execution of a contract at any of BHEL projects / units due to unsatisfactory past performance.
- h) BHEL reserves the right to operate Purchase / Price preference to Government of India Undertakings, which shall be given as per the guide lines of Government of India.
- i) For the purpose of comparing prices, tender prices shall be converted to Indian rupees and the conversion shall be made by using the **exchange rate (TT selling rate of State Bank of India) as on scheduled date of tender opening (Part-I in case of two part bid)**. This exchange rate will be followed till placement of order.
- j) BHEL reserves the right to conduct negotiations on the "Price" and "Other Commercial Terms and Conditions" with the lowest ranked offeror, and
- k) If so required by BHEL, Supplier may have to share their cost data / costing sheet with BHEL.
- l) *Wherever deviations on the Standard Commercial Terms and Conditions of BHEL, are quoted by the supplier, such deviations would be loaded with "Load-Factors" by BHEL, to arrive at the landed price to BHEL. These load-factors are provided in the "Standard Terms and Conditions". However, BHEL reserves the right to apply, alter, modify, change, delete some or all the load-factors. The decision of BHEL would be final and binding on the tenderer in this regard. This decision would be communicated to the tenderers before the Price Bid Opening. The load-factors, as applicable then will be applied on the Prices, to arrive at the landed price to BHEL.*
- m) *With respect to conformance to BHEL's Terms & Conditions, if any Supplier's offer is found to be not conforming to specific Terms & Conditions, BHEL will have the option of loading such offer with the highest quote submitted by other participating Supplier in the tender. For example, if the offer of a Supplier does not include cost for Spares / FOB Charges / Training Charges, etc., highest price offered by others will be loaded to evaluate the lowest bidder. But the order will be placed on the price quoted by the party without affecting the scope of supply.*



D] Placement of Orders

- a) Orders would be placed on technically acceptable financially lowest offer, based on the evaluation of BHEL.
- b) For acceptable payment terms, guarantees and warranties, and other commercial terms and conditions, please see the detailed standard commercial terms of BHEL.
- c) Any free replacement due to short supply or guarantee replacement attracting customs duty and other statutory levies shall be to Suppliers' account. Else, the same shall be recovered from the Bank Guarantee, / balance payment, agency commission, etc.
- d) The successful vendor shall have to furnish a Contract Execution Bank Guarantee (CEBG) for 10% of the "Total PO value" in the prescribed format within 30 days from the date of Purchase Order but before L/C opening. CEBG shall be from one of the Consortium Banks of BHEL or from a reputed Bank and confirmed by any Consortium Bank of BHEL. All bank charges on account of issuance and confirmation of CEBG whether incurred in India or outside India will have to be borne by the vendor. The list of acceptable banks is given separately.
- e) CEBG shall be kept valid until 30 days after the date of Erection & Commissioning (E&C) certificate, which will be issued on completion of Erection & Commissioning of equipment which includes erection, commissioning, job proving, performance tests, training to operators etc. As prescribed in PO.
- f) If the supplier fails to submit CEBG even within 60 days from the date of PO, BHEL reserves the right to cancel PO and forfeit the EMD given by the supplier. In addition, in such case, action will be initiated in line with extant guidelines for Suspension of business dealings with such suppliers.

E] Execution of the Order

- a) Within 30 days of the receipt of the Purchase Contract, the Supplier shall submit a detailed program for the manufacture and supply of the equipment in the form a PERT Chart and Gantt Chart, which shall be got approved by BHEL. The manufacturing progress will have to be furnished to BHEL periodically (fortnightly) in the form and manner required by BHEL (Usually with photographs and video recordings) with respect to the approved PERT and Gantt Chart.
- b) In the event the Purchase Specification calls for approvals of drawings / Bill of Materials, the same shall be got approved by the Supplier from BHEL before proceeding further. Such approval points shall be called as 'Customer Hold-Points' and only after due approvals / clearances from BHEL, can the Supplier proceed to the next stage of manufacturing the equipment.
- c) BHEL will have the option to pre-inspect the machine / equipment at Supplier's works by BHEL's own inspector or by third party agency appointed by BHEL **but this does not absolve the Supplier from giving the performance as agreed upon.**
- d) Inspection call for carrying out the inspection shall be given 45 days before the scheduled contract delivery date. BHEL requires clear 30 days notice to arrange for inspection. The Inspection date/s given by the Supplier shall be on firm basis.
- e) Deviations, if any pointed out by the visiting Inspection team of BHEL shall be corrected and the machine as per specification shall be dispatched on or before the contract delivery date.
- f) The final inspection for acceptance will, however, be carried out at BHEL's works at Ranipet.
- g) The contract delivery date is the date of ex-works dispatch of the equipment. As carriage from the FOB sea-port is arranged by BHEL, in case of non-availability / delay of vessel / containers, the date of intimation of full readiness for dispatch, to the BHEL nominated shipping agent, by the Supplier shall be reckoned as the date of dispatch.
- h) Travel & other local stay cost for the Engineers sent by BHEL will be to BHEL account.



- i) Any training charges including cost of test pieces, at Suppliers' works shall be borne by the Supplier.
- j) If so required BHEL may send a trial job, for prove out. Such job/s shall be dispatched on CIF nearest Sea / Airport basis by BHEL. The Supplier may identify the nearest port for such delivery. It shall be the responsibility of the Supplier to collect the pieces from the port-of-discharge including taking care of the customs' clearances at their home country and subsequent carriage to their works. The jobs after completed shall be sent along with the equipment. Shipping instructions for returning such test pieces shall be given by BHEL at the appropriate time.
- k) The supplier shall arrange for packing suitably in all respects considering the peculiarity of the material involved for normal transport by sea / air / rail / road and suitably protected against effect of tropical salt laden atmosphere in the event of shipment being delayed at ports / store yards.
- l) Foreign suppliers shall dispatch on FOB agreed Sea-Port / FCA agreed Air-Port basis. Indian suppliers shall dispatch on free delivery (door-delivery) at BHEL stores basis only
- m) On receipt of the consignment at BHEL, intimation would be given to the Supplier. It is the responsibility of the supplier (either by himself or through his authorized nominee) to carry out the verification of the goods jointly with the representative of BHEL. The materials received shall be tallied with the Packing List / Delivery Challan and got acknowledged from BHEL. The materials would be deemed to have been received (but not accepted) by BHEL based only on such joint inspection and a jointly signed protocol. Partial acknowledgment shall not be given by BHEL. Acknowledgement of receipt shall be given only on receipt of all items as per the Purchase Order / Specification.
- n) In case, any shortage is noticed viz-a-viz PO requirement in the main equipment / spares, such shortages shall be replenished by supplier on FOR destination basis without any cost implication to BHEL i.e. Custom Duty and freight charges etc. up to destination for such short supplies shall be borne by the supplier.
- o) Only those documents specified for payment shall be routed through bank for payment. All other documents specified in the Purchase Order shall be sent directly to BHEL, either with the consignment or separately.
- p) Equipment shall be dispatched only after getting the dispatch clearance of BHEL (Dispatch clearance would either be faxed / e-mailed as a scanned document / couriered.) and
- q) Payment for the equipment shall normally be in two instalments. The first instalment would be for 80% of the order value (plus 100% of the duties and taxes, where applicable) through an irrevocable LC. The balance 20% payment would be released along with Erection & Commissioning and other applicable charges if any, after successful commissioning of the equipment. "At Sight L/c is payable after receipt of the documents at the opening bank", for foreign suppliers. Payment to Indian suppliers would be through Electronic Fund Transfer (EFT). The EFT form which is a part of the tender document has to be filled in and submitted by the Indian bidder along with the techno-commercial offer in Cover-I. The detailed payment terms has been described in the "Standard Commercial Terms & Conditions" which is a part of tender document.

F] Erection and Commissioning (E&C)

- a) Erection and Commissioning and due testing of the equipment as per specifications, at BHEL's works shall be the responsibility of the Supplier. Job "Prove out" as specified in the technical specification is a part of the commissioning.
- b) Training of BHEL personnel at BHEL Ranipet for a minimum period of 7 days or time for completion of one job as per ordering specification, whichever is longer, is in the scope of supplier. Training shall include all aspects and facilities of the machine including maintenance and servicing.
- c) Electric Power, Material Handling like Cranes, Consumables like cleaning clothes, oil, small hand tools etc would be provided free-of-cost by BHEL subject to availability. Where BHEL is not able to provide, it shall be the supplier's responsibility to arrange for the same at their own cost.



d) Income tax, Service Tax and any other similar tax / duties /levies imposed by the Government of India, or the State Government, where the BHEL Unit is located, deductible at Source, during the tenure of the Order shall be deducted by BHEL. Such taxes are presently applicable on E & C Charges / Services Charges / Technical Fees and are to be borne by and are to the account of the Supplier / Service Provider. If such taxes / duties / levies / imposts become applicable on any other component of the order the same shall be deducted by BHEL as per the rules and regulations prevailing.

e) Wherever applicable, necessary Tax Deduction at Source (TDS) would be issued. Foreign Suppliers may check existence of any Double Taxation arrangement between the Government of India and their country.

f) Suppliers shall make their own arrangements for the stay of their Engineers / Technicians deputed to BHEL for the erection, commissioning, demonstration, training and the trial run of the equipment. Where available, BHEL would consider extending the facility of stay in their guest house, suitably.

g) The equipment would be considered as commissioned only on issue of "Commissioning / Put-to-Use Certificate" by BHEL engineers which shall be jointly signed with the supplier. This certificate would be issued only after successful installation, erection, commissioning, testing, Job-Proving and demonstration and training of BHEL personnel. It shall be the responsibility of the Supplier to ensure satisfactory commissioning, demonstration and training of BHEL personnel and getting the "Commissioning Certificate". The equipment would be deemed to be accepted by BHEL, only on the issue of the "Commissioning Certificate" and

h) The Guarantee period shall start from the "Date of the Commissioning" of the equipment.

G] Post Commissioning

a) For claiming the balance payment (IInd Instalment – normally the balance 20%), and the Erection and Commissioning Charges, the Supplier has to submit a valid Performance Bank Guarantee (PBG). The format for the PBG is attached. The Guarantee shall be valid, covering the guarantee period with a claim period of three month beyond the validity and shall guarantee the performance of the equipment against all manufacturing defects. (Not withstanding the inspection and acceptance of the equipment by BHEL on commissioning.) The Bank Guarantee shall be for 10% of the value of the order (without the duties and taxes). {The PBG shall be prepared in same way as that of the CEBG}.

b) *As an alternative option to PBG, BHEL will retain an amount equivalent to 10% of order value in lieu of Bank Guarantee which shall be released on expiry of the Guarantee period. Suppliers have to confirm in their offer explicitly as to whether they are accepting for submission of PBG or retention of equivalent amount by BHEL. No interest will be payable by BHEL on the retention amount. In case supplier fails to confirm either of the two options, then their offer may not be considered.*

c) The Bank Guarantee (PBG) shall be released only on expiry of the claim period, provided there has been no claim by BHEL on the Supplier.

d) In the event the equipment malfunctions during the validity of the guarantee, such parts shall be replaced a new as per the requirements of BHEL.

e) Supplier will have to ensure deputation of their Engineers for Erection & Commissioning or for attending to any complaint during guarantee period within 21 days' of intimation. In case of delay BHEL reserves the right to get the job completed at the risk and cost of the Supplier.

H] Termination of Inquiry / Orders:

a) BHEL reserves the right to cancel any inquiry before opening of the tender, without assigning any reason.

b) BHEL reserves the right to cancel any tender and refloat a fresh tender, at any time after opening of the tender, in case it finds the response to its tender as not meeting its requirement. This shall be at the sole discretion of BHEL.



c) BHEL reserves the right to cancel the order for delay in supply beyond penalty period without any monetary or legal obligations and at the risk and cost of the Supplier. Any delay in getting the Export Licence cannot be quoted as an excuse for delayed delivery. BHEL reserves the right to cancel the order without any monetary or legal obligations, in case of delay in this regard.

d) BHEL reserves the right to terminate the contract and to purchase elsewhere at the risk and cost of the seller either the whole of the goods or any part which the supplier has failed to deliver or despatch within the time stipulated or if the same were not available, the best and the nearest available substitute therefor. The supplier shall be liable for any loss which BHEL may sustain by reason of such rick purchases in addition to penalty at the rate mentioned in "Penalty" clause.

I] Miscellaneous

i) Role of Agents

a) The Supplier shall furnish an authenticated copy of the Agency Agreement with his agent detailing the precise relationship between them and their mutual interest in the business so as to consider the offer of Indian Agent for indigenous portion of the supply along with techno-commercial bid. For main equipment, the offer shall be from Principal / Original Equipment Manufacturer only.

b) The Supplier shall furnish original authorization letter for the Indian Agent. The letter shall contain name, contact person, complete postal address including phone, fax and e-mail ID. It shall also spell out the type of services to be rendered by Indian Agent.

c) Indian Agent & Agency commission: In order to maintain sanctity of the tender system, it is mandatory that one Agent cannot represent two Suppliers or quote on their behalf in a particular tender enquiry i.e. an Indian Agent can represent only one Foreign Manufacturer against a particular Tender. If any Agent represents more than one Suppliers all such offers will be rejected. The FOB / FCA / CFR price quoted by the foreign bidder shall include the agency commission. However, the agency commission component payable to their Indian Agents shall be shown separately in the Offer, either as a lump-sum or as a percentage of the quoted price. This will be paid by BHEL in Indian Rupees, on satisfactory commissioning & acceptance of the equipment. For calculation of Rupee equivalent of Agency Commission, exchange rate as prevailing on the date of Purchase Order will be taken and

d) For all discussions, technical clarification and negotiations etc. only the principal would be authorized for interaction with BHEL. The Agent shall not be a party to the discussions / negotiations and would not be normally allowed to participate.

ii) Terms & Conditions of Letter of Credit (L/C) for overseas suppliers (indicated for acceptance).

a) Unconfirmed irrevocable Letter of Credit only will be opened by BHEL. Confirmation of L/C is not preferred by BHEL. L/C confirmation charges in case of confirmed L/C, shall be to Supplier's account only.

b) Bank charges out side India are to the Supplier's account.

c) L/C opening charges will be loaded on the bidders' offer for comparison.

d) In case of L/C extension caused by delays attributable to the Supplier, the L/C extension / commitment charges are to be borne by the Supplier.

iii) Other terms & conditions for letter of credit: - Documents for negotiation

a) Signed Commercial invoice in quadruplicate, for a value not exceeding the draft amount, quoting the import Licence No and certifying goods evidencing shipment / airfreight of the merchandise are as per Applicant's Purchase Order. The amount of invoice after deducting Indian Agent's commission, if any, should not exceed the Credit amount. (The Indian agent's commission, if any, is payable in India in Indian rupees only.)

b) Certificate of Country of Origin, from the country of manufacture, issued by the Chamber of Commerce.



c) One set of Original and two sets of Non-negotiable copies of 'signed', 'unmarked', 'clean on board' Ocean Bill of Lading of a Conference Line Vessel, showing Shipper as "Government of India" Account M/s. Bharat Heavy Electrical Ltd, Unit: BHEL, Ranipet as consignee (The opening bank should not be notified as consignee), marked freight prepaid / payable at destination,

OR

Airway Bills / Air consignment notes / House Airway Bills showing the applicant as the consignee and marked freight payable at destination, indicating flight number and date."

d) Packing list in 4 copies in English, indicating dimensions of each case / bundle / piece shipped, with weight and number of items and description of each item it contains.

e) Certified copy of the fax / e-mail sent by the beneficiary to the applicant giving the following particulars of shipment, as the insurance is to be arranged by the Applicant in India: (a) Purchase Order Number & date; (b) Bill of Lading Number & date / Airway Bill No & dated and Flight no & date; (c) Name of vessel; (d) Port of Loading; (e) Number of case / pieces and weight; (f) Invoice Number, date and value (g) Purchase Order item number's despatched. The E mail / fax is to be sent within 2 working days of shipment.

f) Beneficiary's certificate showing the relevant airmail / courier reference no. and date that the following clauses have been complied with:

1] Beneficiary to forward by Registered Airmail / Courier one complete set of original documents and one set of non-negotiable documents within 3 working days of obtaining shipping documents to Regional Manager (ROD), Bharat Heavy Electricals Ltd, No. 165, Thambu Chetty Street, Chennai – 600 001. India. (Phone: +91-44-25341249, 25341240 / Fax - +91-44-25340787; e-mail: raja@rodchn.bhel.co.in)

2] Beneficiary to courier at his cost 3 copies of complete set of non-negotiable documents to the Officer who released the Purchase Order.

3] Declaration by the Supplier certifying that the contents in each case are not less than those entered in the invoices / packing list and that the invoicing for the supplies effected is strictly in accordance with agreed rates as stipulated in the Purchase Order.

4] Declaration to the effect that all other documents as per purchase order has been couriered to the Purchase order releasing authority.

5) The carrying steamer should be seaworthy, less than 25 years of age and approved by Lloyds / Classification Societies / General Insurance Corporation of India from time to time and

6) Copy of Dispatch Clearance / Instruction issued by BHEL.

iv) Documents to be sent directly to the Purchaser prior to shipment

a) Manufacturer's Original Internal Inspection / Test certificate in triplicate.

b) Manufacturer's Original Guarantee certificate as per Purchase Order.

c) Inspection / Test Certificate issued by BHEL / Inspection agency specified in the Purchase Order. In the event that Inspection prior to dispatch is not carried out by the Engineers of BHEL, the Inspection certificate of the third party so authorized by BHEL and

d) Any other documentation as specified in the Purchase Order.

v) Conditions for transportation:

a) All shipping documents shall show the Purchase Order Number & Date, Import Licence Number & Date, and Letter of Credit Number & Date.

b) Transshipment is strictly prohibited.



- c) Loading on deck is not permitted. The transport document must not contain a provision that goods may be carried on deck.
- d) A transport document which is produced or appearing to have been produced by reprographic, automated or computerized systems or as carbon copy will be accepted as an original document provided that it is marked as original and is ink-signed.
- e) The transport document must contain all the conditions of carriage on the original document.
- f) The transport document must not indicate the place of destination as being different from the port of discharge.
- g) The transport document must not contain the indication 'intended' or similar qualification in relation to the vessel or other means of transport or port of loading or port of discharge.
- h) The transport document must be issued by the carrier or his agent and not by any freight forwarder.
- i) Transport documents bearing reference by stamp or otherwise, to costs additional to the freight charges are not acceptable.
- j) The Bills of Exchange must be dated and presentation of documents for negotiation must not be later than 15 days after the date of shipment / airfreight and in any case not later than the expiry date of the Credit.
- k) Each case / bundle / piece should be painted with 4 " wide yellow colour strip around it for facilitating easy identification at port of discharge.
- l) In case of consignments where individual items as per Purchase Order are listed in the packing list / Invoice, the price and values for each and every item should be indicated.
- m) Material shall be dispatched through the agency nominated by BHEL.
- n) Indian suppliers shall dispatch the equipment, freight prepaid, on door-delivery basis (FOR Destination – Destination: BHEL Stores) through any one of the approved carriers of BHEL only and
- o) In the event there is a delay by the Supplier in negotiating the document, any demurrage / wharfage arising out of the same shall be to the account of the Supplier and shall be deducted from the final payment. Also, in such cases, the Supplier shall authorize the Steamer / Shipping agent to freely release the consignment to BHEL

vi) Delivery period

Not more than 03 months from the date of LOI for despatch. The contractual delivery period will be reckoned from the date of LOI, which shall be binding on the contract. Bidder should quote time period separately for 'Supply' and 'E&C'. The bidders should quote their earliest schedule for Supply and E&C against the schedule indicated in the NIT. BHEL, however, reserves the right to accept an offer not meeting the NIT schedule. Supply period indicated by bidder should include reasonable time required for approval of drawings and other inputs from BHEL. In the Techno-Commercial Bid, the bidder shall submit milestones for various activities in co-relation with Supply and E&C period quoted by him. Delivery is the essence of all contracts for BHEL. Such of those suppliers, who quote for higher delivery would be loaded with a factor of 1/2% per week, subject to a maximum of 4%. Such of those Suppliers whose offer is more than 8 weeks of the delivery specified by BHEL, would not be considered further in the tender, and their Price Bid would not be considered.

vii) Reverse auction (RA) / on-line bidding on internet:

- a) BHEL reserves the right to resort to Reverse Auction Procedure i.e. On-line bidding on Internet, instead of opening the submitted sealed bid. This will be decided after technical evaluation and
- b) In case BHEL decides not to go for Reverse Auction procedure for the tender enquiry, impact price will be asked from all the bidders. In such case, the Price bids and price impacts, if any, already submitted and available with BHEL shall be opened as per BHEL's standard practice.



The General Terms & Conditions for RA are as below:

- i) For a proposed reverse auction, technically and commercially accepted bidders alone shall be eligible to participate.
- ii) BHEL will engage the services of a service provider who will provide all necessary training and assistance before commencement of on line bidding on internet.
- iii) BHEL will inform the Supplier in writing in case of reverse auction, the details of Service Provider to enable them to contact the Service Provider & get trained.
- iv) Business rules like event date, time, start price, bid decrement, extensions etc. also will be communicated through the Service provider for compliance.
- v) Suppliers have to fax the Compliance form in the prescribed format (provided by Service provider) before start of Reverse auction. Without this, the vendor will not be eligible to participate in the event.
- vi) BHEL will provide the calculation sheet (e.g., Excel sheet) which will help to arrive at 'Total landed cost to BHEL' like Packing & forwarding charges, Taxes and Duties, Freight charges, Insurance, Service Tax for Services, loading factors (for non-compliance to BHEL Standard Terms & Conditions), etc. for each of the Supplier to enable them to fill-in the price and keep it ready for keying-in during the Auction.
- vii) Reverse auction will be conducted on scheduled date & time.
- viii) At the end of Reverse Auction event, the lowest bidder value will be known on the network and
- ix) The lowest bidder has to Fax the duly signed filled-in prescribed format as provided on case-to-case basis to BHEL through Service provider within 24 hours of Auction without fail. Failure to do so or if there is any variation between the on-line bid value and the signed document the same will be considered as sabotaging the tender process and will invite disqualification of Supplier to conduct business with BHEL as per prevailing procedure.

J] Force Majeure

If at any time during the currency of this contract, the performance in whole or in part, by either party of any obligations under this contract shall be prevented or delayed by reason, of any war, hostilities, acts of the public enemy, civil commotion, sabotage, fires, explosions, epidemics, quarantine, restrictions or acts of GOD (hereinafter referred to as events), then provided notice of happening of any such events is given by either party to other within ten days from the date of occurrence thereof, neither party shall reason of such events be entitled to terminate this contract nor shall either party have any such non performance and delay is resumed as soon as practicable after such events has come to an end or ceased to exist. If the performance in whole or part of any obligation under this contract is prevented or delayed by reason or any such event claims for extension of time shall be granted for period considered reasonable by the purchaser subject to prompt notification by the seller to the purchaser of the particulars of the events and supply to the purchaser if required of any supporting evidence. Any waiver of time in respect of partial installment shall not be deemed to be a waiver of time in respect of remaining deliveries.

K] Others

- a) In case of any contradiction in the terms and conditions given here and elsewhere in the other documents of the tender, it shall be the responsibility of the tenderer to get it clarified from BHEL. The officer authorized to provide such clarifications is the Manager / Purchase Dept., Phone: 04172 – 254621 & 254343, e-mail jssheriff@bhelrpt.co.in and at@bhelrpt.co.in
- b) Alterations to the conditions of the Tender can be done only by the authorized officer, at any time before the date and time of tender opening. Such changes, if any, would be communicated in writing and / or hosted in the web-page.



- c) If any Supplier attempts to bribe, or pay commission, gift or any advantage or bring in undue influence either by himself or on his behalf any one including a stranger to the tender, in addition to instituting legal proceedings as per the extant laws prevailing, will disqualify the supplier from this tender and all future tenders of BHEL. Decision of the Purchaser would be final in this matter.
- d) The laws governing this transaction shall be the laws in India.
- e) Wherever not specified, INCO Terms 2000 shall be used to interpret the Commercial terms and conditions and
- f) In the event of an order, Supplier shall agree to settlement of disputes or differences, if any, by way of arbitration, in accordance with the "Rule of Arbitration" of the Indian Council of Arbitration.

The offer/s of such of those bidders who do not accept for submission of the CEBG and PBG or confirmation for retaining PBG amount for the value and period specified herein above is likely to be summarily rejected. No correspondence would be entertained by BHEL in this regard, on this subject. BHEL specifically draws the need of this mandatory requirement to the notice of all Bidders. The Price Bid of such of those offerers failing to meet this requirement, would not be considered for the Price-Bid Opening.

The language in the tender downloaded by the Bidders shall at no point of time be changed, altered or modified in any manner by the Tenderer. If such changes are made by any tenderer, it shall be considered as tampering with BHEL's specifications and the offer shall be summarily rejected, whenever it is noticed by BHEL. Such Bidders would be disqualified from the Bidding Process and their offers would be forfeited / Bank Guarantees invoked. They would not be allowed to participate in future tenders of BHEL.