



GENERAL TERMS AND CONDITIONS (GTC) OF TENDER ENQUIRY

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GENERAL TERMS AND CONDITIONS (GTC) OF TENDER ENQUIRY

SL. NO.	DESCRIPTION
1	General:
A	These General Terms & Conditions (GTC) shall apply to all tender enquiries, notice inviting tenders (NIT), request for quotations concerning the supply of goods and / or rendering of services to Bharat Heavy Electricals Ltd., FSIP, Jagdishpur (hereinafter referred to as BHEL or the Purchaser) or its Projects / Customers. Special / supplementary/Notice Inviting Tender (NIT) terms and conditions of enquiry, if any, will override the terms and conditions mentioned in this GTC.
2	General Instructions - Common for Indigenous & Foreign enquiries
	Supplier may also be referred as Bidder/Vendor. The terms are being used interchangeably. A Purchase Order is a document issued by a buyer to a seller indicating the items or services wish to purchase. Purchase Order shall be treated as a contract and both are interchangeable. Order of precedence will be as follows: a. NIT Terms & Conditions b. Special/Supplementary terms and Conditions c. General Terms and Conditions
A	Through E- procurement-
	i. Offer shall be submitted by the bidders in single / two parts as called in Tender enquiry. ii. Bid Part - I Technical cum Commercial bid Bid Part - II Price bid iii. Suppliers shall quote price on BHEL/authorised third party service provider e-procurement site. Any deviation from the price format shall be clearly brought out in the offer Bid part-I. The offer shall be uploaded on BHEL e-procurement site using Class III digital signature. Bidders to put sign and seal on all the uploaded documents. The quotation should be uploaded on the site before due date and time. Part-I of the bid shall contain complete item-wise scope of supply as offered vis-à-vis the scope of supply as per enquiry, all commercial terms and conditions etc. It is expected that bidders shall meet all our technical and commercial requirements and shall not deviate from them.
B	Commercial Conditions quoted by the vendor in any place including as stated in bidder's 'General Terms and Conditions' if any, shall not be binding on the BHEL and the conditions contained in this GTC, including special conditions, if any, for this enquiry shall only prevail, unless agreed by BHEL.
C	Wherever Reverse Auction is called for REVERSE AUCTION (RA): "BHEL shall be resorting to Reverse Auction (RA) (Guidelines as available on https://www.bhel.com/supplier-registration) for this tender. RA shall be conducted among the techno-commercially qualified bidders. Price bids of all techno-commercially qualified bidders shall be opened and same shall be considered for RA. In case any bidder(s) do (es) not participate in online Reverse Auction, their sealed envelope price bid along with applicable loading, if any, shall be considered for ranking." Wherever Reverse Auction is not called for PRICE BID OPENING: Tender shall be finalized via price bid opening of all the techno-commercially qualified bidders in place of RA. Price bid should contain only price of item. Anything other than price of item shall be invalid. <i>Tender finalization mode (RA or Price bid opening) shall be specified in NIT / Special / supplementary terms and conditions of enquiry.</i>
D	The goods offered shall confirm to BHEL specifications and / or National/International standards as mentioned in the Enquiry and the bidder is required to confirm his unconditional acceptance to the same. Vendors, seeking deviations from the specifications and any other conditions, may indicate the same clearly on a separate sheet, with reasons for such deviations. BHEL reserves the right to reject the offer with deviations or load the deviations suitably for evaluation.
E	Wherever, any make/ brand specific requirement is there in tender, the offers shall be submitted directly by Manufacturer/ OEM or his authorized agent/dealer/distributor only. Unsolicited offers shall be summarily rejected. In case both OEM and its Authorized agent/dealer/distributor quote against tender, offer of only OEM shall be considered.



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F	Bid in single part or techno-commercial bid in two-part system (as the case may be) will be opened on the due date. In case of two part bid, price bids of techno-commercially acceptable bidder(s) only shall be opened on the assigned date.
G	In case of changes in scope and / or technical specification and / or commercial terms & conditions, having price implication, techno-commercially acceptable bidders shall be asked by BHEL to submit the impact of such changes on their price bids. In case a bidder opts to submit revised price bid instead of impact called for, then latest price bid shall prevail.
H	The bidders will submit Integrity Pact, duly signed by its authorized signatory, where called for in the enquiry.
I	Bidders who are not registered with BHEL FSIP, Jagdishpur may visit www.bhel.com and may fill up online "Supplier Registration Form" on BHEL link (http://supplier.bhel.in) along-with all the supporting documents.
J	BHEL expects that the bidder must respond to the enquiry. Regret letter, with valid reasons for not participating in the tender will be submitted where the bidder is unable to submit offer. Repeated lack of response (Not Quoted in last four consecutive tenders or all enquiries in last two years whichever is earlier) on the part of vendor may lead to his deletion from BHEL's approved vendor list.
K	Goods shall be properly packed to avoid transit damage. Suitable markings shall be provided to identify the goods with that of the PO No. and the consignee details.
L	Goods shall be consigned to Store Officer, BHEL, FSIP, IA Jagdishpur Dist- Amethi (U.P.) India, unless otherwise specified in the PO.
M	All corrigenda, addenda, amendments, time extensions, clarifications etc. to the tender will be hosted on BHEL website (www.bhel.com)/ https://eprocurebhel.co.in/nicgep/app eProcurement website only.
N	In the course of evaluation, if more than one bidder happens to occupy L1 status, effective L1 will be decided by soliciting discounts from the respective L1 bidders. In case more than one bidder happens to occupy the L1 status even after soliciting discounts, the L1 bidder shall be decided by a toss / draw of lots, in the presence of the respective L1 bidder (s) or their representative(s). Ranking will be done accordingly. BHEL's decision in such situations shall be final and binding.
O	The Purchaser can consider awarding tendered quantities among more than one bidder (after acceptance of L1 price by the other bidders) in the manner and proportion disclosed in the tender conditions. Wherever the numbers of qualified responses (N) are three or more, the distribution shall be limited to (N-1) qualified responses. Distribution in case of two qualified bidders shall be as per BHEL's discretion only. Purchaser can also consider awarding of part of the tendered quantity to other than L1 bidder at L1 counter offered rates, if the quantity offered by the L1 bidder is less than the quantity tendered for. BHEL can also award order to L1 bidder/counter offer accepted bidders in case any bidder is not supplying/delaying the supplies and in this case the distributed quantity shall not be considered in loading share. The loading of Order shares on suppliers will also be subject to their performance (Quality, Delivery and Service) for the supplies made against Purchase Orders. The suppliers with consistence good performance will be preferred over poor performance supplier and encouraged with more order share. Depending upon performance in supplies BHEL shall go to redistribute the pending orders/shares of poor performer to other suppliers whose performance in supplies is better.
P	The bidder shall submit price bid strictly in the price format, wherever provided for, in the enquiry. Any attempt on the part of the bidder to alter the contents of the price bid format in any manner, which in the opinion of BHEL can vitiate the tendering process, will lead to rejection of the bid, <i>besides BHEL taking appropriate punitive action as deemed fit as per policy.</i>
Q	In case the bidder decides to sub-contract part of his activity / work to some of his vendors, details of such intended subcontracting shall be mentioned in the bid. This will however not absolve the bidder from his contractual obligations and responsibilities.
R	Wherever the minimum reserved capacity is called for in the tender, the offers of such bidders, who do not quote for the minimum reserved capacity, are liable to be rejected.
3	Delivery Terms
A	Indigenous Purchase
	Goods shall be delivered on 'FOR Destination' basis (with freight and insurance in bidder scope) to the named destination unless otherwise called for in the enquiry.



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B	Foreign Purchase — Imports
B1	1. Goods shall be despatched by Sea, unless stated otherwise in the enquiry or purchase order. 2. Terms of Delivery for Sea shipment shall be on CFR / CIF basis with 14 days' detention free period for FCL (Full Container Load) Cargo of GP & HC Containers. 3. For other cases - Other than GP & HC Containers, LCL Cargo shall be delivered at Nhava Sheva (JNPT) & Break-bulk Cargo at Mumbai (MPT). 4. For Air consignments, the terms of delivery shall be FCA at BHEL nominated Airport. 5. Freight amount shall be indicated separately in the offer in case of CIP/CFR/CIF. 6. The number of detention free days and destination charges payable to shipping line must be mentioned in your offer and also on the Bill of Lading. 7. Offer received on FOB basis may be considered on an exceptional basis. BHEL will load freight, marine insurance & shipping line port handling charges etc. to work out landed cost at Sea Port. 8. Please visit BHEL website for details of named Air ports and Sea ports. Name of the gateway port so chosen by the Seller shall be indicated by the Bidder in his offer.
B2	1. For delivery of FCL (Full Container Load) cargo, the Bidder shall provide minimum 14 days' detention free period from the date of delivery at Port of Discharge / Place of Delivery (in case of ICD). Wherever the detention free period offered is less than 14 days, the bids shall be loaded for the period short of 14 days' period. 2. <u>Port Congestion charges or any additional charges claimed by the shipping line at Port of Discharge / Place of Delivery shall be to the Seller's account.</u>
C	If bidder insists for Ex Works Delivery in FOR tenders, BHEL shall load for transportation charges as per BHEL transport rate contract. In case of rate contract is not available, BHEL may seek budgetary offer for transportation charges.
4	Delivery Schedule & Completion date
A	• Instead of writing specific date against delivery offered, bidder shall commit delivery period in number of days / weeks / months to suit the delivery period indicated in the enquiry. • Commencement of delivery period shall be reckoned from the date of PO / LOI or any other agreed milestone. • Seller shall deliver the goods in the manner and schedule agreed under the Purchase order. • Goods shall be delivered within contractual period or any extension thereof, if any, granted by the Purchaser. • If delivery is linked to approval of documents, time for submission of such documents to be indicated and delivery period to be indicated from approval of documents. This delivery schedule will be considered for processing delivery extension, wherever applicable. • BHEL reserves the right to cancel the order if material is not delivered within PO scheduled delivery. • In case of unsatisfactory performance on quality / delivery BHEL will have right to discontinue the contract in part or full.
B	In case of foreign supplies, the date of Bill of Lading (B/L) or AWB shall be taken as actual date of delivery.
C	In case of Indigenous bidders, the date of delivery at named destination in India shall be taken as contractual delivery completion date where delivery terms are FOR destination.
D	In case of 'Ex-works' delivery terms, the date of Intimation by supplier to lift the material or date of invoice, whichever is earlier, shall be the contractual delivery completion date.
5	Transit Insurance
	Except where delivery terms are agreed on CIF basis for Imports & FOR destination basis for indigenous purchases, transit insurance will be covered by BHEL under its Open Marine Transit Insurance Policy. Seller shall inform dispatch particulars with value of consignment to the Purchaser within 07 days of dispatch for BHEL to arrange insurance coverage in its policy. Failure on the part of seller to inform dispatch particulars will make him liable to pay for any transit damages / losses suffered by the Purchaser.
6	Force Majeure
	Notwithstanding anything contained in the contract, neither the Seller nor the Purchaser shall be held responsible for total or partial non-execution of any of the contractual obligations, should the obligation become unreasonably onerous or impossible due to occurrence of a 'Force Majeure' which directly affects the obligations to be performed by the Purchaser or the Seller; Such events include war, military operations of any nature, blockages, revolutions, insurrections, riots, civil commotions, insurgency, sabotage, acts of public enemy, fires, explosion, epidemics, quarantine restrictions, floods, earthquake, or acts of God, restrictions by Govt. authorities; over which the Seller or the Purchaser has no control.



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	The party claiming to be affected by force majeure shall notify the other party in writing without delay, within two weeks on the intervention and on the cessation of such circumstance. Extension of time sought by the Seller along with supporting evidence and so granted by the Purchaser for the supply/ work affected, if any, shall not be construed as waiver in respect of remaining deliveries. Rescheduling of deliveries on account of force majeure conditions, if so agreed by the Purchaser, will not entail the Seller to claim any increase in the price on whatsoever account. Notwithstanding above provisions, Purchaser shall reserve the right to cancel the order/ Contract, wholly or partly, in order to meet the overall project schedule and make alternative arrangements. If deemed necessary, Purchaser may takeover partly processed material at a mutually agreed price.
7	LD/Penalty for delayed delivery/ performance. Subject to force majeure conditions, I. LD shall be 0.5 % of the total order value per week of delay or part thereof subject to a maximum of 10% of the total order value. II. In case of staggered delivery schedule, LD shall be 0.5 % of the undelivered portion per week of delay or part thereof subject to a maximum of 10% of the total order value of that lot. However, even if a staggered delivery schedule for Capital Machine / BOPs is agreed, the LD cap will be levied on total order value and not undelivered portion of the order value. III. In case of any amendment/ revision, the LD shall be linked to the amended / revised PO value. Any loading on LD/penalty clause shall be to the extent to which it is not agreed to by the bidder (at offered value). The same shall be intimated separately prior to price bid opening. Note: "Recovery of LD will not include GST". Date of Gate entry at BHEL shall be considered as date of material receipt for LD purpose except Ex Works PO. In case the contractually agreed delivery date falls on a holiday in BHEL FSIP Jagdishpur, the next working day shall be taken as contractual delivery date for compliance and applicability of LD / penalty. In case any supply is rejected by BHEL, Receipt date of replacement material shall be considered as date of material receipt for LD purpose.
B	Risk Purchase If the material is not supplied within the agreed delivery period, BHEL reserves the right to cancel the order and purchase the material from alternate source (s) at the Risk and Cost of the Seller along with appropriate action as per BHEL extant rules. In such an event, it shall be obligatory on the part of seller to make good any loss suffered by the purchaser. Amount to be recovered in case of risk purchase shall be calculated as below: Risk and Cost against Balance Work : Risk & Cost Amount= [(A-B) + (A x H/100)] Where, A = Value of Balance scope of Work/ Supply (*) as per rates of new contract B = Value of Balance scope of Work/ Supply (*) as per rates of old contract being paid to the contractor/ supplier at the time of termination of contract i.e. inclusive of PVC & ORC, if any. H = Overhead Factor to be taken as 5 In case (A-B) is less than 0 (zero), value of (A-B) shall be taken as 0 (zero). *(Balance scope of work/ supply) Difference of Contract Quantities and Executed Quantities as on the date of issue of Letter for 'Termination of Contract', shall be taken as balance scope of Work/ Supply for calculating risk & cost amount. Contract quantities are the quantities as per original contract. If, Contract has been amended, quantities as per amended Contract shall be considered as Contract Quantities. Items for which total quantities to be executed have exceeded the Contract Quantities based on drawings issued to contractor from time to time till issue of Termination letter, then for these items total Quantities as per issued drawings would be deemed to be contract quantities. Substitute/ extra items whose rates have already been approved would form part of contract quantities for this purpose. Substitute/ extra items which have been executed but rates have not been



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	approved, would also form part of contract quantities for this purpose and rates of such items shall be determined in line with contractual provisions. However, increase in quantities on account of additional scope in new tender shall not be considered for this purpose. NOTE: In case portion of work is being withdrawn, contract quantities pertaining to portion of work withdrawn shall be considered as 'Balance scope of work/supply' for calculating Risk & Cost amount.
8	Indian Agents and Agency commission
A	BHEL prefers to deal directly with Foreign vendor, wherever required, for procurement of Goods. However if the Foreign Principal desires to avail services of an Indian Agent, then the Principal should ensure compliance to "regulatory guidelines" which will require submission of an agency agreement.
B	The CFR / CIF price quoted will be deemed to be inclusive of Indian Agency commission. Agency commission as disclosed by the bidder in his quoted CFR / CIF price will be paid in Indian Rupees on receipt & acceptance of Materials or it's installation at destination, as the case may be. The lower of the TT buying rate prevailing on the date of technical bid opening or price bid opening shall be considered for computation of Agency commission.
C	In a tender either the Indian Agent on behalf of Principal / OEM or the Principal / OEM itself can bid, but both cannot bid simultaneously for same item / product in the same Tender. In case bids are received from both the Principal / OEM and the agent, bid received from the agent will be ignored.
D	If an agent submits Bid on behalf of the Principal / OEM, the same agent shall not submit bid on behalf of another Principal / OEM in the Tender, for the same Item / Product.
9	Documentation:
A	Indigenous Purchase
	Seller shall arrange to send to the consignee, Original Tax invoice (Buyer's copy and duplicate for Transporter), Commercial invoice in duplicate, consignee copy of LR & 2 sets each of Packing list, Test certificate, Guarantee / Warranty certificate, O & M manuals (where applicable), immediately on despatch of the goods. The distribution of such documents will be specified in the Purchase order.
B	Foreign Purchase — Imports
	A. Vendor to share immediately Bill of lading with Import Invoice and packing list of material at mssea@bhel.in and incorporate following detail in the bill of lading: a. Import & export Code (IEC) of importer; b. GST Identification No (GSTIN) of importer; c. Official email id of importer (to be used for correspondence by shipping lines and Customs) – mssea@bhel.in to be included. B. Seller shall send 1 set of following documents, in English, within 7 days of B/L date / 1 day of AWB date by courier to the Purchaser. - Express / Original 'Clean on board' Bill of Lading / AWB. - One set of Commercial Invoice, Packing list indicating container-wise Gross weight, Net weight, CBM volume, No. of packages with Dimensions of each package. - Original Certificate of Country of Origin issued by Chamber of Commerce. - One set of Original Test Certificates and O&M Manual where called for. - Fumigation / Phyto Sanitary Certificate wherever cargo is packed in wooden packing or packing of plant origin material is used. - Supplier should additionally forward 2 sets of original documents mentioned at point 1 to 5 along with original bill to Lading through any international courier service / registered airmail or AWB by captain's mail within three days of obtaining the same directly to the following: (i) Head- M.S Regional Operations Division BHEL 14th Floor Centre-1 World Trade Centre, Cuffe Parade Colaba, Mumbai 400 005 INDIA E-mail: mssea@bhel.in (ii) Head- Finance Administrative Bldg. BHEL, FSIP, IA Jagdishpur Amethi, 227817, UP, India



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	And confirm forwarding details to Purchase Officer, BHEL, FSIP, IA Jagdishpur 227817, Amethi , UP, India <u>through email</u>. 7. In case the Seller decides to negotiate all 3 originals of B/L / AWB along with all original documents through negotiating Bank, non-negotiable documents (NNDs) consisting of copy of B/L / AWB & documents mentioned at - B2 to B5 above will be sent by e-mail to the Purchaser at his e-mail address given in the PO. Other documents, as required, will be separately indicated in the Purchase Order. Additional expenditure, if any, incurred by the Purchaser by way of detention / demurrage, resulting out of delay attributable to the Seller in providing Negotiable documents, will be recovered from the Seller. In case any discrepancy is raised by bankers / BHEL with respect to documents submitted, vendor to facilitate clearance of goods through Delivery Order.
C	General
	- For Hazardous chemicals, the materials safety data sheet (MSDS) is to be submitted. - All certificates as called must be sent. BHEL may test any goods supplied and their decision is final irrespective of supplier's certificates. If test certificate and guarantee certificate are not received along with the document stipulated in these specifications, BHEL reserves the right to get the material tested and recover the expenses from the supplier without awaiting supplier's confirmation.
10	Pricing Terms:
	Prices once quoted shall remain firm within the validity or any extension thereof for placement of order, till complete execution of the order, without any escalation / increase for any reason, whatsoever, unless specifically provided for in the Enquiry & PO. In case of foreign vendors, the quoted price shall be taken as inclusive of Third Party Inspection and testing charges as called for in the NIT.
11	Price Validity :
	Unless stated otherwise in the enquiry, offer shall be valid for a period of 90 days from the date of Techno- commercial (Part-I) bid opening date.
12	Taxes & Duties - Indigenous Purchase:
A	Vendor to ensure timely remittance of SGST, CGST, IGST as applicable in time as per law.
B	Vendor to ensure compliance to filing of monthly GST sales return including BHELs supplies by 10 th of next calendar month in the online GST portal wherever applicable.
C	Vendors to declare filing of timely returns and GST remittance / likely remittance / ITC adjustment along with invoice.
D	Vendor to submit invoices compliant with GST invoice Rules
E	Vendors to comply with all statutory provisions as may be applicable at the time of despatch / sale. Any additional financial liability to BHEL on account of non-compliance by vendors shall be borne by them and shall be adjusted / recovered from the vendors. BHEL reserves the right to review the existing offers / contracts for any revision in terms, which may arise due to change in any statutory provisions to ensure that the benefit accrues to BHEL.
F	Vendor to ensure TAX INVOICE submission along with consignment.
G	In respect of cases where the liability to discharge GST is on BHEL under reverse charge mechanism, vendors have to ensure timely submission of invoices and delivery of material / services to BHEL, so that there is no mismatch on both activities. In case there is any additional financial liability on BHEL on account of default on the part of the vendor on submission or delivery of material / services the same shall be passed on to them. In respect of free issue material by BHEL, vendors have to return the processed material within the time line as per the provisions of GST. In case of any additional tax liability on BHEL on account of non-compliance by the vendor, the additional financial implications on BHEL shall be passed on to the vendor.
H	Vendors to provide the applicable HSN / SAC codes as called for in the enquiry.
I	e-Invoicing: In line with notifications of the Government of India in the Ministry of Finance (Department of Revenue), GST invoices are to be uploaded by vendors on the Invoice Registration Portal (IRP) as per applicability of relevant notifications and shall submit the unique 'Invoice Reference Number (IRN)' after digitally signing the e-invoice generated by IRP. It is important to note that where a vendor is required to issue an e-invoice but fails to do so, then such invoice would not be treated as a valid invoice under GST law for availing input tax credit (ITC).



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13	Taxes & Duties - Foreign Purchase — Imports
	The offered prices shall be <u>inclusive of all the Taxes and duties</u> as applicable in the country of bidder / country of dispatch for the quoted CFR / CIF price.
14	Payment Terms-
A	Indigenous: 100% payment in 90 days of receipt (45 days for MSE having UDYAM certificate, registered suppliers as per relevant Act in force), subject to acceptance of material at BHEL, on direct presentation of the documents. In case of despatch of material to site directly, site certification for receipt of materials is required unless otherwise provided for in the PO. GST amount shall be released only after the same is credited in BHEL account in GSTR 2.
B	Foreign: 100% direct Payment payable on 90 th day of B/L / AWB.
	Any deviation from the above payment terms, if accepted (by BHEL), shall be loaded as per below point: (i) Base rate of SBI (as applicable on the date of bid opening; Techno-commercial bid opening in case of two part bids) + 6% shall be considered for loading for the period of relaxation sought by bidders. (ii) Wherever LC payment terms are not offered in NIT and the same is insisted by bidder(s), all LC related bank charges to be incurred by BHEL shall also be loaded. (iii) In case of deviation w.r.t. LC payment terms offered in NIT, the loading shall be done for all LC related bank charges to be incurred by BHEL.
C	Foreign vendors to submit declaration of Permanent Establishment and Business Connection (PEBC) for remittances purpose. Declaration to be submitted in required formats whichever is applicable as per their transaction entered into with BHEL. In the absence of certificates from the vendor, withholding tax at applicable rates along with surcharge and cess will be recovered at the time of remittance to the vendor.
D	Foreign vendors to submit Tax Residency Certificate (TRC) & Form 10 F (for obtaining DTAA benefits) in respect of services. The TRC (tax residency certificate) is to be issued by the authorities of the government of vendor's country. If the informative part of the format (other than residency) is not furnished by the authorities the same may be furnished by the vendor as a declaration.
15	Inspection of Goods
A	The Seller shall give adequate notice, of 1 week (unless otherwise stated) or as mutually agreed period, in writing to the Purchaser (in case Customer inspection is involved) or BHEL appointed TPIA (Third Party Inspection Agency) about the date and place at which the goods will be ready for inspection/ testing, as provided for in the contract.
B	Purchaser or his authorized representative shall be entitled to carry out inspection of material and Workmanship / Surveillance Audit at Seller's premises or at his sub-contractor's premises at all reasonable times during execution of contract; Such inspection, examination and testing, if made, shall not absolve the Seller from his obligations under the contract. Wherever required, BHEL may carry out testing at BHEL's testing Lab and in case of any rejection during such testing, replacement / rectification, as required, will have to be done by Supplier. If BHEL carries out any rectification of such rejected material, such cost will be recovered from Supplier's Bills. In case of Customer inspection as Supplier's Works, inspection clearance to be obtained from Customer and submitted to BHEL.
C	BHEL's representative from unit or Corporate Quality (CQ) is authorised to carry out audits along with TPIA at vendor's works before clearing the items for despatch.
D	All costs related to inspections and re-inspections shall be borne by the Seller. In case of inspection by BHEL and / or BHEL's customer, the cost of to & fro passage and Boarding & Lodging shall be borne by the Purchaser / Customer, unless otherwise specifically agreed. In case of foreign vendors, the cost of third party inspection, where called for, shall be deemed to be included in the quoted price. Seller shall be responsible to provide assistance such as labour, materials, electricity, fuels, stores, apparatus, instruments at his cost, as may be required and as may be reasonably demanded to carry out such tests effectively.



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E	REJECTION: If any goods are rejected, BHEL shall be at liberty to take action as per following: a) Allow the supplier, wherever mutually agreed, to rectify the rejected goods at BHEL's works within reasonable time as fixed by BHEL. - or b) Allow the supplier to make free replacement within a specified period. Rejected goods can be lifted by the supplier there after. - or c) In case payment has been done, allow supplier to refund equivalent value of rejected material by NEFT / RTGS or furnish Bank Guarantee for same amount before lifting the rejected goods. Fresh replacement shall be regulated as per terms and condition of the original Purchase Order. In case payment has not been done, allow the supplier, wherever mutually agreed, to rectify the rejected goods at supplier's works within reasonable time as fixed by BHEL. - or d) Terminate the contract either in part or in whole at the discretion of BHEL and recover the loss, if any, from the supplier. - or e) Any goods rejected by BHEL must be removed by the supplier after making payment through NEFT / RTGS within 45 days from the date of intimation of rejection or 30 days after receipt of the intimation of rejection whichever is earlier. If vendor fails to lift or allow despatch of rejected material at his cost within 90 days from the intimation of rejection, his claim on rejected material shall cease.
16	Guarantee / Warranty and corresponding Repairs / Replacement of Goods
	Manufacturer's works test / infection certificates shall be furnished along with the guarantee that material conforms strictly to the specification for general & special conditions as laid down in the purchase order. Goods shall comply with the specifications for material, workmanship and performance. The Guarantee/ Warranty shall be for a period of 12 months from the date of receipt. If the delivery is found non-compliant during the Guarantee/ Warranty period, leading to rejection, the Seller shall arrange free replacement / repair of goods, within one month from the date of intimation or any mutually agreed period. The rejected goods shall be taken away by the Seller at his cost and replaced on Delivered Duty Paid (DDP) (FOR - BHEL Stores / designated destination basis) within such period. In the event of the Seller's failure to comply, Purchaser may take action as appropriate, including Repair / Replenish rejected goods & disposal of rejections, at the risk & cost of the Seller. In case the defects attributable to Seller are detected during processing of the goods at purchasers/ his subcontractor's works, the Seller shall be responsible for free replacement / repair of the goods as required by the purchaser.
17	Evaluation and Loading Criteria:
	Evaluation of the tender shall be on the basis of delivered cost, i.e. 'total cost to BHEL' w.r.t the technical scope and commercial conditions finalized after techno-commercial clarifications (after considering, inter alia, Customs Duty and GST / Other taxes as applicable/Other applicable loading). Exchange rate (TT selling rate of State Bank of India) applicable on the date of Part-I bid opening shall be considered for evaluation of foreign bids. If the relevant day happens to be a bank holiday in India, then the FOREX rate as on the previous bank working day shall be taken for evaluation. Foreign suppliers shall ensure that the benefits as applicable under Comprehensive Economic Partnership Agreement (CEPA) with Government of India are disclosed in the bid & relevant documents such as Certificate of Country of Origin, issued by the appropriate authority in the country of Export is provided by the vendor along with dispatch documents. Bids shall be evaluated with such applicable benefits. In the event of Seller failing to provide appropriate documents for Purchaser to avail disclosed concessional duty benefits in India, financial loss, so incurred, will be to the Seller's account.
	The evaluation currency for this tender shall be INR (Indian Rupees).
18	Variation of orders
	No variation to the Purchase order is permitted unless authorised in writing and signed by or on behalf of purchase executive, BHEL Jagdishpur.



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19	Sub-contract
	BHEL's order or part thereof, if further to be subcontracted in exceptional circumstances the details of subcontracting and to whom to be subcontracted shall be furnished to BHEL and written permission shall be obtained from BHEL. However, it shall not absolve the supplier of the responsibility of fulfilling BHEL order requirements.
20	Recovery / deductions of amount from supplier
	A) Any amount on account of recovery from consignor / supplier under any condition shall be liable to be adjusted against any amount payable to the consignor / supplier against bills. B) For any deficiency in supplies where deduction is involved, an amount as decided by BHEL, shall be deducted from supplier's bills.
21	Safety During Inspection by BHEL/TPIA
	The vendors shall maintain and ensure sufficient safety measures as required for inspections and test like HV test. Pneumatic test, Hydraulic test Spring test, Bend test, Material handling and safe working environment etc. to enable Inspection Agency for performing inspection. The vendor shall ensure that all the safety precautions specified in factories Act 1948 chapter-IV Section-21 to 41 are complied with respect to equipment's to be inspected. If any test equipment is found not complying with proper safety requirement, then the inspection agency may withhold inspection, till such time the desired safety requirements are met.
22	Non-Disclosure Agreement
	All Drawings and technical documents relating to the product or its manufacture submitted by one party to the other, prior or subsequent to the formation of contract, shall remain property of the submitting party. Drawing, technical documents or other technical information received by one party, shall not without the consent of the other party, be used for any other purpose than that, for which they were provided. Such technical information shall not without the consent of the submitting party, otherwise be used or copied, reproduced, transmitted or communicated to a third party. Patterns supplied by BHEL will remain BHEL's property which shall be returned by the bidder on demand to BHEL. Bidder shall in no way share or use such intellectual property of BHEL to promote his own business with others. <u>BHEL reserves the right to claim damages from the bidder, or take appropriate penal action as deemed fit against the bidder, for any infringement of the provisions contained herein.</u> DRAWINGS, PATTERNS & TOOLS: All drawings, patterns & tools supplied by BHEL or made at BHEL's expense are BHEL's property. These cannot be used or referred to any other party and must only be used in the execution of BHEL's orders. These should be preserved at the supplier's cost for a period of not less than 5 years. Patterns & tools should be returned to BHEL within 90 days of issue of the same.
23	Settlement of Disputes & Arbitration
A	All questions / interpretations regarding subject matter of the Contract shall be decided by the Purchaser on the request of the Seller and the decision of the Purchaser shall be final.
B	In case of dispute, steps shall be taken by the parties to the contract to settle the same through negotiations.
C	In case, dispute is not settled in negotiations, it shall be referred to Conciliator appointed by the competent authority of the Purchaser.
D	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 the sole arbitration of an arbitrator appointed by Head of the BHEL Unit/Region/Division issuing the Contract. 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 New Delhi. The cost of arbitration shall be borne as per award of the Arbitrator. Subject to the arbitration in terms of Clause above, the Courts at New Delhi shall have exclusive jurisdiction over any matter arising out of or in connection with this Contract. Notwithstanding the existence or any dispute or differences and / or reference for the arbitration, the Contractor shall proceed with and continue without hindrance the performance of its obligations under this Contract with due diligence and



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	expedition in a professional manner except where the Contract has been terminated by either Party in terms of this Contract.
	In case of Contract with Public Sector Enterprise (PSE) or Government Department, the following shall be applicable: In the event of any dispute or difference relating to the interpretation and application of the provisions of the Contract, such dispute or difference shall be referred by either Party for arbitration to the sole arbitrator in the Department of Public Enterprises to be nominated by the Secretary to the Government of India in-charge of the Department of Public Enterprises. The Arbitration and Conciliation Act, 1996 shall not be applicable to arbitration under this clause. The award of the arbitrator shall be binding upon the Parties to the dispute, provided, however, any Party aggrieved by such award may make further reference for setting aside or revision of the award to the Law Secretary, Department of Legal Affairs, Ministry of Law and Justice, Government of India. Upon such reference the dispute shall be decided by the Law Secretary or the Special Secretary or Additional Secretary when so authorized by Law Secretary, whose decision shall bind the Parties hereto finally and conclusively. The Parties to the dispute will share equally the cost of arbitration as intimated by the Arbitrator.
E	The Seller shall continue to perform the contract, pending settlement of dispute(s).
24	Applicable Laws and Jurisdiction of Courts
	Indian laws both substantive and procedural, for the time being in force, including modifications thereto, shall govern the Contract including Arbitration proceedings. The competent Courts at New Delhi, India shall have sole jurisdiction.
25	NIL
26	Benefits earmarked for Purchase from Micro & Small Enterprises (MSEs) — Indigenous Purchase
A	MSE bidders must submit the valid UDYAM certificate along with their bid w.r.t. their respective MSE status as per extant norms. Date to be reckoned for determining the deemed validity will be the last date of Technical bid submission. Non-submission of such document will lead to consideration of their bid, at par with other bidders and MSE status of such bidders shall be shifted to Non- MSE supplier till the supplier submit these documents.
B	In tender, participating MSEs quoting price within price band of L1+15% shall also be allowed to supply a portion of requirement by bringing down their price to L1 price in a situation where L1 price is from someone other than a MSE and such MSE shall be allowed to supply up to 25% of total tendered value. In case of more than one such MSE, the supply shall be shared proportionately. A quantum of 6.25% out of 25% quantity, so earmarked, will be reserved for MSE's owned by SC / ST entrepreneurs who submit their bid with relevant documents provided that in event of failure of such MSE(s) to participate in tender process or meet tender requirements and L1 price, 6.25% sub-target for procurement earmarked for MSE(s) owned by SC or ST entrepreneurs shall be met from other MSE(s). Special provision for Micro and Small Enterprises owned by Women: 3% reservation for women owned MSEs under following conditions: - i. In case of Proprietary MSE, proprietor is woman. ii. In case of Partnership MSE, the woman partner is holding at least 51% share in the unit. iii. In case Private limited companies, at least 51% share is held by woman promoters. In case of indivisible tender, the full quantity shall be awarded to L1.
27	Integrity Pact (IP) — Independent external monitors (IEM) For tenders in which integrity pact is applicable, following points stand valid :
A	IP is a tool to ensure that activities and transactions between the company and its bidders / contractors are handled in a fair, transparent and corruption free manner. A panel of Independent External Monitors (IEMs) have been appointed to oversee implementation of IP in BHEL. The IP as enclosed with the tender is to be submitted (duly signed by authorized signatory who signs in the offer) along with techno commercial bid. Only those bidders who have entered into such an IP with BHEL would be competent to participate in the bidding. In other words, entering into this pact would be a preliminary qualification. Name : _____ Address : _____ mail : _____ } As indicated in NIT / enquiry : _____



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B	Please refer Section 8 of the IP for roles and responsibilities of IEMs. In case of any complaint arising out of tendering process, the matter may be referred to the IEM mentioned in the tender. NOTE: No routine correspondence shall be addressed to the IEM (phone / post / e-mail) regarding the clarifications, time extensions or any other administrative queries, etc. on the tender issued. All such clarifications / issues shall be addressed directly to the tender issuing (procurement) department.
28	Fraud Prevention Policy : The Bidder along with its associate / collaborators / sub-contractors / sub-vendors / consultants / service providers shall strictly adhere to BHEL Fraud Prevention Policy displayed on BHEL website www.bhel.com and shall immediately bring to the notice of BHEL Management about any fraud or suspected fraud as soon as it comes to their notice.
29	GSTN nos. of vendors as well as GSTN No of BHEL must be mentioned on the invoices/bills of the materials. Please note that correct HSN code as well as rate of GST be mentioned in the invoice/bills. BHEL FSIP GSTIN Reg. No: 09AAACB4146P2ZC State Code: 09 (Uttar Pradesh)
30	(a) Right of Acceptance: BHEL reserves the right to accept the offers in part or in full BHEL also reserves the right to increase or decrease the tendered quantities. Bidders should be prepared to accept order for reduced/increased quantity without any extra charges. (b) Right of Rejection /Non- Placement of PO: BHEL reserves the right to reject the offers in part or in full or cancel the Tender enquiry-without assigning any reason. BHEL is not bound to place PO of tendered items. (c) Wherever BHEL business interest will contradict with any supplier, offer of that supplier may be rejected.
31	Deviation: Any of the terms and conditions not acceptable to supplier, shall be explicitly mentioned in the tender. Otherwise, it will be treated as that all those terms and conditions as mentioned in the tender are acceptable in Toto.
32	Benefits earmarked to suppliers for Purchase under 'MAKE IN INDIA'
	Compliance to MAKE IN INDIA (MII) circular issued by GOI: "For this procurement, the local content to categorize a supplier as a Class I local supplier / Class II local supplier / Non-Local Supplier and purchase preference to Class I local supplier, is as defined in Public Procurement (Preference to Make in India), Order 2017 dated 04.06.2020 issued by DPIIT. In case of subsequent orders issued by the nodal ministry, changing the definition of local content for items of the NIT, the same shall be applicable even if issued after issue of this NIT, but before opening of Part II bids against this NIT" (Annexure-A Attached).
	As part of minimizing import content, Government of India, vide order no P-45021/2/2017-B.E.-II dated 15.06.2017, under the subject – Public Procurement (Preference to Make in India) -- has set the initiatives to encourage and promote indigenously manufactured goods within India and services provided by sources within India. . In line with this, bidders who manufacture the goods and provide services within India (otherwise referred as local suppliers) are given purchase preference and are entitled to benefits in the tender
A	Definitions
(i)	Local content means the amount of value added in India which shall, unless otherwise prescribed by the Nodal Ministry, be the total value of item procured (excluding net domestic indirect taxes) minus the value of imported content in the item (including all customs duties) as a proportion of the total value , in percent . Presently, the minimum local content required is 50%. The nodal ministry may prescribe a higher or lower percentage in respect of any particular item and may also prescribe the manner of calculation of local content.
(ii)	Local supplier means a supplier or service provider whose product or service offered for procurement meets the minimum local content as prescribed
(iii)	Margin of Purchase Preference means the maximum extent to which the price quoted by a local supplier may be above the L1 for the purpose of purchase preference. Presently the margin of Purchase preference is 20%.
B	Conditions under which preference is given
(i)	In procurement of goods in respect of which the Nodal ministry has communicated that there is sufficient local capacity and local competition, and where the estimated value of procurement is Rs 50 lakhs or less, only local suppliers shall be eligible. If the estimated value of procurement of such goods is more than Rs 50 lakhs, provisions of 32(B) (ii) and 32(B)(iii) shall apply.



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(ii)	If the procurement of goods are not covered by 32(B)(i) and are divisible in nature, the following procedure shall be followed :
a	If L1 is a local supplier, the order for full quantity shall be awarded to local supplier
b	If L1 bid is not from a local supplier, 50% of the order quantity shall be awarded to L1. Thereafter, the lowest bidder among the local suppliers, shall be invited to match the L1 price for the remaining 50% quantity, subject to the local supplier's quoted price falling within the margin of purchase preference, and the order for that quantity shall be awarded to such local supplier subject to matching the L1 price. In case such lowest eligible local supplier fails to match the L1 price or accepts less than offered quantity, the next higher local supplier within the margin of purchase preference shall be invited to match the L1 price for remaining quantity and so on, and the order shall be awarded accordingly. In case some quantity is still left uncovered on local suppliers, then such balance quantity may also be ordered on the L1 bidder.
iii	If the procurement of goods are not covered by 32(B)(ii) and are not divisible in nature, and in procurement of services where the bid is evaluated on the price alone, the following procedure shall be followed :
a	If L1 is a local supplier, the order shall be awarded to local supplier
b	If L1 bid is not from a local supplier, then the lowest bidder among the local suppliers, will be invited to match the L1 price, subject to the local supplier's quoted price falling within the margin of purchase preference, and the order shall be awarded to such local supplier subject to matching the L1 price. In case such lowest eligible local supplier fails to match the L1 price, the local supplier with the next higher bid within the margin of purchase preference shall be invited to match the L1 price and so on, and the order shall be awarded accordingly. In case none of the local suppliers within the margin of preference match the L1 price, then the order may be awarded to the L1 bidder.
C	Exemption of small purchases
	Notwithstanding anything contained at clause 32B above, procurements where the estimated value of procurement is less than Rs 5 lakhs are exempt and purchase preference shall not be accorded in such cases.
D	Verification of local content
(i)	The local supplier, at the time of tender, bidding or solicitation, shall be required to provide self-certification that the item offered meets the minimum local content and shall give details of the location(s) at which the local value addition is made.
(ii)	In cases of procurement for a value in excess of Rs 10 crores, the local supplier shall be required to provide a certificate from the statutory auditor or cost auditor of the company (in case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of local content.
(iii)	False declarations shall be in breach of code of integrity and shall invite action as per guidelines for Suspension of Business dealings with Suppliers
E	In case of any disputes / clarifications, the extant guidelines of Government of India shall prevail.
33	RESTRICTION UNDER RULE 144 (xi) OF THE GENERAL FINANCIAL RULES (GFR) 2017: As per latest government guidelines
I	Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority.
II	"Bidder" (including the term 'tenderer', 'consultant' or 'service provider' in certain contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by such person, participating in a procurement process.
III	"Bidder from a country which shares a land border with India" for the purpose of this Order means: -
a	An entity incorporated, established or registered in such a country: or
b	A subsidiary of an entity incorporated, established or registered in such a country; or



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c	An entity substantially controlled through entities incorporated, established or registered in such a country; or
d	An entity whose beneficial owner is situated in such a country; or
e	An Indian (or other) agent of such an entity; or
f	A natural person who is a citizen of such a country; or
g	A consortium or joint venture where any member of the consortium or joint venture falls under any of the above
IV	The beneficial owner for the purpose of (iii) above will be as under:
1	In case of a company or limited liability Partnership, the beneficial owner is the natural person (s) who, whether acting alone or together, or through one or more juridical person, has a controlling ownership interest or who exercises control through other means. Explanations –
A	“Controlling ownership interest” means ownership of or entitlement to more than twenty-five per cent. Of shares or capital or profits of the company
B	“Control” shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholder’s agreements of voting agreements;
2	In case of a partnership firm, the beneficial owner is the natural person (s) who, whether acting alone or together, or through one or more juridical of capital or profits of the partnership;
3	In case of an unincorporated association or body of individuals, the beneficial owner is the natural person (s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property of capital of profits of such association or body of individuals;
4	Where no natural person is identified under (1) or (2) or (3) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;
5	In case of trust, the identification of beneficial owner (s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.
v	An agent is a person employed to do any act for another, or to represent another in dealings with third person.
34	Conciliation
	BHEL and bidder agree that if at any time (whether before, during or after the arbitral or judicial proceedings), any disputes (which term shall mean and include any dispute, difference, question or disagreement arising in connection with construction, meaning, operation, effect, interpretation or breach of the terms & conditions of order, which the parties are unable to settle mutually), arise inter-se the parties, the same may, be refereed by either party to Conciliation to be conducted through Independent Experts Committee to be appointed by competent authority of BHEL from the BHEL panel of Conciliators Notes: 1. No serving or a retired employee of BHEL/Administrative Ministry of BHEL shall be included in the BHEL Panel of Conciliators. 2. Any other person(s) can be appointed as Conciliator(s) who is/are mutually agreeable to both the parties from outside the BHEL Panel of Conciliators. The proceedings of Conciliation shall broadly be governed by Part-III of the Arbitration and Conciliation Act 1996 or any statutory modification thereof. The details of Conciliations shall be governed by the BHEL Conciliation scheme 2018.
35	Clause for Suspected Cartel Formation
	The Bidder declares that they will not enter into any illegal or undisclosed agreement or understanding, whether formal or informal with other Bidder(s). This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process. In case, the Bidder is found having indulged in above activities, suitable action shall be taken by BHEL as per extant policies/ guidelines.



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	<i>Important Note: The bidder will, when presenting his bid, declare whether other family firms or sister concern affiliates/subsidiary firms are participating in same tender, so as to eliminate the possibility of cartel formation. Annexure-B for declaration is attached.</i>
36	CONFLICT OF INTEREST A bidder shall not have conflict of interest with other bidders. Such conflict of interest can lead to anti-competitive practices to the detriment of Procuring Entity's interests. The bidder found to have a conflict of interest shall be disqualified. A bidder may be considered to have a conflict of interest with one or more parties in this bidding process, if: a) They have controlling partner (s) in common; or b) They receive or have received any direct or indirect subsidy/ financial stake from any of them; or c) They have the same legal representative/agent for purposes of this bid; or d) They have relationship with each other, directly or through common third parties, <u>that puts them in a position to have access to information about or influence on the bid of another Bidder</u>; or e) Bidder participates in more than one bid in this bidding process. Participation by a Bidder in more than one Bid will result in the disqualification of all bids in which the parties are involved. <u>However, this does not limit the inclusion of the components/ sub-assembly/Assemblies from one bidding manufacturer in more than one bid</u>; or f) In cases of agents quoting in offshore procurements, on behalf of their principal manufacturers, one agent cannot represent two manufacturers or quote on their behalf in a particular tender enquiry. One manufacturer can also authorize only one agent/dealer. There can be only one bid from the following: 1. The principal manufacturer directly or through one Indian agent on his behalf; and 2. Indian/foreign agent on behalf of only one principal; or g) A Bidder or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the contract that is the subject of the Bid; or h) In case of a holding company having more than one independently manufacturing units, or more than one unit having common business ownership/management, only one unit should quote. Similar restrictions would apply to closely related sister companies. Bidders must proactively declare such sister/ common business/ management units in same/ similar line of business.
37	SUSPENSION OF THE BUSINESS DEALINGS Defaulter suppliers/contractors shall be treated as per BHEL's Guidelines for Suspension of the Business Dealing with suppliers/contractors. The offers of the bidders who are under suspension as also the offers of the bidders, who engage the services of the firms debarred across BHEL, shall be rejected. The list of firms debarred across BHEL is available on BHEL web site https://www.bhel.com/supplier-registration. 1.0 Integrity commitment, performance of the contract and punitive action thereof: 1.1. Commitment by BHEL: BHEL commits to take all measures necessary to prevent corruption in connection with the tender process and execution of the contract. BHEL will during the tender process treat all Bidder(s) in a transparent and fair manner, and with equity. 1.2 Commitment by Bidder/ Supplier/ Contractor: 1.2.1. The bidder/ supplier/ contractor commit to take all measures to prevent corruption and will not directly or indirectly influence any decision or benefit which he is not legally entitled to nor will act or omit in any manner which tantamount to an offence punishable under any provision of the Indian Penal Code, 1860 or any other law in force in India.



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

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

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

38 BID SECURITY / EARNEST MONEY DEPOSIT (EMD)

Bidders to submit Bid Security / Earnest Money Deposit (EMD) along with their bids (except Micro and Small Enterprises (MSEs) or Startups as recognized by Department for Promotion of Industry and Internal Trade (DPIIT)).

Applicability: The applicability of Bid Security / Earnest Money Deposit (EMD) the subject tender shall be mentioned the special terms and conditions of the tender enquiry/NIT.

Amount of EMD: The amount of Bid Security / Earnest Money Deposit (EMD) the subject tender shall be mentioned the special terms and conditions of the tender enquiry.

Modes of deposit

a) The EMD may be accepted only in the following forms:

- (i) Electronic Fund Transfer credited in BHEL account (before tender opening).
- (ii) Banker's cheque/ Pay order/ Demand draft, in favour of BHEL (along with offer).
- (iii) Fixed Deposit Receipt (FDR).
- (iv) Bank Guarantee from any of the Scheduled Banks.
- (v) Insurance Surety Bonds.

b) In case the EMD is more than Rupees Two lakh and in case of foreign bidders, it may be in the form of a bank guarantee (in equivalent Foreign Exchange amount, in case of foreign bidders) issued / confirmed from any of the scheduled commercial bank in India in an acceptable form. The EMD shall remain valid for a period of 45 (forty-five) days beyond the final bid validity period.

Forfeiture of EMD

- (i) A bidder's EMD will be forfeited if the bidder withdraws or amends its/his tender or impairs or derogates from the tender in any respect within the period of validity of the tender or if the successful bidder fails to furnish the required performance security within the specified period mentioned in the Tender.
- (ii) EMD by the tenderer to be withheld in case any action on the bidder is envisaged under the provisions of extant "Guidelines on Suspension of business dealings with suppliers/ contractors" and forfeited/ released based on the action as determined under these guidelines.

Return of EMD

- (i) Bid securities of the unsuccessful bidders shall be returned to them at the earliest after expiry of the final bid validity period and latest by the 30th day after the award of the contract. However, in case of two packet or two stage bidding, Bid securities of unsuccessful bidders during first stage i.e. technical evaluation etc. shall be returned within 30 days of declaration of result of first stage i.e. technical evaluation etc.
- (ii) Bid security shall be refunded to the successful bidder on conclusion of the order/ receipt of a performance security (if called in the tender).
- (iii) EMD shall not carry any interest.



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39	PERFORMANCE SECURITY To ensure due performance of the contract, Performance Bank Guarantee (PBG) or Security Deposit (SD), hereafter referred as performance security shall be submitted by successful bidder after award of the contract. Performance security is to be submitted by the date specified in the contract. Applicability: The applicability of Performance security the subject tender shall be mentioned the special terms and conditions of the tender enquiry/NIT. Amount of Performance security: The total amount of Performance Security shall be mentioned in contract (which is usually 5% of the contract value, however this value may vary as per BHEL discretion). Modes of deposit: a) Performance security may be furnished in the following forms: (i) Local cheques of Scheduled Banks (subject to realization)/ Pay Order/ Demand Draft/ Electronic Fund Transfer in favour of BHEL. (ii) Bank Guarantee from Scheduled Banks / Public Financial Institutions as defined in the Companies Act. The Bank Guarantee format should have the approval of BHEL. (iii) Fixed Deposit Receipt issued by Scheduled Banks / Public Financial Institutions as defined in the Companies Act (FDR should be in the name of the Contractor, a/c BHEL). (iv) Securities available from Indian Post offices such as National Savings Certificates, Kisan Vikas Patras etc. (held in the name of Contractor furnishing the security and duly endorsed/ hypothecated/ pledged, as applicable, in favour of BHEL). (v) Insurance Surety Bond. (Note: BHEL will not be liable or responsible in any manner for the collection of interest or renewal of the documents or in any other matter connected therewith) b) In case of GTE tenders, the performance security should be in the same currency as the contract and must conform to Uniform Rules for Demand Guarantees (URDG 758) – an international convention regulating international securities. Performance Security is to be furnished by a specified date (generally 14(fourteen) days after notification of the award) and it should remain valid for a period of 60 (sixty) days beyond the date of completion of all contractual obligations of the supplier, including warranty obligations. Forfeiture of Performance Security: The performance security will be forfeited and credited to BHEL's account in the event of a breach of contract by the supplier. Return of Performance Security: Performance Security shall be refunded to the contractor without interest, after he duly performs and completes the contract in all respects but not later than 60(sixty) days of completion of all such obligations including the warranty under the contract. The Performance Security shall not carry any interest.
40	BREACH OF CONTRACT, REMEDIES AND TERMINATION In case of breach of contract, 10% of the contract value will be recovered from SD/ bank guarantee, running bills etc. or legal action may be pursued. Further, levy of liquidated damages, debarment, termination, de-scoping, short-closure, etc., shall be applied as per provisions of the contract.

Self-Declaration on Class I/Class II/Non Local under Make in India
 (Valid for tender value greater than or equal to 5 Lakhs and Less than or equal to 10 Crores)

I, hereby declare on behalf of M/s that my firm is under Class I ()/Class II ()/Non Local () as per Make in India Government Preferences.

(Name:.....)

For M/s

(Seal & Sign)

DECLARATION BY BIDDER

We declare that the following family firms or sister concern affiliates/subsidiary firms are participating in the tender No

1.

2.

3.

.....

I, hereby declare on behalf of M/s and the family firms or sister concern affiliates/subsidiary firms listed above that we are not indulging in cartel formation for tender enquiry No

(Name:)

For M/s

(Seal & Sign)