

BHARAT HEAVY ELECTRICALS LIMITED

HEEP: HARIDWAR-249 403 (UA)

Fax : +91 1334-226462, Phone : +911334-281961 ; Mobile : +91 971417800

E-mail: vibhutis@bhel.in ; raj कुमार1@bhel.in

No. Cap/GTE_Swivel Arm Disc Grinding machine/2025-26

Date: 13.01.2026

Subject: Tender as detailed below:

GLOBAL TENDER ENQUIRY

1. Sealed tenders with the Tender No. and opening date clearly super scribed on the cover are invited for the supply of the following items.
2. Last date for obtaining tender documents and opening of tender is indicated. Tender will be received up to 1:45 PM on opening date and opened on the same day at 2:00 P.M. in the Tender Room.
3. After downloading the tender documents from web site, while submitting the tender as detailed in "Instruction to Bidders", intending vendors must remit the requisite EMD in the form of Electronic Fund Transfer credited in favour of BHEL account (before tender opening)/Banker's cheque/Pay Order / Demand draft in favour of BHEL (along with offer) / Fixed Deposit Receipt (FDR)/Bank Guarantee from any of scheduled banks/Insurance Surety Bonds.
4. BHEL will not be responsible for any type of postal delay / incomplete information from vendor.
5. Other terms and conditions will be as per tender documents.

Sl. No.	Tender No.	Description of Equipment	Qty. (No.)	Last date to submit offer in BHEL HEEP Tender Room	Opening date
1.	<u>3047/C/6410/2025/1109/T1</u>	Swivel Arm Disc Grinding machine	02	28 Days from tender floating date (1:45 PM)	28 Days from tender floating date (2:00 PM)

- PQR enclosed.
- Technical specifications enclosed.
- Test Certificate required.
- Operation and Maintenance Manual Required.
- GST Input Tax credit available.
- Warrantee certificate is required for two years from the date of acceptance of machine as per specification.
- Pre-dispatch inspection is required & vendor shall inform to BHEL at least 45 days before the date of PDI.
- Early Delivery is acceptable.
- Erection & Commissioning is required at BHEL Haridwar.
- Erection & Commissioning charges are 15 % of equipment cost.
- Participating bidders are requested to reply against each and every point of Technical Specification, PQR and Commercial terms and conditions.
- Wherever Service charges like Supervision, Inspection, etc. consequent or incidental to supply are envisaged in tender, such charges should not exceed 2% of the total contract value. It is recommended that such charges be sought on per visit/per day basis, and the evaluation of the tender is to be done including the cost of the service charges.
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- **FOR & ON BEHALF OF BHEL, HARIDWAR /AGM (CAPITAL PURCHASE)**

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No. Cap/GTE_ Swivel Arm Disc Grinding machine/2025-26

Date: 13.01.2026

Global Tender Enquiry No. 3047/C/6410/2025/1109/T1

We are pleased to invite your offer in **TWO PARTS (PART-I & PART-II)** strictly as per enclosed terms and conditions and "Instruction to Bidders", in sealed covers for the under mentioned equipment / systems.

Sl. No.	Description of Equipment	Qty. (No.)	Delivery Required	EMD (Earnest Money Deposit)
1.	<u>3047/C/6410/2025/1109/T1</u>	02	10 months from the date of placement of PO	Rs. 6,00,000/-

Please submit your lowest quotation / offer for the above requirement subject to our terms and conditions. Your offer should reach us on or before the due date by 1:45 PM.

NOTE: The vendors should submit their best price at this stage itself and they will not be allowed to revise the price. Any revision / discount given by vendor subsequently will be ignored.

Any clarification on technical specifications can be obtained from BHEL Haridwar before tender opening.

PRE-BID MEETING:

Pre-bid meeting shall be conducted after one week from the date of enquiry. Bidders are requested to show their willingness to attend the meeting by sending mail to vibhutis@bhel.in; raj कुमार1@bhel.in or ashishkumar.keshari@bhel.in . Accordingly, further details shall be sent to interested bidders.

PURCHASE PREFERENCE TO MAKE IN INDIA

For this procurement, Public Procurement (Preference to Make in India), Order 2017 dated 04.06.2020 & revision dated 19.07.2024 and subsequent Orders issued by respective Nodal Ministry shall be applicable even if issued after issue of this Tender Enquiry but before finalization of contract/ PO/ WO against this tender enquiry.

As per clause 3(b) of Make in India circular 19.07.2024, Class-I Local supplier, Class -II local supplier and Non-Local suppliers shall also be eligible to bid in this tender as this case is a **Global Tender case**.

PURCHASE PREFERENCE TO MICRO AND SMALL ENTERPRISES (MSES)

Purchase preference will be given to MSEs as defined in Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012 dated 23.03.2012 issued by Ministry of Micro, Small and Medium Enterprises and its subsequent Orders/Notifications issued by concerned Ministry. If the bidder wants to avail the Purchase preference, the bidder must be the manufacturer of the offered product in case of bid for supply of goods. Traders are excluded from the purview of Public Procurement Policy for Micro and Small Enterprises. Relevant documentary evidence in this regard shall be uploaded along with the bid in respect of the offered product.

If L-1 is not an MSE and MSE Seller (s) has/have quoted price within L-1+ 15% (Selected by Buyer) of margin of purchase preference/price band defined in relevant policy, such Seller shall be given

opportunity to match L-1 price and contract will be awarded for 100% (selected by Buyer) of total quantity.

EMD (EARNEST MONEY DEPOSIT): EMD shall be applicable for this tender of **Rs. Six Lakh** Only.

EMD shall be waived off in following cases:

- Micro and Small Enterprises (MSEs) or Startups as recognized by Department for Promotion of Industry and Internal Trade (DPIIT).
- Central/ State PSUs/ Government deptts/ Autonomous/ Educational/Research institutions.
- Joint Venture or Subsidiary companies of BHEL.

EMD given by the unsuccessful tenderer shall be refunded on acceptance of award/LOI/ PO by successful tenderer. The EMD of successful bidder shall be returned after submission of Contract execution bank guarantee. EMD shall be not carry any interest.

The EMD will 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.

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. EMD validity will be extended by supplier if required.

Forfeiture of EMD

i) A bidder's EMD will be forfeited if the bidder withdraws or amends its/his tender or impairs or erogates 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.

PLEASE SUBMIT EMD IN PART- I BID. This Part-I bid shall be opened by BHEL at 02:00 PM on the due date, in the presence of authorized representatives of the bidders who may like to be present. The authorized representative should bring authority letter from their principals for attending the bid opening.

BHEL Bank Details for e-remittances of EMD by bidders:

ACCOUNT HOLDER NAME: BHARAT HEAVY ELECTRICALS LIMITED, HEEP, HARIDWAR
STATE BANK OF INDIA
RANIPUR BRANCH,
OPP: BHEL MAIN GATE,
SECTOR-5, RANIPUR,
HARIDWAR, UTTRAKHAND, INDIA
PIN CODE: 249403

SWIFT NO : SBININBB225
CC ACCOUNT NO : 10667995458

IFSC CODE : SBIN0000586

Performance Bank Guarantee/Contract Execution Bank Guarantee

CEBG/PBG will be furnished (for 10% of total PO Value in the prescribed Format) 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:

- a. The Performance Security shall not carry any interest.
- b. 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.
- c. 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.

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.

FOR & ON BEHALF OF BHEL, HARIDWAR / AGM (CAPITAL PURCHASE)

Instruction to Bidders

Clause 1.0 – Tender submission

The tenders have to be submitted in **TWO PARTS (Envelopes)** as described below on or before the due date and time of tender opening:

- a) Part-I (Envelope I) :
 - 1. EMD
 - 2. Pre-Qualifying Requirement (PQR)
 - 3. Techno-Commercial Bid.
- b) Part-II (Envelope II): Price Bid.

Any corrections / amendments shall be properly & fully authenticated with signature.

BHEL will deal directly with the manufacturers / principal vendors and no correspondence with the agents will be entertained. The agents will not be permitted to visit / interact with BHEL on behalf of their principals. Subsequently also, no correspondence of any type will be made with any agent. (All individuals / companies - representing / Advisor /retainership basis or claimed to be part time employees for many OEMs / claiming to be channel or business partner for BHEL work / stockist not registered specifically etc. are Agents). Communications with only those agents who have submitted agency agreement with their respective principal may be done.

Agents shall not be allowed to represent more than one manufacturer / supplier in the same tender. Moreover, either the agent could bid on behalf of the manufacturer / supplier or the manufacturer / supplier could bid directly but not both. In case bids are received from both, the manufacturer / supplier and the agent, bid received from the agent shall be ignored.

The bidders (original manufacturers) will have to submit signed offer/ bid in original directly to BHEL.
Unsigned bids shall be ignored.

The suppliers or their authorized person may be allowed to attend the tender opening, if duly authorized by their principals, through a specific letter for a particular enquiry for specific price bid opening on that particular day. General authorization letter is not acceptable.

Clause 1.1

The Techno-commercial offer and PQR in envelope - I (Part-I) shall comprise of following:

- i) Point wise reply to all the points mentioned in Pre-Qualifying Requirement specified in the tender.
- ii) Relevant documents as requested in Pre-Qualifying Requirement must be attached.
- iii) Complete Technical offer.
- iv) Catalogue of the Equipment, Complete reference of the past supply of equipment for the same or similar specification giving details of customer with Name of the contact person, Fax no, phone no, E-mail if available.
- v) Acceptance of commercial terms by vendor as per **Annexure I**.
- vi) Deviation with reference to specification to be laid down on separate sheet.
Cost of deviation is to be submitted along with the price bid essentially. In case vendor withdraws the deviation clauses the same will be considered for final evaluation,
- vii) Copy of price Bid (without prices).
- viii) Any additional documents (please specify).

While submitting the offer, following points are to be taken care of by the vendor:

- **Documents submitted with the offer/bid by the bidder shall be signed and stamped in each page by authorized representative of the bidder.**

- **If the documents are received in soft form, the same should be transmitted through vendor's authorized e-mail to BHEL tender room e-mail id i.e. tendercell.heep@bhel.in followed by the signed and stamped copy of the same documents.**
- **Documents not signed and stamped in each page by the authorized signatory of the bidder, shall not be accepted and not considered for evaluation of the bid.**

Clause 1.2

The Price Bid in envelope - II (Part-II) shall comprise of following:

The price Bid (with price) for the complete scope strictly as specified in the price Format attached as Annexure-II. If price bid is not submitted along with Part-I bid, the offer will be rejected out rightly.

Note:

If in a price bid, non-conformities/ errors / discrepancies are observed between the quoted prices in figures and that in words the following guidelines will be followed: -

- a) If, in the price structure quoted for the required goods/ services/ works, there is discrepancy between the unit price and the total price (which is obtained by multiplying the unit price by the quantity), the unit price shall prevail and the total price corrected accordingly, unless in the opinion of the purchaser there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price corrected accordingly.
- b) If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
- c) If there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject of (a) and (b) above.
- d) If there is such discrepancy in an offer, the same is to be accepted by the bidder by a target date and in case the bidder does not agree to the decision of the purchaser, the bid is liable to be ignored.

Clause 2.0 – Tender Opening:

- a) Offer should be complete in all respect (i.e. Part-I & Part-II) as described below:

Part I : Part I bid (Envelope-I) comprising EMD (if applicable) or MSE Certificate/ Startups as recognized by Department for Promotion of Industry and Internal Trade (DPIIT) towards exemption of EMD, Pre-Qualifying Requirement (PQR) and Techno-commercial bid as mentioned above.

Part II : Part II bid (Envelope-II) comprising Price Bid.

- b) The tenders shall be opened in **TWO PARTS (Part-I & Part-II)** as described below:

- Part-I containing EMD (if applicable) or MSE Certificate/ Startups as recognized by Department for Promotion of Industry and Internal Trade (DPIIT) towards exemption of EMD, Pre-Qualifying Requirement (PQR) and Techno-commercial bid will be opened on the date and time specified in the tender cover page, in the presence of those vendors, who wish to attend the tender opening.
- Part II containing Price Bid will be opened on a separate date for those vendors who have qualified in the Part I. The opening date of Part II will be intimated in advance to the vendors qualified in Part-I.
- In the event of BHEL calling for supplementary bid, the part-II price Bid along with supplementary priced bid (if necessary) will be opened at a later date of only those bidders who have qualified in

the Part I. The opening date of Part II along with supplementary price bid (if necessary) will be intimated in advance to the vendors qualified in Part-I.

BHEL reserves the right to evaluate vendor's process capability / quality systems etc. by visiting vendor works (if required).

Clause No. 3:

As per directives of CENTRAL VIGILANCE COMMISSION, GOVERNMENT OF INDIA, one agent can not represent two or more suppliers or quote on their behalf in a particular tender. If so found at any stage, BHEL HARIDWAR is likely to cancel Enquiries / POs to such suppliers. Further, such Indian Agent is likely to be de-listed (Black listed for business from BHEL).

Clause No. 4: Conflict of interest among Bidders/Agents

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

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

The Bidder declares that they have read and understood the above aspects, and the bidder confirms that such conflict of interest does not exist and undertakes that they will not enter into any illegal or undisclosed agreement or understanding, whether formal or informal with other Bidder(s), in this regard. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process. **In case, the Bidder is found having indulged in above activities, the same will be considered as a violation of the tender conditions, and suitable action shall be taken by BHEL as per extant policies/ guidelines.**

Clause No. 5: Compliance to Restrictions under Rule 144(xi) of the General Financial Rules (GFRs)

- I Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority. The Competent

Authority for the purpose of this Clause shall be the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade (DPIIT).

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

Note:

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

Clause No. 6: Breach of contract, Remedies and Termination

BREACH OF CONTRACT:

The following shall amount to breach of contract:

- i. Non-supply of material/ non-completion of work by the Supplier/Vendor within scheduled delivery/ completion period as per contract or as extended from time to time.
- ii. The Supplier/Vendor fails to perform as per the activity schedule and there are sufficient reasons even before expiry of the delivery/ completion period to justify that supplies shall be inordinately delayed beyond contractual delivery/ completion period.
- iii. The Supplier/Vendor delivers equipment/ material not of the contracted quality.
- iv. The Supplier/Vendor fails to replace the defective equipment/ material/ component as per guarantee clause.
- v. Withdrawal from or abandonment of the work by the Supplier/Vendor before completion as per contract.
- vi. Assignment, transfer, subletting of Contract by the Supplier/Vendor without BHEL's written permission resulting in termination of Contract or part thereof by BHEL.
- vii. Non-compliance to any contractual condition or any other default attributable to Supplier/Vendor.
- viii. Any other reason(s) attributable to Vendor towards failure of performance of contract. In case of breach of contract, BHEL shall have the right to terminate the Purchase Order/ Contract either in whole or in part thereof without any compensation to the Supplier/Vendor.
- ix. Any of the declarations furnished by the contractor at the time of bidding and/ or entering into the contract for supply are found untruthful and such declarations were of a nature that could have resulted in non-award of contract to the contractor or could expose BHEL and/ or Owner to adverse consequences, financial or otherwise.
- x. Supplier/Vendor is convicted of any offence involving corrupt business practices, antinational activities or any such offence that compromises the business ethics of BHEL, in violation of the Integrity Pact entered into with BHEL has the potential to harm the overall business of BHEL/ Owner.

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

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

REMEDIES IN CASE OF BREACH OF CONTRACT:

- i. Wherein the period as stipulated in the notice issued under Conciliation clause has expired and Supplier/Vendor has failed to remedy the breach, BHEL will have the right to terminate the contract on the ground of "Breach of Contract" without any further notice to contractor.
- ii. Upon termination of contract, BHEL shall be entitled to recover an amount equivalent to 10% of the Contract Value for the damages on account of breach of contract committed by the Supplier/Vendor. This amount shall be recovered by way of encashing the security instruments like performance bank guarantee etc available with BHEL against the said contract. In case the value of the security instruments available is less than 10% of the contract value, the balance amount shall be recovered from other financial remedies (i.e. available bills of the Supplier/Vendor, retention amount, from the money due to the Supplier/Vendor etc. with BHEL) or the other legal remedies shall be pursued.
- iii. wherever the value of security instruments like performance bank guarantee available with BHEL against the said contract is 10% of the contract value or more, such security instruments to the extent of 10% contract value will be encashed. In

case no security instruments are available or the value of the security instruments available is less than 10% of the contract value, the 10% of the contract value or the balance amount, as the case may be, will be recovered in all or any of the following manners:

- iv. In case the amount recovered under sub clause (a) above is not sufficient to fulfil the amount recoverable then; a demand notice to deposit the balance amount within 30 days shall be issued to Supplier/Vendor.
- v. If Supplier/Vendor fails to deposit the balance amount within the period as prescribed in demand notice, following action shall be taken for recovery of the balance amount:
 - a. from dues available in the form of Bills payable to defaulted Supplier/Vendor against the same contract.
 - b. If it is not possible to recover the dues available from the same contract or dues are insufficient to meet the recoverable amount, balance amount shall be recovered from any money(s) payable to Supplier/Vendor under any contract with other Units of BHEL including recovery from security deposits or any other deposit available in the form of security instruments of any kind against Security deposit or EMD.
 - c. In-case recoveries are not possible with any of the above available options, Legal action shall be initiated for recovery against defaulted supplier/Vendor.
- vi. It is an agreed term of contract that this amount shall be a genuine pre-estimate of damages that BHEL would incur in completion of balance contractual obligation of the contract through any other agency and BHEL will not be required to furnish any other evidence to the Supplier/Vendor for the purpose of estimation of damages.
- vii. In addition to the above, imposition of liquidated damages, debarment, termination, de-scoping, short-closure, etc., shall be applied as per provisions of the contract.

Note:

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

(a) In case defaulted Supplier/Vendor is the Sole Proprietorship Firm, any Sole Proprietorship Firm owned by same Sole Proprietor.

(b) In case defaulted Supplier/Vendor is The Partnership Firm, any firm comprising of same partners/ some of the same partners; or sole proprietorship firm owned by any partner(s) as a sole proprietor.

Clause No. 7:

The offers of the bidders who are on the banned list and also the offer of the bidders, who engage the services of the banned firm, shall be rejected. The list of banned firms is available on BHEL website <https://hwr.bhel.com>

NOTE: PLEASE VISIT OUR SITE <https://hwr.bhel.com> FOR GENERAL INSRUCTIONS AND STANDARD TERMS AND CONDITIONS (GISTC) FOR TENDER ENQUIRIES. ALL THE BIDDERS/VENDORS MUST ENSURE COMPLIANCE OF THESE GISTC.

NO INTEREST SHALL BE PAYABLE UPON THE EARNEST MONEY DEPOSIT & PERFORMANCE SECURITY OR AMOUNT PAYABLE TO THE CONTRACTOR UNDER THE CONTRACT.

**For & on behalf of BHEL, HARIDWAR.
AGM (Capital Purchase)**

ACCEPTANCE OF COMMERCIAL TERMS BY VENDOR

S. N.	Terms	Description	Your confirmation
1	Confirmation to General Instructions and standard terms & conditions:	Please confirm each clause of following documents: - 1. General Instructions and standard terms & conditions for bidding against tender enquiry (GISTC Version Sept-2025, Rev:09_For Foreign Bidders and GISTC Version Sept-2025, Rev:10_For Indian Bidders): 2. Risk Purchase Clause of GISTC is not applicable and has been replaced with Breach of Contract mentioned at SL No. 29 of Annexure-I. 3. Additional terms & conditions of tender enquiry. Deviation to conditions mentioned in above documents, if any, shall be submitted along with offer in separate documents. Please note that in case, no-deviation sheet is received along with the offer, it will be considered that all terms and conditions mentioned in above documents are acceptable to the bidder and your offer will be processed accordingly.	
2	Submission of Offer & Documents Checklist:	<u>Superscription on envelopes:</u> The following shall be super scribed on the envelopes: Kindly confirm that the following documents have been submitted along with your offer: <u>PART-I</u> 1. TENDER NO. AND ITEMS DESCRIPTION 2. DUE DATE FOR OPENING. 3. EMD (IF APPLICABLE) OR MSE CERTIFICATE TOWARDS EXEMPTION OF EMD 4. PRE- QUALIFYING REQUIREMENT (PQR) 5. TECHNO-COMMERCIAL BID 6. Un-Price Bid Copy with mentioning only Taxes and Duties (NO PRICE TO BE MENTIONED IN UN-PRICE BID COPY) <u>PART-II</u> 1. TENDER NO. AND ITEMS DESCRIPTION 2. DUE DATE FOR OPENING OF PART-I 3. PRICE BID <u>Clause 1.1:</u> The Part-I & part-II shall be individually sealed and super scribed as indicated above and shall be enclosed further in the envelop duly sealed and super scribed as: "TENDER FOR (ITEM NAME) AGAINST TENDER NO.----- ----- DUE ON -----CONTAINING PART-I & PART-II OF THIS OFFER." Vendor's full name and address should be clearly mentioned on the envelope and shall be addressed to: To,	

		Tender Room, 4th Floor, Main Administrative Building, Heavy Electrical Equipment Plant, BHEL, Ranipur HARIDWAR- 249403, Uttarakhand. Note: Please note that all details required in supplier registration form to be filled and submitted through online supplier registration portal on https://hwr.bhel.com along with complete documents.	
3	Schedule of Technical Deviation and Schedule of Commercial Deviation.	Schedule of Commercial Deviation and Schedule of Technical Deviation has been annexed along with this tender enquiry. All the Bidders are directed to mention any commercial or Technical deviation in Schedule of Commercial Deviation and Schedule of Technical Deviation only. If any deviation mentioned anywhere other than the Schedule of Commercial Deviation and Schedule of Technical Deviation, then that shall be ignored and It shall be assumed that participating bidder has no deviation against this tender. Please note that as per BHEL's Policy, we cannot allow Price impact for the requirement / scope of supply, which is a part of specifications of our tender enquiry. Hence please read all specification / documents thoroughly and submit your offer as per specifications of tender enquiry.	
4	Validity:	Confirm that your offer shall be valid for 180 days from the date of tender opening. BHEL will reserve the right to reject any or all quotations, quoting validity less than 180 days.	
5	Evaluation criterion:	The evaluation of tender shall be on the basis of "Total Landed cost at Destination" including Supply and Erection & Commissioning as per tender condition. For evaluation of foreign bids, exchange rate (TT selling rate of SBI) as on scheduled date of tender opening (Part-I bid opening) shall be considered. If the relevant day happens to be a bank holiday, then the Forex rate as on the previous bank (SBI) working day shall be taken. Indigenous suppliers: Vendors to quote rates on FOR destination (BHEL Haridwar) basis. However, the insurance will be arranged by BHEL. Vendor can dispatch good through any Indian Bank Association approved transporters having their branch at Haridwar / destination. For the convenience name and address of transporters approved by IBA and BHEL are posted at website www.bhelhwr.co.in. If any bidder still quotes rates on ex-works basis such offers will be loaded by 1.5% of ex-works value towards freight or with actual freight charges as per BHEL freight rate contract whichever is higher. Further, non-availability of BHEL approved transporter will not be accepted for rescheduling of delivery or waiver of penalties. Final evaluation currency for this Tender shall be in "INDIAN RUPEES (INR)" for all the participating bidders. For Cost evaluation purpose, only the date of Part-1 Opening shall be considered.	

6	Insurance:	The Transit Insurance will be arranged by BHEL. Please send your offer keeping this in view.	
7	Bank Charges:	Kindly Confirm that Bank Charges shall be either side otherwise your prices will be loaded suitably.	
8	Technical Requirements	Kindly quote your valuable offer as per Technical Specification of Swivel Arm Disc Grinding machine -02 No. (enclosed with enquiry). Please ensure that documents submitted with the offer/bid shall be signed and stamped in each page by authorized representative of the bidder.	
9	Payment Terms:	80% payment of Supply value shall be made within 45 days from the date of receipt of material at BHEL. Balance 20% of Supply value plus 100% of E&C portion of PO value will be paid against E&C certificate issued by BHEL and submission of Performance Bank Guarantee (PBG) valid for 27 months from the date of successful commissioning, by Supplier from any of the scheduled Banks for 10% of total PO Value in the prescribed Format. PBG confirmation charges shall be borne by vendor. Total Erection & commissioning value should be quoted separately by bidders. Only in case where quoted value is less than the value (in %) specified in the NIT or separate commissioning values are not mentioned in the offer, value for commissioning portion shall be deemed to be considered as the value indicated in NIT & accordingly supply value will be adjusted from that quoted value and balance will be released as commissioning payment term mentioned above. For Indian Vendors: Payment of GST will be made after submission of signed and stamped GST certificate, enclosed and submission of Performance Bank Guarantee (PBG) in the prescribed Format. The PBG confirmation charges shall be borne by vendor. For Foreign Vendors: Payment Through L/C: Where the payments are through L/C (L/C opening charges are to be loaded), payment of Supply value shall be 80% on dispatch and 20% on issue of E&C Certificate. Payment of E&C value shall be made against E&C certificate issued by BHEL. E&C certificate shall be issued on satisfactory completion of erection, commissioning, job proving, performance tests, training to operators etc. as envisaged in PO. The L/C shall be opened by BHEL as per following: (i) Within 30 Days of receipt of acceptable CEBG, an irrevocable unconfirmed L/C will be opened for 30% of the payment towards supply, due on shipment i.e. 24% of the Supply value of PO (30% of 80%). Not earlier than 60 days before the shipment date, the value of this irrevocable unconfirmed L/C would be enhanced from 24% to 80% of the Supply value of The above L/C can be negotiated after the Shipment against submission of B/L or AWB and such other documents as mentioned in the PO. The above L/C will be valid for a period extending 21 days beyond the shipment date for negotiation of documents. (ii) 15 days prior to the scheduled & confirmed arrival of the technicians of supplier with their names, an irrevocable unconfirmed L/C will be opened for a value equal to 20% of the Supply value of PO plus 100% of the E&C value of	

PO. The validity of L/C would be sufficient to cover the period required for the completion of E&C plus 21 days as negotiation period.

This L/C can be negotiated after: (a) Completion of E&C of the equipment in BHEL and against E&C certificate issued by BHEL and (b) Submission of Performance Bank Guarantee (PBG) by Supplier in the prescribed Format valid for 30 days beyond the warranty period, from one of the Consortium Banks of BHEL or from a reputed Bank and confirmed by Consortium Bank of BHEL for 10% of total PO Value. The PBG confirmation charges shall be borne by vendor.

Bank Guarantee and Loading against non-acceptance of BHEL's Payment Terms:

If payment terms as mentioned by BHEL are not agreed by bidder, such bidder have to submit Advance Bank Guarantee at the time of payment in the prescribed Format of the amount, exceeding 80% of the SUPPLY value, valid till issue of Acceptance Certificate for the equipment. However, in no case, payment against dispatch shall exceed 90% of the SUPPLY Value.

In case of 90% payment of supply value, loading for 10% of supply value will be made for 6 months @ Repo Rate (as on tender opening date) + 4% of 10% value of basic cost of the items.

The loading criteria for the different payment terms shall be as under;

Payment Terms		Days of Loading
After Receipt & Acceptance of material within 75 days of supply.		No Loading
Against Delivery at BHEL-Stores Haridwar.		45
Against documents through bank (CAD):		45
Letter of Credit (LC)		120
Usance LC	No Loading if usance period is > 120 Days.	
	Loading of days difference i.e difference between 120 days and usance period if the usance period is < 120 days.	

Please note that in case of any deviation in the payment terms, BHEL shall evaluate your offer after loading on account of deviation in payment terms as per BHEL practice/policy/GISTC.

Loading of any deviation in the payment terms **will be done @ Repo Rate (as on tender opening date) + 4% of basic cost of the items.**

10	PBG terms	Performance Bank Guarantee (PBG) valid for 90 days beyond the warranty period (for 27 months from the date of successful commissioning of material at BHEL, HEEP Haridwar) by Supplier from any scheduled bank for 10% of total PO Value in the prescribed Format. The PBG confirmation charges shall be borne by vendor. This bank guarantee shall have to be submitted before release of last balance payment. Please note that claim period of BG will be 90 days beyond validity period. The PBG should be in BHEL's PBG format and should be from one of the scheduled bank of India. The PBG confirmation charges shall be borne by vendor. The Performa of Bank Guarantee and the list of BHEL consortium bank are displayed at BHEL website www.hwr.bhel.com. This should be read and complied in conjunction with Bank Guarantee clause in General Instructions and Standard Term and Conditions for bidding against Tender Enquiry (herein called as GISTC) Please note that, no deviation in submission of Bank Guarantee is acceptable. The offers of the vendors not agreeing to submit PBG is likely to be rejected by BHEL and no further communication in this regard will be entertained.	
11	Contract Execution Bank Guarantee (CEBG):	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 P.O. CEBG shall be from one of the scheduled banks. All bank charges on account of issuance and confirmation of CEBG will have to be borne by the vendor. CEBG shall be kept valid until 30 days after the date of issuance of Final 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. Please note that claim period of BG will be 90 days beyond validity period. If the supplier fails to submit the CEBG even within 60 days from the date of PO, BHEL reserves the right to cancel PO & 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 Suppliers. Under all circumstances, CEBG shall be kept valid till the PBG becomes operational. In case of delay in submission of CEBG, enhanced CEBG which would include interest (Repo rate + 4%) for the delayed period, shall be submitted by the bidder. Further, if CEBG is not submitted till such time the first bill becomes due, the amount of performance security due shall be recovered from the bills along with due interest "	

12	CURRENCY OF PAYMENT	For foreign bidders: Freely tradable currency like Euro/ USD/CHF/ GBP/YEN etc. For indigenous supply the currency shall be Indian Rupees.	
13	CHARGES FOR SERVICES AT BHEL HARIDWAR	Services to be rendered at BHEL Haridwar like commissioning, proving, training to operators, supervising foundation work etc. These charges are essentially to be indicated separately in price bid. Vendor to confirm BHEL will not provide boarding, lodging, travel cost (Air ticket, local transport etc.) to vendor's representatives visiting BHEL Haridwar for Commissioning. Total commissioning value should be quoted separately by bidders. Only in case where quoted value is less than the value (in %) specified in the NIT or separate commissioning values are not mentioned in the offer, value for commissioning portion shall be deemed to be considered as the value indicated in NIT & accordingly supply value will be adjusted from that quoted value and balance will be released as commissioning payment. The estimated percentage of erection & commissioning value is: 15% of machine cost.	
14	TAXES & DUTIES	For Foreign Vendors: Foreign Supply – Applicable Taxes. Foreign Services: TDS shall be applicable. For Indian Vendors: GST shall be payable with documentary proofs. TDS – Payment of TDS shall be recovered as applicable. All statutory taxes, if any, will be deducted at source & to be borne by the beneficiary. Tax deduction certificate shall be issued at the end of financial year if required. Details of applicable taxes & duties are to be mentioned as per GISTC Rev.10. a) GST Registration Number b) Address of Principal place of Business c) Type of Business d) HSN Code, its description & rate of applicable GST for the offered material e) Whether registered under Composite scheme of GST (Y/N). It should be noted that the evaluation of the offers shall be done considering the taxation/benefits as applicable under GST. Please submit your GST registration certificate. Note: TDS as per Statutory guidelines will be deducted at source. Kindly submit your offer accordingly.	
15	GST Rate	1) Rate of GST applicable on Equipment Cost. 2) Rate of GST applicable on E&C Charges GST Input Tax Credit shall be applicable for this tender.	

16	Order Acceptance	Order acceptance (ink-signed) must be submitted within 07 days from the date of PO. If Purchase Order acceptance is not received within 07 days from the date of PO, then it shall be deemed accepted after 07 days from the date of PO.	
17	Submission of Bank Guarantee	All bank guarantees like Contract Execution Bank Guarantee and performance bank guarantee should be in the format as prescribed by BHEL.	
18	Delivery Period	Delivery is required within 10 months from the date of placement of PO. Early Delivery is acceptable.	
19	Erection & Commissioning	Erection & Commissioning (E&C) value will include services to be rendered at BHEL like erection, commissioning, job proving, performance tests, training to operators etc. (Whichever is applicable for this case). The estimated percentage of erection & commissioning value is: 15.0 % of total equipment cost. <u>Time period required for E&C:</u> 2 Months from the date of first intimation by BHEL. E&C value should be quoted separately by bidders. Only in case where quoted value is less than the value (in %) specified in the NIT or separate E&C values are not mentioned in the offer, value for E&C portion shall be deemed to be considered as the value indicated in NIT & accordingly supply value will be adjusted from that quoted value and balance will be released as E&C payment.	
20	Liquidated Damages Clause	For the purpose of Liquidated Damages for delay E&C of the equipment the duration will be reckoned from the date of intimation by BHEL to vendor for readiness of site. Liquidated Damages on delay in 'Supply' and/or 'E&C' will be applicable to the delays attributed to vendor. Liquidated Damages will be considered separately for 'Supply' and 'E&C'. The rate of Liquidated Damages for delayed Supply shall be @ 0.5% per week of delay of total PO value (Supply + E&C) in supply subject to a maximum of 10% of total PO value (Supply + E&C). The rate of Liquidated Damages for delayed E&C shall be @ 0.5% per week of delay of total PO value (Supply + E&C) in E&C subject to a maximum of 10% of total PO value (Supply + E&C). Maximum Liquidated Damages for delay in Supply and E&C together shall be limited to 15% of total PO value (Supply + E&C). Loading on account of non-acceptance of Liquidated Damages for delayed Supply and/or E&C shall be as under: In case any bidder is not accepting the above Liquidated Damages for delayed Supply and/or E&C, the offer of bidder shall be loaded to the extent to which it is not agreed by the bidder.	

		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 freight charges etc. up to destination for such short supplies shall be borne by the supplier. 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. For calculating Late Delivery Liquidated Damages, delivery date shall be considered as per following: 1. Indigenous Suppliers: a. Delivery Ex-works: - Date of GR /LR b. Delivery FOR Transporter Godown: - Date of GR/LR c. Delivery FOR Destination: - Date of receipt at BHEL HARIDWAR (if supply is direct to BHEL) or date of GR + one week (if documents are through bank). 2. Foreign Supplier: a. Delivery FOB / FCA port of discharge: - Date of BL/AWB b. Delivery CPT /CFR port of destination: - Date of BL/ AWB	
21	Delivery Basis	- For Import: (A) SEA CONSIGNMENTS: Please quote your rates with both the options (a) FOB dispatching port & (b) CFR Landing Port. (B) AIR CONSIGNMENTS: Please quote your rates with both the options: (a) FCA dispatching Airport & (b) CPT Landing Airport. (Sea / Air Freight charges for import items must essentially be quoted and indicated separately in price bid.) - For Indigenous: Delivery must essentially be FOR BHEL Haridwar basis. (Freight charges for indigenous items must essentially be quoted and indicated separately in price bid.) However, loading shall be done as per GISTC.	
22	Settlement of Disputes	If any dispute or difference of any kind whatsoever shall arise between BHEL and the Supplier/Vendor, arising out of the contract for the performance of the work whether during the progress of contract termination, abandonment or breach of the contract, it shall in the first place referred to Designated Engineer for amicable resolution by the parties. Designated Engineer (to be nominated by BHEL for settlement of disputes arising out of the contract) who within 60 days after being requested shall give written notice of his decision to the contractor. Save as hereinafter provided, such decision in	

		respect of every matter so referred shall forthwith be given effect to by the Supplier/Vendor who shall proceed with the work with all due diligence, whether he or BHEL desires to resolve the dispute as hereinafter provided or not. If after the Designated Engineer has given written notice of this decision to the party and no intention to pursue the dispute has been communicated to him by the affected party within 30 days from the receipt of such notice, the said decision shall become final and binding on the parties. In the event the Supplier/Vendor being dissatisfied with any such decision or if amicable settlement cannot be reached then all such disputed issues shall be resolved through conciliation in terms of the BHEL Conciliation Scheme 2018. Conciliation Clause: Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the "Dispute") shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure as per BHEL Conciliation Scheme 2018. The proceedings of Conciliation shall broadly be governed by Part-III of the Arbitration and Conciliation Act 1996 or any statutory modification thereof and as provided in - "Procedure for conduct of conciliation proceedings" (as available in www.bhel.com). Note: Ministry of Finance has issued OM reference No. 1/2/24 dated 03.06.2024 regarding "Guidelines for Arbitration and Mediation in Contracts of Domestic Public Procurement. In the said OM it has been recommended that Government departments/ Entities/agencies are to encourage mediation under the Mediation Act. 2023. The said Act has not yet been notified by the Government. Therefore, the clause "Settlement of Disputes" shall be modified accordingly as and when the Mediation Act 2023 gets notified. Arbitration Clause: Except as provided elsewhere in this Contract, in case Parties are unable to reach amicable settlement (whether by Conciliation to be conducted as provided in Clause herein above or otherwise) in respect of any dispute or difference; arising out of the formation, breach, termination, validity or execution of the Contract; or, the respective rights and liabilities of the Parties; or, in relation to interpretation of any provision of the Contract; or, in any manner touching upon the Contract (hereinafter referred to as the 'Dispute'), then, either Party may, refer the disputes to Delhi International Arbitration Centre (DIAC) and such dispute to be adjudicated by Sole Arbitrator appointed in accordance with the Rules of said Arbitral Institution. A party willing to commence arbitration proceeding shall invoke Arbitration Clause by giving notice to the other party in terms of section 21 of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as the 'Notice') before referring the matter to arbitral institution. The Notice shall be addressed to the Head of the	
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		Region, Power Sector/ Unit, BHEL, executing the Contract and shall contain the particulars of all claims to be referred to arbitration with sufficient detail and shall also indicate the monetary amount of such claim including interest, if any. After expiry of 30 days from the date of receipt of aforesaid notice, the party invoking the Arbitration shall submit that dispute to the Delhi International Arbitration Centre (DIAC) and that dispute shall be adjudicated in accordance with their respective Arbitration Rules. The matter shall be adjudicated by a Sole Arbitrator who shall necessarily be a Retd Judge having considerable experience in commercial matters to be appointed/nominated by the respective institution. The cost/expenses pertaining to the said Arbitration shall also be governed in accordance with the Rules of the respective Arbitral Institution. The decision of the party invoking the Arbitration for reference of dispute to a specific Arbitral institution for adjudication of that dispute shall be final and binding on both the parties and shall not be subject to any change thereafter. The institution once selected at the time of invocation of dispute shall remain unchanged. The fee and expenses shall be borne by the parties as per the Arbitral Institutional rules. The Arbitration proceedings shall be in English language and the seat and venue of Arbitration shall be Haridwar. Subject to the above, the provisions of Arbitration & Conciliation Act 1996 and any amendment thereof shall be applicable. All matters relating to this Contract and arising out of invocation of Arbitration clause are subject to the exclusive jurisdiction of the Court(s) situated at Haridwar. Notwithstanding any reference to the Designated Engineer or Conciliation or Arbitration herein, a. the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree. Settlement of Dispute clause cannot be invoked by the Contractor, if the Contract has been mutually closed or 'No Demand Certificate' has been furnished by the Contractor or any Settlement Agreement has been signed between the Employer and the Contractor. It is agreed that Mechanism of resolution of disputes through arbitration shall be available only in the cases where the value of the dispute is less than Rs. 10 Crores. In case the disputed amount Claim, Counter claim including interest is Rs. 10 crores and above, the parties shall be within their rights to take recourse to remedies other than Arbitration, as may be available to them under the applicable laws after prior intimation to the other party. Subject to the aforesaid conditions, provisions of the Arbitration and Conciliation Act, 1996 and any statutory modifications or re-enactment thereof as amended from time to time, shall apply to the arbitration proceedings under this clause.	
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		In case, multiple arbitrations are invoked (whether sub-judice or arbitral award passed) by any party to under this contract, then the cumulative value of claims (including interest claimed or awarded) in all such arbitrations shall be taken in account while arriving at the total claim in dispute for the subject contract for the purpose of above clause. Disputes having cumulative value of less than 10 crores shall be resolved through arbitration and any additional dispute shall be adjudicated by the court of competent jurisdiction. In case of Contract with Public Sector Enterprise (PSE) or a 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 commercial contract(s) between Central Public Sector Enterprises (CPSEs)/ Port Trusts inter se and also between CPSEs and Government Departments/Organizations (excluding disputes concerning Railways, Income Tax, Customs & Excise Departments), such dispute or difference shall be taken up by either party for resolution through AMRCD (Administrative Mechanism for Resolution of CPSEs Disputes) as mentioned in DPE OM No. 05/0003/2019-FTS-10937 dated 14-12-2022 as amended from time to time.	
23	Drawing / data approval: (If applicable)	Any drawing / data approval, if required, from BHEL after placement of order shall be the responsibility of the vendor and any delay on account of the same shall be the responsibility of the vendor and have no bearing on the penalty applicable.	
24	Drawing / design / information use (if applicable):	The vendor to confirm that the drawing / design / information enclosed with the enquiry / proposed order will not be parted to any other agency and will also not be used for manufacturing for any other customer.	
25	Authorization for pre-inspection (If applicable):	BHEL is authorized to pre-inspect the material at vendor's works as per the enclosed technical specifications. The material will be dispatched only after getting clearance from BHEL. Vendor should give PDI call at least 3 weeks (in case of indigenous supplier)/ 45 days(in case of foreign bidders) in advance. If supplier fails to give pre-inspection call with in stipulated time, this will not be a reason of penalty waiver or delivery extension. Travel, Lodging & Boarding charges of BHEL inspectors / trainees during pre-inspection and training will be borne by BHEL.	
26	Attending to any complaint during Warranty period	Vendor will have to ensure deputation of their people for commissioning or for attending to any complaint during Warranty period within 10 days of intimation. In case of delay BHEL will be within their rights to get the job completed at the risk and cost of the supplier.	
27	Contact Details	Details of Contact person Name, Designation, Department complete postal, E-mail address & Fax no, phone, Mobile no. to be mentioned.	

28	Beneficiary of PO	Please confirm the beneficiary of PO along with the complete address.	
29	Participation in Reverse Auction	"BHEL shall be resorting to Reverse Auction (RA) (Guidelines as available on https://www.bhel.com/guidelines-reverse-auction-2024) for this tender. RA shall be conducted among the techno-commercially qualified bidders (Guidelines for Reverse Auction – 2024 Doc. No. AA:SSP:RA:00 dated 05.12.2024 & subsequent revisions. Price bids of all techno-commercially qualified bidders shall be opened and shall be considered for RA as per RA guidelines. 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.	
30	Breach of contract, Remedies and Termination	BREACH OF CONTRCAT: The following shall amount to breach of contract: - Non-supply of material/ non-completion of work by the Supplier/Vendor within scheduled delivery/ completion period as per contract or as extended from time to time. - The Supplier/Vendor fails to perform as per the activity schedule and there are sufficient reasons even before expiry of the delivery/ completion period to justify that supplies shall be inordinately delayed beyond contractual delivery/ completion period. - The Supplier/Vendor delivers equipment/ material not of the contracted quality. - The Supplier/Vendor fails to replace the defective equipment/ material/ component as per guarantee clause. - Withdrawal from or abandonment of the work by the Supplier/Vendor before completion as per contract. - Assignment, transfer, subletting of Contract by the Supplier/Vendor without BHEL's written permission resulting in termination of Contract or part thereof by BHEL. - Non-compliance to any contractual condition or any other default attributable to Supplier/Vendor. - Any other reason(s) attributable to Vendor towards failure of performance of contract. In case of breach of contract, BHEL shall have the right to terminate the Purchase Order/ Contract either in whole or in part thereof without any compensation to the Supplier/Vendor. - Any of the declarations furnished by the contractor at the time of bidding and/ or entering into the contract for supply are found untruthful and such declarations were of a nature that could have resulted in non-award of contract to the contractor or could expose BHEL and/ or Owner to adverse consequences, financial or otherwise. - Supplier/Vendor is convicted of any offence involving corrupt business practices, antinational activities or any such offence that compromises the business ethics of BHEL, in violation of the Integrity Pact entered into with BHEL has the potential to harm the overall business of BHEL/ Owner. Note-Once BHEL considers that a breach of contract has occurred on the part of Supplier/Vendor, BHEL shall notify the Supplier/Vendor by way of notice in this regard. Contractor shall be given an opportunity to rectify the reasons causing the breach of contract within a period of 14 days.	

		In case the contractor fails to remedy the breach, as mentioned in the notice, to the satisfaction of BHEL, BHEL shall have the right to take recourse to any of the remedial actions available to it under the relevant provisions of contract. REMEDIES IN CASE OF BREACH OF CONTRACT: i. Wherein the period as stipulated in the notice issued under Conciliation clause has expired and Supplier/Vendor has failed to remedy the breach, BHEL will have the right to terminate the contract on the ground of "Breach of Contract" without any further notice to contractor. ii. Upon termination of contract, BHEL shall be entitled to recover an amount equivalent to 10% of the Contract Value for the damages on account of breach of contract committed by the Supplier/Vendor. This amount shall be recovered by way of encashing the security instruments like performance bank guarantee etc available with BHEL against the said contract. In case the value of the security instruments available is less than 10% of the contract value, the balance amount shall be recovered from other financial remedies (i.e. available bills of the Supplier/Vendor, retention amount, from the money due to the Supplier/Vendor etc. with BHEL) or the other legal remedies shall be pursued. iii. wherever the value of security instruments like performance bank guarantee available with BHEL against the said contract is 10% of the contract value or more, such security instruments to the extent of 10% contract value will be encashed. In case no security instruments are available or the value of the security instruments available is less than 10% of the contract value, the 10% of the contract value or the balance amount, as the case may be, will be recovered in all or any of the following manners: iv. In case the amount recovered under sub clause (a) above is not sufficient to fulfil the amount recoverable then; a demand notice to deposit the balance amount within 30 days shall be issued to Supplier/Vendor. v. If Supplier/Vendor fails to deposit the balance amount within the period as prescribed in demand notice, following action shall be taken for recovery of the balance amount: a. from dues available in the form of Bills payable to defaulted Supplier/Vendor against the same contract. b. If it is not possible to recover the dues available from the same contract or dues are insufficient to meet the recoverable amount, balance amount shall be recovered from any money(s) payable to Supplier/Vendor under any contract with other Units of BHEL including recovery from security deposits or any other deposit available in the form of security instruments of any kind against Security deposit or EMD. c. In-case recoveries are not possible with any of the above available options, Legal action shall be initiated for recovery against defaulted supplier/Vendor. vi. It is an agreed term of contract that this amount shall be a genuine pre-estimate of damages that BHEL would incur in	
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		completion of balance contractual obligation of the contract through any other agency and BHEL will not be required to furnish any other evidence to the Supplier/Vendor for the purpose of estimation of damages. vii. In addition to the above, imposition of liquidated damages, debarment, termination, de-scoping, short-closure, etc., shall be applied as per provisions of the contract. Note: 1) The defaulting Supplier/Vendor shall not be eligible for participation in any of the future enquiries floated by BHEL to complete the balance work. The defaulting contractor shall mean and include: (a) In case defaulted Supplier/Vendor is the Sole Proprietorship Firm, any Sole Proprietorship Firm owned by same Sole Proprietor. (b) In case defaulted Supplier/Vendor is The Partnership Firm, any firm comprising of same partners/ some of the same partners; or sole proprietorship firm owned by any partner(s) as a sole proprietor.	
31	Import Supply	a. Phyto-sanitary Certificate essential for packages (Wooden). b. Country or origin certificate: Vendor to furnish the country of origin certificate from Chamber of Commerce with dispatch documents.	
32	Foreign Suppliers	Dispatching port & Country to be mentioned essentially.	
33	Force Majeure Clause	1. "Force Majeure" shall mean circumstance which is: a) beyond control of either of the parties to contract, b) either of the parties could not reasonably have provided against the event before entering into the contract, c) having arisen, either of the parties could not reasonably have avoided or overcome, and d) is not substantially attributable to either of the parties And Prevents the performance of the contract, Such circumstances include but shall not be limited to: I. War, hostilities, invasion, act of foreign enemies. II. Rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war. III. Riot, commotion or disorder by persons other than the contractor's personnel and other employees of the contractor and sub-contractors. IV. Strike or lockout not solely involving the contractor's personnel and other employees of the contractor and sub-contractors. V. Encountering munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the contractor's use of such munitions, explosives, radiation or radio-activity. VI. Natural catastrophes such as earthquake, tsunami, volcanic activity, hurricane or typhoon, flood, fire, cyclones etc. VII. Epidemic, pandemic etc.	

		2. The following events are explicitly excluded from Force Majeure and are solely the responsibilities of the non-performing party: a) any strike, work-to-rule action, go-slow or similar labour difficulty (b) late delivery of equipment or material (unless caused by Force Majeure event) and (c) economic hardship. 3. If either party is prevented, hindered or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances thereof within 15 (fifteen) days after the occurrence of such event. 4. The party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such party's performance is prevented, hindered or delayed. The Time for Completion shall be extended by a period of time equal to period of delay caused due to such Force Majeure event. 5. Delay or non-performance by either party hereto caused by the occurrence of any event of Force Majeure shall not I. Constitute a default or breach of the Contract. II. Give rise to any claim for damages or additional cost expense occasioned thereby, if and to the extent that such delay or non-performance is caused by the occurrence of an event of Force Majeure. 6. BHEL at its discretion may consider short closure of contract after 1 year of imposition of Force Majeure in line with extant guidelines. In any case, Supplier/Vendor cannot consider deemed short-closure after 1 year of imposition of Force Majeure.													
34	War Like Situation	If the war like situation has developed in a country where a vendor's works involved in this tender is located or there is political instability and Indian Embassy located in that country forbids dealing with the said vendor or advises for not having any business dealing with vendor located in such zone / region/ country, then BHEL reserves the right not to consider the offer of such a vendor or to cancel the order in case the order has already been placed and suspend further dealings till normalcy in the country/ region is confirmed by Indian Embassy.													
35	Signing of Integrity Pact (IP)	a) IP is a tool to ensure that activities and transactions between the Company and its Bidders/ Contractors are handled in a fair, transparent and corruption free manner. Following Independent External Monitors (IEMs) on the present panel have been appointed by BHEL with the approval of CVC to oversee implementation of IP in BHE <table><tr><td>S.No</td><td>IEM</td><td>Email</td></tr><tr><td>1.</td><td>Dr. Sarat Kumar Acharya, Ex-CMD, NLC</td><td>iem1@bhel.in</td></tr><tr><td>2.</td><td>Shri R. Mukundan, IRPS (Retd.)</td><td>iem3@bhel.in</td></tr><tr><td>3.</td><td>Shri Madan Lal Meena, IAS (Retd.)</td><td>iem3@bhel.in</td></tr></table> b) The IP as enclosed with the tender is to be submitted (duly signed by authorized signatory) along with techno-commercial bid (Part-I, in case of two/ three-part bid).	S.No	IEM	Email	1.	Dr. Sarat Kumar Acharya, Ex-CMD, NLC	iem1@bhel.in	2.	Shri R. Mukundan, IRPS (Retd.)	iem3@bhel.in	3.	Shri Madan Lal Meena, IAS (Retd.)	iem3@bhel.in	
S.No	IEM	Email													
1.	Dr. Sarat Kumar Acharya, Ex-CMD, NLC	iem1@bhel.in													
2.	Shri R. Mukundan, IRPS (Retd.)	iem3@bhel.in													
3.	Shri Madan Lal Meena, IAS (Retd.)	iem3@bhel.in													

		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 c) Please refer Section-8 of IP for Role and Responsibilities of IEMs. In case of any complaint arising out of the tendering process, the matter may be referred to any of the above IEM(s). All correspondence with the IEMs shall be done through email only. Note: <i>No routine correspondence shall be addressed to the IEM (phone/ post/ email) regarding the clarifications, time extensions or any other administrative queries, etc. on the tender issued. All such clarification/ issues shall be addressed directly to the tender issuing (procurement) department's officials whose contact details are as mentioned below.</i> For all clarifications/ issues related to the tender, please contact: Name: Vibhuti Paliwal, Manager Deptt: Purchase Capital Address: 4th Floor, Main Administrative Building, BHEL HEPP, Ranipur, Haridwar, Uttarakhand-249403 Phone: +91-1334-281961; +91 9719417800 Email: vibhutis@bhel.in Fax: 01334 -226462 The IP duly signed by authorized official of bidder / contractor / vendor and authorized official of BHEL will form a part of Purchase order / contract.	
36	Details to be furnished by bidder	i) Kindly specify the category of your registration under GST like Registered, Unregistered and composite dealer. ii) Kindly furnish your GST registration number, State Code and Name of the State of both the agency who will raise invoice & from where goods will be dispatched. iii) The bidder shall clearly indicate HSN (<i>Harmonised System Nomenclature</i>) / SAC (<i>Service Accounting Code</i>), and its description. iv) Kindly furnish the rate of GST applicable on your item against subject tender enquiry.	
37	Origin of Quotation	a) The quotation should preferably be from the principal bidder. However tender specific authorized registered dealer / agent can also submit the bid on their behalf, failing which the quotation is liable to be ignored. BHEL prefers to deal directly with the principal manufacturers. b) An agent cannot quote on behalf of more than one principal in the same tender enquiry. Please refer clause no. 2 of GISTC and quote offer accordingly.	

38	Purchase Preference for (Make in India)	For this procurement, the local content to categorize a supplier as a Class-I 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 revision dated 19.07.2024 issued by DPIIT. In case of subsequent orders issued by the nodal ministry, changing the definition of local content for the items of the NIT, the same shall be applicable even if issued after issue of this NIT, but before opening of Part-II bids against this NIT”. The local supplier at the time of tender, bidding or solicitation shall be required to provide self-certification (Format enclosed) 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.	
39	Training to customer	As per technical specification	
40	Warrantee Clause:	Warrantee shall be offered for complete machine and all supplied accessories/equipment for 24 months from the date of acceptance of machine.	
41	Cost of Withdrawal:	1. Cost of withdrawal of deviation will be applicable on the basic price (i.e. excluding taxes, duties & freight) only. 2. All the bidders have to list out all their Technical & Commercial Deviations (if any) in detail in the format for cost of withdrawal only. 3. Any deviation not mentioned in the format for cost of withdrawal and shown separately or found hidden in offer, will not be taken cognizance of. 4. Bidder shall submit duly filled unpriced copy of in the format for cost of withdrawal indicating "quoted" in "cost of withdrawal of deviation" column of the schedule above along with their Techno-commercial offer, wherever applicable. In the absence of same, such deviation(s) shall not be considered and offer shall be considered in total compliance to NIT. 5. Bidder shall furnish price copy of the format for cost of withdrawal along with price bid. 6. The final decision of acceptance/ rejection of the deviations quoted by the bidder shall be at discretion of the Purchaser. 7. Bidders to note that any deviation (technical/commercial) not listed in the format for cost of withdrawal and asked after Part-I opening shall not be considered. 8. For deviations w.r.t. Credit Period, Liquidated damages if a bidder chooses not to give any cost of withdrawal of deviation loading as per GISTC, will apply. For any other deviation mentioned in un-priced copy of this format submitted with Part-I bid but not mentioned in priced copy of this format submitted with Priced bid, the cost of withdrawal of deviation shall be taken as NIL. 9. Any deviation mentioned in priced copy of the format for cost of withdrawal, but not mentioned in the un-priced copy, shall not be considered. 10. All techno-commercial terms and conditions of NIT shall be deemed to have been accepted by the bidder, other than those listed in unpriced copy of the format for cost of withdrawal.	

		11. Cost of withdrawal is to be given separately for each deviation. In no event bidder should club cost of withdrawal of more than one deviation else cost of withdrawal of such deviations which have been clubbed together shall be considered as NIL. 12. In case nature of cost of withdrawal (positive/negative) is not specified it shall be assumed as positive. 13. In case of discrepancy in the nature of impact (positive/negative), positive will be considered for evaluation and negative for ordering.	
42	Submission of offer:	All envelopes to be marked with whether "Priced Bid" (Part – 2) or "Un-Priced Bid Cum Techno-Commercial Bid & PQR" (Part-1). The replica of Priced Bid (without prices) would be necessarily submitted along with Part-1 of the offer.	
43	General Terms:	Please mention separately Packing and Forwarding charges in terms of % of basic prices (if any) and mention specifically that it is inclusive or not in the quoted price. In case the offer is silent regarding these charges, the same would be considered to be inclusive in the offer. Kindly confirm.	
		Please mention separately Freight charges in terms of % of basic prices (if any) and mention specifically that it is inclusive or not in the quoted price. In case the offer is silent regarding these charges, the same would be considered to be inclusive in the offer. Kindly confirm.	
		Confirm that prices will remain firm and fixed during the entire validity and execution of the project.	
44	Action against Bidders / vendor / supplier / contractor in case of default:	In order to protect the commercial interests of BHEL, BHEL shall take action against supplies / contractors by way of suspension of business dealings, who either fail to perform or are in default without any reasonable cause, cause loss of business/ money/ reputation, indulge in malpractices, cheating, bribery, fraud or any other misconduct or formation of cartels so as to influence the bidding process or influence the price etc. Suspension of Business Dealings could be in the form of "Hold" or "Banning" a supplier/ contractor or a bidder and shall be as per "Guidelines for Suspension of Business Dealings with Suppliers/ Contractors" available at BHEL's website "https://www.bhel.com/guidelines-suspension-business-dealings-supplierscontractors"	
45	SPECIAL TERMS -1	NO INTEREST PAYABLE TO CONTRACTOR Notwithstanding anything to the contrary contained in any other document comprising in the Contract, no interest shall be payable by BHEL to Contractor on any moneys or balances including but not limited to the Security Deposit, EMD, Retention Money, RA Bills or the Final Bill, or any amount withheld and/or appropriated by BHEL. etc., which becomes or as the case may be, is adjudged to be due from BHEL to Contractor whether under the Contract or otherwise.	
46	SPECIAL TERMS -2	Bidder agrees to submit performance security required for execution of the contract within the time period mentioned. In case of delay in submission of performance security, enhanced performance security which would include interest (Repo rate+4%) for the delayed period, shall be submitted by the bidder. Further, if performance security is not submitted till such time the first bill becomes due, the amount of performance	

		security due shall be recovered as per terms defined in NIT contract, from the bills along with due interest.	
47	SPECIAL TERMS -3	The Bidders has to 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.	
48	SPECIAL TERMS -4	1) In the event of any disallowance of input credit or applicability of interest or any other financial liability arises on BHEL-Haridwar due to any default of supplier under GST, such implication shall be to supplier's account. 2) Statutory Variation in Taxes & duties as applicable at the time of supply shall be payable. However, in the event of no change in law but bidder quoting certain tax structure in bid document which is lower than the applicable one, such amount shall be the maximum amount of tax that can be claimed by bidder. 3) Attach separate sheet for additional information if necessary. The above terms & condition supersedes the terms & conditions found contradictory written elsewhere in the offer. 4) Attach separate sheet for additional information if necessary. The above terms & condition supersedes the terms & conditions found contradictory written elsewhere in the offer.	
49	SPECIAL TERMS - 5	Terms & Conditions mentioned in Annexure-I shall be given priority over GISTC terms in case of any conflict between T&C's of both.	

Note: This Special Terms and Conditions shall prevail for commercial parameters for this Tender Enquiry.

Signature of supplier with Seal

ANNEXURE-IIPRICE SCHEDULEFor import supply

Description	Total Price (in foreign currency)
Total Supply Value (including Essential Tooling, Accessories, Attachments, Spares, Training of BHEL Engineers at vendor works as per technical specifications, Packing & Forwarding charges (if any) on FOB (for Sea)/FCA (for Air)	
Freight Charges (Sea / Air freight charges essentially to be quoted)	
Total CFR / CPT cost =	
** Total Erection & Commissioning Value including all Services like erection, commissioning, Job proving, performance tests, training to operators etc. at BHEL Haridwar.	

For indigenous supply

Description	Total Price (in Indian rupees)
Total Supply Value (including Essential Tooling, Accessories, Attachments, Spares, Training of BHEL Engineers at vendor works as per technical specifications, Packing & Forwarding charges if any) on (F.O.R Haridwar)	
GST on total supply value (mention applicable rate of GST)	
Total supply value at BHEL Haridwar =	
** Total Erection & Commissioning Value including all Services like erection, commissioning, Job proving, performance tests, training to operators etc. at BHEL Haridwar.	
GST on Erection & Commissioning charges (mention applicable rate of GST)	
Total Supply Value (Incl of GST) + E& C Charges (Incl of GST)	

Please attach un-priced copy of your price bid with technical bid. The sequence of price and other details shall be kept same as stated in the specifications.

****Price break-up shall be furnished by bidder as per TECH. SPECIFICATION.**

“ALL BIDDERS ARE REQUESTED TO QUOTE IN FIGURES” WITH CORRESPONDING “WORDS”.

FINANCIAL EVALUATION (L1, L2...) WILL BE DONE ON THE BASIS OF TOTAL LANDED COST (SUPPLY + E&C) AT BHEL HARIDWAR.

NOTE:

- a) Item wise breakup of the prices shall be furnished as per TECH. SPECIFICATION / DISCUSSIONS. Wherever the prices mentioned are unit prices, it should be clearly specified.
- b) Per day per person rates against each category of training at vendor's work must be mentioned separately in Technical Specification.
- c) Bidder to note that total price indicated above shall be considered for evaluation and hence should be complete in all respects for the full scope defined and considering all terms and conditions. Optional as indicated in specification will not be taken for evaluation.
- d) Any item not included in this price quoted above and shown separately will not be taken cognizance of and shall be ignored while evaluation.
- e) Following details shall be provided in separate Annexure.
 - i) Unit prices for variable items.
 - ii) Prices for any other OPTIONAL items.
- f) Transit insurance shall be arranged by BHEL.
- g) The bidder to specify in their offer (part 1 bid) the category of their registration under GST like Registered, Unregistered and composite dealer.
- h) The provisional GST registration number of Bharat Heavy Electrical Ltd, Heavy Electricals Equipment Plant, Ranipur, Haridwar is "05AAACB4146P1ZL" with state Code as "05" and State Name as "Uttarakhand".
- i) Please quote our provisional GST registration number in all invoices raised for supply of goods and services under GST regime and also ensure filing of timely return and payment of tax and compliance of other applicable provisions on supplier under GST regime.
- j) No GST will be reimbursed to unregistered or composite dealer. In the event, any GST is quoted by composite dealer, the same shall be added to the cost of supply in evaluating the bid.
- k) Since, input credit of GST will be available to BHEL-Haridwar only after correct filing of return and payment of applicable GST by supplier, reimbursement of GST shall be made by BHEL-Haridwar on matching of vendor inputs at GST portal, ensuring availability of input credit to BHEL Haridwar. Payment of GST will be made to vendor after matching of input credit and vendor to ensure submission of their invoices along with consent to accept payment of tax after such matching in all cases where bills are submitted directly to BHEL-Haridwar or through bank or under LC or through any other mode.
- l) In the event of any disallowance of input credit or applicability of interest or any other financial liability arises on BHEL-Haridwar due to any default of supplier under GST, such implication shall be to supplier's account.
- m) In the event of any change in the status of the vendor after the submission of the bid but before the supply, GST applicable at the time of supply or in the bid, based on the registration status of the vendor, whichever is lower shall be payable.
- n) Where ever applicable If PAN (Permanent Account Number) of the recipient is not available, income tax is deductible either at the normal rate or at the rate of 20 percent, whichever is higher as per Section 206AA of Indian Income Tax Act 1961.
- o) The bidder shall clearly indicate HSN (*Harmonised System Nomenclature*) / SAC (*Service Accounting Code*), its description and applicable rate of GST for each item in his techno-commercial bid.

- p) Statutory Variation in Taxes & duties as applicable at the time of supply shall be payable. However, in the event of no change in law but bidder quoting certain tax structure in bid document which is lower than the applicable one, such amount shall be the maximum amount of tax that can be claimed by bidder.
- q) IMPORTED GOODS OFFERED BY INDIAN BIDDERS AGAINST DEALER INVOICE: Wherever the material being offered is imported, the bidder must quote the prices inclusive of IGST. The rate and value of IGST as included in the price must be indicated separately. In case quantum of IGST is not mentioned by the bidder the same will not be considered for evaluation. However, bidder will have to pass on the benefit of IGST to BHEL at the time supply.
- r) Vendors must ensure compliance of all the applicable rules and procedure as envisaged in the GST Regime. Any loss to BHEL-Haridwar due to fault / non-compliance by the vendor will be to the vendor's account.
1. BHEL will evaluate the technical bids against essential criteria/requirements. BHEL may seek clarifications, if required, from the qualified bidders only. These clarifications will be communicated to the eligible vendors and they will be asked to attend techno-commercial discussions on specified dates. The bidders will be given 15 days' notice to come prepared with the required documents/ clarifications. No extension will be given. **The offers of those bidders, who are unable to respond in this time frame, are likely to be ignored.**

Date :
Signature :
Name :
Designation :
Department :
M/s

Details on Capacity/Supply and E&C performance of Bidder

The performance of the vendors and meeting commitments is of utmost importance. In order to keep this in focus during evaluation / finalization of tenders, Bidder shall be asked to furnish specific details of company performance as per Annexure-III (1. Capacity details; 2. Performance of supplies to BHEL).

(A. **Capacity details in Part (1)** are about the Manufacturing Capacity (Major Machine: category-wise & number-wise), No. of Machines supplied during last 5 years, Outstanding Order Book position, Liquidation Plan of all machines including BHEL machines under consideration for ordering. Wherever possible, efforts are to be made to contact some of the references of past supplies given.

(B. **The Performance details of supplies to BHEL will be sought in Part (2)** for the POs placed by BHEL which can be verified; hence submission of these information by vendors is mandatory. BHEL will reserve the right to reject the offer, if past performance of the bidder is evaluated to be unsatisfactory and / or false information is given by the bidder.

- i) Immediately after opening of Techno Commercial Bid, the BHEL Haridwar Indenting Unit shall get the past performance details with BHEL verified from concerned Units as a second check.
- ii) The tender Technical Committee at BHEL Haridwar Unit shall make use of the information on past performance of the bidders during technical evaluation of the offers. If Delivery Index of any bidder is >0.20 , then his offer shall be liable for rejection. However, offer of bidder with Delivery Index >0.20 can also be accepted for further evaluation on exception basis with justified recorded reasons with approval of Unit Head & provided the bidder fulfils the requirement of proven experience of supplying similar machines & have adequate available capacity to meet BHEL tender requirement.
- iii) The actual / likely Supply and E&C period vis-à-vis scheduled Supply and E&C period (delay for reasons attributable to vendor only to be considered) shall be considered for all the machines against the POs placed by BHEL during last 5 years (limited to 5 latest executed POs) and all POs overdue for Supply and/or E&C.

For purpose of calculation of Delivery Index in case of overdue POs, the delay period for Supply and/or E&C will be reckoned from the date of bid opening of the tender under evaluation. In case of two-part bid, part-I (i.e. Techno-Commercial Bid) shall be considered as date of bid opening.

Early Supply and/or E&C vis-à-vis scheduled dates will not be entitled for any consideration for calculation of Delivery Index.

Delay in E&C shall be applicable only in such cases where E&C period has been mentioned in the PO.

In case a PO includes more than one machine, then all the machines of the PO shall be considered for calculation of Delivery Index.

- iv) The details of bidder who has been disqualified based on the delivery performance with BHEL Units should be shared by Purchase Department of indenting Unit with all sister Units under intimation to CMT&IP. CMT&IP shall host the details on website of CMT&IP department.
- v) Illustration for calculation of Delivery Index:

$$\text{Delivery Index} = \sum_{i=1}^n \left\{ \frac{(\Delta X_i + \Delta Y_i)}{(X_i + Y_i)} \right\} / n$$

i = No. of Machines; Where, i= 1..... to n (n = no. of m/cs.)

X_i = Scheduled Delivery (no. of days)

ΔX_i = Supply delay (no. of days)

Y_i = Scheduled E&C (no. of days)

ΔY_i = E&C delay (no. of days)

DETAILS OF COMPANY PERFORMANCE**A. Capacity Details:**

Manufacturing Capacity (Major machines with Qty.)	Type of Major Machines	Qty.
Machines supplied during last 5 years (Year-wise with Qty.)	Scheduled Supply Period	Actual Supply Period
Outstanding Order Book position (Type of Machine with Qty. & name of customers*)		
Liquidation Plan of all machines including BHEL machines under consideration for ordering		

* If any bidder is unable to give name of ALL the customer(s) due to confidentiality restrictions, they may give details without disclosing such customer's identity.

B. Performance of supplies to BHEL:

Details of POs to be considered in last 5 years shall include (i) Last 5 POs fully executed and (ii) all POs overdue for supply and/or E&C. Details of all machines in the POs to be given.

Sl. No.	Name of M/c with broad specs.	Name of BHEL Unit	P.O. No. & Date	P.O. Value	Supply Date		Erection & Commissioning		Reason of delay, if any
					As per P.O.	Actual/ Likely	E&C period incl. job prove out as agreed (in days)	Actual / Likely period of E&C completion (in days)	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.									
2.									
3.									
4.									

Note:

1. In case bidder has not received any Purchase Order in the last 5 years from any of the Units of BHEL, then 'NIL' should be indicated.
2. Reasons for delay to be explained in details.
3. BHEL reserves the right to reject the offer, if past performance of the bidder is evaluated to be unsatisfactory and/or false information is given by the bidder.

INTEGRITY PACT**Between**

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

and

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

Preamble

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

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

In order to achieve these goals, the Principal will appoint panel of Independent External Monitor(s) (IEMs), who will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

Section 1- Commitments of the Principal

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

Section 2 - Commitments of the Bidder(s)/ Contractor(s)

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

- 2.1.1 The Bidder(s)/ Contractor(s) will not, directly or through any other person or firm, offer, promise or give to the Principal or to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person any material, immaterial or any other benefit which he/ she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.
- 2.1.2 The Bidder(s)/ Contractor(s) will not enter with other Bidder(s) into any illegal or undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
- 2.1.3 The Bidder(s)/ Contractor(s) will not commit any penal offence under the relevant Indian Penal Code (IPC) and Prevention of Corruption Act; further the Bidder(s)/ Contractor(s) will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
- 2.1.4 Foreign Bidder(s)/ Contractor(s) shall disclose the name and address of agents and representatives in India and Indian Bidder(s)/ Contractor(s) to disclose their foreign principals or associates. The Bidder(s)/ Contractor(s) will, when presenting his bid, disclose any and all payments he has made, and is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.
- 2.2 The Bidder(s)/ Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.
- 2.3 The Bidder(s)/ Contractor(s) shall not approach the Courts while representing the matters to IEMs and shall await their decision in the matter.

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

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

Section 4 - Compensation for Damages

- 4.1 If the Principal has disqualified the Bidder (s) from the tender process before award / order acceptance according to Section 3, the Principal is entitled to demand and recover the damages equivalent to Earnest Money Deposit/ Bid Security.
- 4.2 If the Principal is entitled to terminate the Contract according to Section 3, or terminates the Contract in application of Section 3 above, the Bidder(s)/ Contractor (s) transgression through a violation of Section 2 above shall be construed breach of contract and the Principal shall be entitled to demand and recover from the Contractor an amount equal to 5% of the contract value or the amount equivalent to Security Deposit/ Performance Bank Guarantee, whichever is higher, as damages, in addition to and without prejudice to its right to demand and recover compensation for any other loss or damages specified elsewhere in the contract.

Section 5 - Previous Transgression

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

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

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

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

If the Principal obtains knowledge of conduct of a Bidder, Contractor or Subcontractor, or of an employee or a representative or an associate of a Bidder, Contractor or Subcontractor which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the Vigilance Office.

Section 8 -Independent External Monitor(s)

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

BHEL-IP

AA:SSP:IP:R04 dtd 12-11-2025

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

Section 9 - Pact Duration

- 9.1 This Integrity Pact shall be operative from the date this Integrity Pact is signed by both the parties. Any violation of the same would entail disqualification of the bidders and exclusion from future business dealings.
- 9.2 If any claim is made/ lodged during currency of this Integrity Pact, the same shall be binding and continue to be valid despite the lapse of this Pact as specified above, unless it is discharged/ determined by the CMD, BHEL.

Section 10 - Other Provisions

- 10.1 This Integrity Pact is subject to Indian Laws and exclusive jurisdiction shall be of the competent Courts as indicated in the Tender or Contract, as the case may be.
- 10.2 Changes and supplements as well as termination notices need to be made in writing.

BHEL-IP

AA:SSP:IP:R04 dtd 12-11-2025

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



 For & On behalf of the Principal
 विष्णु पालवाल / VISHNU PALIWAL
 (Office Seal)
 प्रबंधक / MANAGER
 कपल कैपिटल (सो.प्र.) / PPX-CAPITAL (MM)
 Place _____
 भेल (होप), हरिद्वार / BHEL (HEEP), Haridwar
 Date _____
 Haridwar - BHEL (HEEP)
 Witness: _____
 (Name & Address) Santosh Goul

 Sr. Mgr / PPX-CAP

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

Witness: _____
 (Name & Address) _____



SCHEDULE OF COMMERCIAL DEVIATION

Name of Bidder :-

Please fill here

The following are the deviations/ variations exception from the General Terms and Conditions:

SL. No.	CLAUSE NO. OF GENERAL TERMS AND CONDITION	STATEMENT OF DEVIATION

- In case, this schedule is not submitted, it will be presumed that the equipment/ material to be supplied under this contract is deemed to be in compliance with the General Terms and Conditions.

- If there is NIL deviation, even then the format to be filled as **NIL DEVIATION**.

Note: Continuation Sheets of like size and format may be used as per the Bidder's Requirement and shall be annexed to this scheduled.

Place: -

Date: -



SCHEDULE OF TECHNICAL DEVIATION

Name of Bidder :-

Please fill here

The following are the deviations/ variations exception from the Specification:

SL. No.	CLAUSE NO. OF GENERAL TERMS AND CONDITION	STATEMENT OF DEVIATION/ VARIATIONS/EXCEPTIONS

In case, this schedule is not submitted, it will be presumed that the equipment/ material to be supplied under this contract is deemed to be In compliance with the General Terms and Conditions & Specifications

If there is NIL deviation, even then the format to be filled as **NIL DEVIATION**.

Note: Continuation Sheets of like size and format may be used as per the Bidder's Requirement and shall be annexed to this scheduled.

Place: -

Date: -

COST OF WITHDRAWAL DEVIATION SHEET								
SCHEDULE OF TECHNICAL AND COMMERCIAL DEVIATION								
GLOBAL TENDER No. 3047/C/6410/2025/1109/T1 for Swivel Arm Disc Grinding machine -02 No.								
Swivel Arm Disc Grinding machine -02 No.								
NAME OF VENDOR:-								
SL NO	VOULME/ SECTION	PAGE NO.	CLAUSE NO.	TECHNICAL SPECIFICATION/ TENDER DOCUMENT	COMPLETE DESCRIPTION OF DEVIATION	COST OF WITHDRAWL OF DEVIATION IN RUPEES)	REFERENCE OF PRICE SCHEDULE ON WHICH COST OF WITHDRAWL OF DEVIATION IS APPLICABLE	NATURE OF COST OF WITHDRAWL OF DEVIATION (POSITIVE)
TECHNICAL DEVIATIONS								
COMMERCIAL DEVIATIONS								
PARTICULARS OF BIDDERS/ AUTHORISED REPRESENTATIVE								
NAME				DESIGNATIONS		SIGN & DATE		
NOTES:								
1. Cost of withdrawl of deviation will be applicable on the basic price (i.e. excluding taxes, duties & freight) only.								
2. All the bidders have to list out all their Technical & Commercial Deviations (if any) in detail in the above format.								
3. Any deviation not mentioned above and shown separately or found hidden in offer, will not be taken cognizance of.								

4. Bidder shall submit duly filled unpriced copy of above format indicating "quoted" in "cost of withdrawl of deviation" column of the schedule above along with their Techno-commercial offer, wherever applicable. In the absence of same, such deviation(s) shall not be considered and offer shall be considered in total compliance to NIT.
5. Bidder shall furnish price copy of above format along with price bid.
6. The final decision of acceptance/ rejection of the deviations quoted by the bidder shall be at discretion of the Purchaser.
7. Bidders to note that any deviation (technical/commercial) not listed in above and asked after Part-I opening shall not be considered.
8. For deviations w.r.t. Credit Period, Liquidated damages, if a bidder chooses not to give any cost of withdrawl of deviation loading as per GISTC, will apply. For any other deviation mentioned in un-priced copy of this format submitted with Part-I bid but not mentioned in priced copy of this format submitted with Priced bid, the cost of withdrawl of deviation shall be taken as NIL.
9. Any deviation mentioned in priced copy of this format, but not mentioned in the un-priced copy, shall not be considered.
10. All techno-commercial terms and conditions of NIT shall be deemed to have been accepted by the bidder, other than those listed in unpriced copy of this format.
11. Cost of withdrawl is to be given seperately for each deviation. In no event, bidder should club cost of withdrawl of more than one deviation else cost of withdrawl of such deviations which have been clubbed together shall be considered as NIL.
12. In case nature of cost of withdrawl is not specified it shall be assumed as positive.
13. In case of discrepancy in the nature of impact (positive), positive will be considered for evaluation and negative for ordering.

ANNEXURE 13

DECLARATION REGARDING COMPLIANCE TO RESTRICTIONS UNDER RULE 144 (xi) OF GFR 2017
(To be typed and submitted in the Letter Head of the Entity/ Firm providing certificate as applicable)

To,

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

Dear Sir,

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

Ref: 1) Bid No:

2) All other pertinent issues till date

I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India. I certify that _____ (SPECIFY THE NAME OF THE ORGANIZATION HERE), is not from such a country/ has been registered with the Competent Authority (attach valid registration by the Competent Authority, i.e., the Registration Committee constituted by the Dept. for Promotion of Industry and Internal Trade (DPIIT)).

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

Thanking you,

Yours faithfully,

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

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

DECLARATION REGARDING MINIMUM LOCAL CONTENT IN LINE WITH
REVISED PUBLIC PROCUREMENT (PREFERENCE TO MAKE IN INDIA), ORDER 2017 DATED 19TH
July, 2024 AND SUBSEQUENT ORDER(S)

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

To,

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

Dear Sir,

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

Ref: 1) Bid No:

2) All other pertinent issues till date

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

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

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

Thanking you,

Yours faithfully,

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

** - Strike out whichever is not applicable. Note

1. Bidders to note that above format, duly filled & signed by authorized signatory, shall be submitted along with the techno-commercial offer.
2. In case the bidder's quoted value is in excess of Rs. 10 crores, the authorized signatory for this declaration shall necessarily be the statutory auditor or cost auditor of the company (in the case of companies) or a practising cost accountant or practicing chartered accountant (in respect of suppliers other than companies).
3. In the event of false declaration, actions as per the above order and as per BHEL Guidelines shall be initiated against the bidder.

ANNEXURE- 3

CERTIFICATE OF NO DEVIATION

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

----- To,

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

Dear Sir,

Subject: No Deviation Certificate

Ref: 1) Bid No:,

2) All other pertinent issues till date

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

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

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

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

Thanking you,

Yours faithfully,

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

Date:

Place:



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

Table of Contents

S. No.	Title	Page No.
1	GENERAL	2
2	ORIGIN OF QUOTATION	2
3	SUBMISSION OF TENDER	2
4	TENDER OPENING	4
5	SPECIFICATION, DRAWINGS & STANDARD	4
6	PRICE SCHEDULE	4
7	REVERSE AUCTION	6
8	DELIVERY TERMS	6
9	PENALTY/LIQUIDATED DAMAGE FOR LATE DELIVERY	8
10	PAYMENT TERMS	9
11	BANK GUARANTEE	10
12	GUARANTEE / WARRANTY AND CORRESPONDING REPAIRS / REPLACEMENT OF GOODS	11
13	QUALITY REQUIREMENT	11
14	VALIDITY	11
15	RIGHT OF ACCEPTANCE	11
16	TRANSIT INSURANCE	12
17	PHYTOSANITARY CERTIFICATE	12
18	BREACH OF CONTRACT, REMEDIES AND TERMINATION	12
19	FORCE MAJEURE CLAUSE	15
20	CONSEQUENTIAL LOSS	16
21	NON-DISCLOSURE AGREEMENT	17
22	CARTEL FORMATION	17
23	SETTLEMENT OF DISPUTES / ARBITRATION	17
24	JURISDICTION	19
25	INFORMATION TO THE BIDDERS	19
26	RESTRICTIONS UNDER RULE 144(XI) OF GFR, 2017	20
27	NOTE	20
28	Annexure-1 (Format for NDA-One Sided)	22
29	Annexure-2 (Format for NDA-Both Sided)	29
30	Annexure-3 (Format for Treatment of cases regarding conflict of interest)	34



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HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

1. GENERAL

These general terms & conditions shall apply to all Tender Enquiries, notice inviting tenders, request for quotations concerning the supply of goods and / or rendering of services to Bharat Heavy Electricals Ltd, HEEP, Haridwar, INDIA (hereinafter referred to as BHEL or the Purchaser). In case of placement of order, these conditions will become part of Purchase Order (P.O.) until unless the deviations are specifically agreed by BHEL.

2. ORIGIN OF QUOTATION

A bidder shall not have conflict of interest with other bidders. Bidders having a conflict of interest shall not be eligible to participate in the tender process.

In this regard, the declaration given in Annexure-3 regarding “Conflict of interest” is required to be submitted by bidders alongwith the tender, which should be signed by the authorized signatory of the bidder.

3. SUBMISSION OF TENDER

a) Bid / Quotation must be enclosed in sealed cover on which tender enquiry number and the due date MUST BE written and be invariably sent under REGISTERED POST / SPEED POST / COURIER / Dropped in the Tender Box: addressed as follows:

Quotation against Enquiry No. _____

Dated: _____

Due on: _____

To,

**THE HEAD OF MATERIALS MANAGEMENT,
Heavy Electrical Equipment Plant,
Bharat Heavy Electricals Limited,
HARIDWAR-249403 (Uttarakhand), INDIA.**

Bid/Quotation can also be submitted through email communication at email address:
tendercell.heep@bhel.in.

All vendors submitting their bids through e-mail are advised to have following clear subject line: -

1. Tender Enquiry Reference No. _____
2. Bid Opening Date (Part 1, Techno-Commercial). _____



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

Vendor to submit their bids as attachment (pdf format) with password protection and share the password through mail (tendercell.heep@bhel.in) after 1.45 pm (IST) on the day of bid opening. However, if no password is received up to 4.00 pm (IST), bids will not be opened and will be ignored. Submission of bids through email shall be considered as consent to open the bid without physically witnessing the event. The total size of the mail including both attachments must not exceed 25 MB.

b) TENDER ROOM is located at: Room No. - 415, 4th Floor, Main Admin. Building, BHEL-HEEP, Haridwar.

c) In case of Three/Two Part Bid, technical bid containing technical offer, duly signed and un-priced copy of the Price Bid should be kept in one envelope. Price Bid containing only the price should be kept in a separate envelope. All envelopes indicating Part-1 or Part-2 or Part-3 as the case may be to be put in a bigger envelope. Please note that un-priced bid should be the exact replica of price bid but without prices.

d) The bid/quotation must be posted before due date, keeping allowance for postal transit time. Quotations sent by any mode but not received in time will be ignored. Tender received through authorized E-mail is also acceptable. However, in time submission of tender in tender box shall be the responsibility of the bidder, sent through any mode. Documents submitted with the offer/bid shall be signed and stamped in each page by authorized representative of the bidder.

f) The bids of the bidders who are on the debarred list and also the bids of the bidders, who engage the services of the debarred firms, shall be rejected. The list of firms debarred by BHEL is available on BHEL website www.bhel.com. Bid should be free from correction, overwriting, using corrective fluid, etc. Any interlineation, cutting, erasure or overwriting shall be valid only if they are attested under full signature(s) of person(s) signing the bid else bid shall be liable for rejection.

g) Being PMD vendor, if you are not quoting against this tender enquiry, please send your regret letter positively for our reference with valid reasons for not participating in the tender enquiry. Repeated lack of response on the part of bidder may lead to deletion of such PMD vendor from BHEL's approved vendor list.

h) The bidders will submit Integrity Pact, duly signed by their authorized signatories, along with their bids wherever applicable as per tender terms.

i) In case of open tender, technically qualified unregistered bidders may apply online for registration through <https://www.bhel.com/supplier-registration>.

j) BHEL reserves the right to award tendered quantities among more than one bidder (after acceptance of L1 price by the other bidders). BHEL 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.

k) In cases of e-Tendering (Online bidding through e-portal), offline bid submitted in hard copy or in any other form by the bidders shall not be accepted. Only e-portal bid shall be accepted. Also, the technical



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HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

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For Foreign Bidders (Version Aug-2025, Rev: 08)

bids and/or the financial bids of different bidders received from the same IP address shall be outrightly rejected and shall not be considered for further evaluation.

l) No interest shall be payable on the security deposit or any other money due to the supplier.

4. TENDER OPENING

Tender opening is scheduled to start in the Tender Room at 2:00 PM, on the due date. Therefore, bid/ quotations must reach this office vide tender Box/ email (as detailed in Sl. No. 3-a) latest by 1:45 PM on due date. Only participating bidders are allowed to attend tender opening. **TENDERS RECEIVED AFTER THE SPECIFIED TIME OF THEIR 'SUBMISSION' WILL BE TREATED AS LATE TENDERS AND SHALL NOT BE CONSIDERED UNDER ANY CIRCUMSTANCES.** The bidders or their authorized representatives may be allowed to attend tender opening if duly authorized by their principals, through a tender specific letter on that particular day. General authorization letter is not acceptable.

Note: - Foreign bidders willing to attend the bid opening have to provide the requisite documents to the concerned Purchase executives for arranging gate pass for them.

5. SPECIFICATION, DRAWINGS & STANDARD

- a) Bidders must give their detailed specification in the quotation along with relevant technical literature/ catalogue etc. against the tender enquiry.
- b) The Bid should be accompanied with relevant copies of catalogues, drawings or specification as per tender enquiry. If these documents are not furnished, the offer is liable to be rejected.
- c) Wherever national / international (N/IN) standards are referred, the latest N/IN standards are to be followed. Mention year & date of standard revision that shall be followed for the supply.
- d) All Drawings and Standards are proprietary of BHEL. It must not be used in anyway detrimental to the interest of BHEL or without permission of BHEL.

6. PRICE SCHEDULE

- a) Kindly quote your prices in figures and words both. In case of any discrepancy in value, the prices quoted in words shall be considered for evaluation and establishing L1 status.
- b) Prices quoted should not be more than the prices quoted to any other BHEL units / offices / divisions. Vendor to submit copy of latest Purchase Order placed by any unit of BHEL for similar items in the technical bid.
- c) Bidders need to quote their prices on CIF any sea port in Mumbai (unless other seaport is specified in the tender enquiry) or FCA basis to the named airport in any Internationally freely tradable currency only. The name of the currency should be clearly indicated in the bids.
- d) For sea transportation, BHEL reserves the right to reject offers not quoting as per tender terms.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

In case BHEL decides to accept FOB delivery terms, following loading criteria shall be used for arriving at equivalent CIF prices. –

1. By 5% in case of shipment in 20 ft/40 ft GP containers,
2. Or, by 10% for other types of containers or Breakbulk cargo.

The suppliers are required to submit packing details and the type of cargo, whether container cargo or breakbulk cargo, in their offers. In case, suppliers do not provide packing detail and type of cargo in their quotation, then loading by maximum value i.e. 10% will be done on quoted FOB price. Equivalent CIF will be worked out in the above manner for offers quoting on FOB basis and the CIF so calculated will be used to work out comparative status of the prices against the tender.

e) For evaluation of bids, 0.25 % of CIF Value / Equivalent CIF towards port handling charges and 1.5 % of CIF Value or actual freight charges as per BHEL freight rate contract, whichever is higher, shall be loaded towards inland freight in the prices for ascertaining the landed cost to decide the comparative status of the prices.

f) Basis of Evaluation for Bid / Quotation in foreign currency:

Currency of Evaluation shall be INR. Currency exchange rate (TT selling rates of SBI) for evaluation of the bid / quotation received in foreign currency will be as follows:

- i. Single part bid – Date of tender opening.
- ii. Two / Three-part bid – Date of part 1 opening.
- iii. Reverse auction – Date of part-1 opening.

Note: - Financial evaluation of bids will be on the basis of Landed Cost to BHEL.

g) Evaluation of Indian Agents Commission:

1. BHEL prefers to deal directly with manufacturer, wherever required, for procurement of Goods. However, if the Foreign Principal desires to avail services of an Indian Agent then the Principal should ensure mandatory submission of Agency Agreement.
2. The FOB / CIF price quoted will be deemed to be inclusive of Indian Agency commission. Agency commission as disclosed by the bidder in his quoted FOB / CIF price and if payable by BHEL shall be converted to Indian Rupees at TT buying rates of exchange prevailing on technical bid opening date which shall not be subjected to any further exchange rate variation. The same will be paid in Indian Rupees on receipt & acceptance of Materials or its installation at destination, as the case may be.
3. In a tender either the OEM/ Principal or its authorized Indian agent can bid, but both cannot bid simultaneously for same item / product in the same Tender. If both OEM / Principal and its authorized agent submit their bids separately, in that case only the offer of OEM / Principal can be considered
4. If an agent submits bid on behalf of the Principal/OEM, the same agent shall not submit a bid on behalf of another Principal/OEM in the same tender for the same item/product.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

h) While submitting your bids please clearly indicate:

1. Expected weight of goods (lots wise).
2. The size of packed goods.
3. Whether the goods can be dispatched in containers?
4. Port of Loading.
5. Port of Discharge.

7. REVERSE AUCTION

Wherever Reverse Auction (RA) is declared in the special terms and conditions of tender enquiry, the following shall be applicable and Bidders to confirm their acceptance for the same:

“BHEL shall resort to Reverse Auction (RA) for this tender (*RA Guidelines are available at www.bhel.com*).

Price bids of all eligible techno-commercially qualified bidders shall be opened and same shall be considered as initial bids of bidders in RA. In case any bidder does not participate in online Reverse Auction, the bidder's sealed envelope price bid along with the applicable loading, if any, shall be considered for ranking.”

8. DELIVERY TERMS

- a) Goods shall be dispatched by sea, unless otherwise agreed in the tender enquiry or purchase order.
- b) The Trans-shipment is not permissible in case of Break Bulk Cargo. In rest of the cases, Trans-shipment condition in BHEL purchase order/letter of credit will be as per Uniform Custom and Practice for documentary credits, UCP 600, of International Standard Banking procedures issued by International Chamber of Commerce (ICC).
- c) Any demurrage/Godown Rent payable to the Port Authorities due to any delay attributable to the supplier will be recovered from supplier's account.
- d) A Certificate of Origin (COO) sanctioned in country of origin from chamber of commerce of the manufacturing country is to be provided mandatorily. However, a certificate of origin (COO) from the countries under the restricted list of Govt. of India will not be acceptable.
- e) For reasons of delay in receipt of documents from suppliers or due to the same being found to be incomplete, and/or faulty, the suppliers shall be responsible to reimburse in all demurrages/wharfares, if any paid by BHEL (for stated reasons).
- f) Except Ex-works cases, load port charges shall be settled by the supplier and not be passed on to BHEL in the form of destination charges.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

- g) In the event of bidder offering CIF delivery terms for delivery in FCL (Full Container Load), the bidder shall provide 21 days' time free of detention for General Purchase Container/High Cube Container and 14 days for the other types from the date of delivery at delivery port. Wherever the detention free period offered is less than the above specified period, the consequential cost at port of clearance shall be to the account of the bidder. Number of detention free days must be mentioned on Bill of Lading (BL).
- h) In case of CIF delivery, Port congestion charges or any additional charges claimed by shipping line till delivery at destination port shall be to the bidder's account.
- i) The shipping line should be ready to move the containers to consignees nominated CFS (Container Freight Station) yard and Indian agent of shipping line should issue Cargo Arrival Notice (CAN) 7 days in advance for filing the IGM (Import General Manifest) at discharge port.
- j) In case of CIF contract, bidder to supply the material through a Certified Sea worthy vessel.
- k) The invoices being issued by shipping lines must be in the name of BHEL. Any loss in GST due to submission of discrepant document will be recovered from supplier / vendor.
- l) While booking the shipment, bidder to also finalize **destination charges** and the same should appear over BL or agreed tariff to be provided to BHEL before arrival of shipment.
- m) If cargo is stuffed in container, then the same should be allowed to be moved to CFS of importers choice without any additional charges.
- n) NNDs (Non-Negotiable Documents) (preferably with OBLs) should be sent to BHEL as detailed in Para "o" (below), at least 7 days in advance i.e. 7 days before the arrival of vessel so as to enable BHEL to move the containers to BHEL Nominated CFS.
- o) **Information related to OBL / AWB Documents:**

I. Consignee name and address should be same as mentioned in the Purchase order.

II. Notify party: Name and address will be as follows :(For discharge port Mumbai or Nhava Sheva)

Bharat Heavy Electricals Limited
14th Floor World Trade Centre-1, Cuffe Parade, Colaba,
Mumbai -400005

Email: mssea@bhel.in (in case of Sea Shipments)

Email: msair@bhel.in (in Case of Air shipments)

For latest update, please refer our web site: <https://hwr.bhel.com>

III. OBL should clearly mention the Indian agent address and contact details.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

IV. OBL should be issued as per UCP 600.

V. In case of shipments other than FOB, OBL should mention the container detention free period.

VI. In case of placement of an Order, BHEL requests bidder to supply one Original Bill of Lading/AWB directly to BHEL Mumbai office (Address at Para 'o' above) with other non-negotiable documents to ensure timely clearance of goods. The other Original Bill of Ladings (BL) may be routed through bank based on the other agreed terms and conditions of purchase order.

9. PENALTY/ LIQUIDATED DAMAGE (LD) FOR LATE DELIVERY

a) Where items of Purchase Order are independently usable.

PENALTY/LD for Late Deliveries shall be applicable @0.5% per week or part thereof on the value of respective delayed supplies subject to a maximum of 10% of the value of respective delayed supplies. Value of delayed supplies will mean the Gross Value payable to the vendor (Before LD) against such supplies excluding taxes and duties.

b) Where the total items are required for a main equipment and items are interdependent.

PENALTY/LD for Late Deliveries shall be applicable @0.5% per week or part thereof on total value of Purchase Order subject to maximum of 10% of the total value of Purchase Order. Purchase Order value for this purpose shall be the Total Gross Value payable to the vendor (Before penalty/LD) excluding taxes and duties.

In case of CIF shipment where BHEL accepts the date of inspection as the date of delivery for the purpose of penalty/LD, the vendor has to ensure the shipment within 30 days for containerized cargo and 45 days maximum for Break bulk cargo from the date of inspection. Any delay, beyond this period, which is not attributable to BHEL shall be considered for application of penalty/LD.

In case of FOB shipment, where date of BL is considered as date of delivery for the purpose of LD, or in case where BHEL accepts the date of inspection as the date of delivery for the purpose of LD, vendor has to intimate the readiness of cargo after inspection to BHEL nominated Freight forwarder minimum 15 days in advance for containerized cargo and 30 days in advance for Break bulk cargo before the FOB delivery date or from the date of inspection, respectively.

The delay in shipment due to late intimation to BHEL nominated freight forwarder and not attributable to BHEL will be considered for application of PENALTY/LD.

c) Delivery in Case of Rejection: In case the material is rejected, then date of replacement will be considered as the actual date of delivery.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

- d) Bidders are requested to quote the best delivery meeting the delivery requirements. BHEL reserves the right to reject the offers not meeting BHEL's delivery requirement.
- e) Commencement of delivery period shall be reckoned from the date of PO / LOI or any other agreed milestone.
- f) Bidder shall deliver the goods in the manner and schedule agreed under the terms and conditions of Purchase order.
- g) The delivery date for LD purpose will be the Bill of Lading Date/ Air way bill date/ Inspection date, as applicable.
- h) BHEL will load maximum Penalty/LD under LD clause, to the extent the same is not agreed by the bidder, for the purpose of working out the comparative statement of prices of bidders.
- i) Payment shall not in any way relieve the vendor from any of its obligations & liabilities under the contract.
- j) Penalty/LD, wherever referred under this Tender/Agreement, shall mean and refer to the damages, not in the nature of Penalty/LD, which the supplier agrees to pay in the event of delay in delivery of stores, installation, commissioning, breach of contract etc. as the case may be. PENALTY/LD leviable upon the supplier is a sum which is agreed by the parties as a reasonable and genuine pre-estimate of damages which will be suffered by BHEL on account of delay/breach on the part of the supplier. Grant of any provisional time extension shall by no means be considered as waiver of BHEL rights under the contract or law.

10. PAYMENT TERMS

- a) BHEL's standard payment term is Payment after receipt and acceptance of materials / items at HEEP, BHEL-Store or at desired destination unless otherwise specified in Special Terms attached to the tender enquiry.
- b) BHEL reserves the right to accept or reject the offer of the bidder who quotes the payment term other than BHEL's standard payment term.
- c) Where the payments are through bank, the documents may be presented for negotiation through BHEL designated banks which will be specified in Purchase order. Original Documents should be submitted within 5 days of vessel sailing and receipt of OBL from shipping line.

NNDs (Non-Negotiable Documents) (preferably with OBLs) should be sent to BHEL as detailed in Para "8(o)" (above), at least 7 days in advance i.e. 7 days before the arrival of vessel so as to enable BHEL to move the containers to BHEL Nominated CFS.}



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

d) In case BHEL agrees for payment through LC, the same shall be irrevocable, unconfirmed and will be opened 30 days prior to the scheduled delivery and will be valid for a period of 60 days.

e) 100% payment shall be made within 90 days from material entry date subject to submission of non-discrepant documents by vendor and acceptance of material by BHEL as per terms and conditions of Purchase Order. In case any objection is found in documents/material, BHEL will notify the same to supplier within 15 days of receipt of material. In such a case, the payment shall be made to the vendor within 90 days of the day such objection is satisfactorily addressed by the vendor.

f) Loading on account of deviation in payment terms shall be done as per extant rules of BHEL-Haridwar.

The loading criteria for the different payment terms shall be as under:

Payment Terms	Days of Loading
Within 90 days of supply reckoned from material entry date	No Loading
Against documents through bank (CAD):	105
Letter of Credit (LC)	120
Usance LC	No Loading if usance period is > 120 Days.
	Loading of days difference i.e. difference between 120 days and usance period if the usance period is < 120 days.

*Loading for any deviation in the payment terms wrt NIT terms shall be done as follows:

Base rate of SBI (as applicable on the date of bid opening; techno-commercial bid opening in case of 2-part bids) + 6% shall be considered for loading for the period of relaxation sought by bidders.

11. BANK GUARANTEE

In case the bank guarantees are required to be deposited towards security deposit/performance guarantee or for any other purpose as per the terms of this tender enquiry, such bank guarantees of the requisite value in the denominated currency of the purchase order should be from one of the Indian branches of BHEL consortium banks and the bank guarantee should be in the proforma as prescribed by BHEL. The proforma of bank guarantee and the list of consortium banks are displayed at BHEL website www.hwr.bhel.com. However, in case the bank guarantee is not from BHEL consortium banks, then the bidder has to get the bank guarantee confirmed from one of the Indian branches of BHEL consortium banks and the bank charges for such confirmation will be borne by the bidder.

12. GUARANTEE / WARRANTY AND CORRESPONDING REPAIRS / REPLACEMENT OF GOODS

a) Goods shall comply with the specifications for material, workmanship and performance. Unless otherwise specified, the warranty shall be for a period of 18 months from the date of receipt. If the



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

delivered product is found non-compliant during the 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) or 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 based on the contract conditions. In case the defects attributable to Seller are detected during processing of the goods at BHEL or at our subcontractor's works, the Seller shall be responsible for free replacement / repair of the goods as required by BHEL.

b) In case the material is rejected, then date of replacement will be considered as the actual date of delivery.

c) The bidder shall have to pay 5% incidental charges while taking back supplied material if it is found rejected on receipt. The rejected material shall be sent back only after receipt of replacement/ submission of BG/refund of amount paid.

13. QUALITY REQUIREMENT

Your bid / quotation should have specific confirmation regarding meeting all our quality requirements such as (i) Test Certificate (TC), (ii) Guarantee Certificate (GC) / Warranty Certificate (WC), (iii) Quality Plan (QP) (if applicable); and (iv) Pre-Dispatch Inspection at your works (if applicable).

14. VALIDITY

The quotation should be valid for a minimum period of 90 days effective from the date of opening of tender, unless otherwise specified in the tender enquiry.

15. RIGHT OF ACCEPTANCE

- a) **BHARAT HEAVY ELECTRICALS LIMITED HARIDWAR** reserves the right to reject any or all the bids/ quotations. BHEL also reserves the right to increase or decrease the tendered quantities. Bidders should be prepared to accept order for reduced quantity without any extra charges.
- b) Any discount / revised offer / bids submitted by a bidder on its own shall be considered, provided it is received on or before the due date and time of offer / bid submission (Part-1). Conditional discounts shall not be considered for evaluation of tenders.
- c) Unsolicited discounts / revised offers / bids given after Part-1 bid opening shall not be accepted. No change in price will be permitted within the validity period asked for in the tender enquiry.
- d) 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 the latest price bid shall prevail. However, in both situations, original price bid will be necessarily opened.
- e) The bidder whose bid is technically not accepted will be informed & EMD wherever submitted shall be returned after finalization of contract. EMD shall be forfeited in the event of bidder opting out after tender opening.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

- f) BHEL reserves the right to short close the existing Purchase Order / Rate Contract / Work Order or any extension thereof at any stage.

16. TRANSIT INSURANCE

- a) For despatches on CIF or DDP basis, the Transit Insurance shall be in the scope of the seller.
- b) For despatches on CFR, FOB & FCA basis, the Transit Insurance will be covered by BHEL under its open Marine Insurance Policy. Seller shall inform dispatch particulars (Purchase Order, RR/GR/BL/AWB, Invoice value etc.) to Purchase department, BHEL, Ranipur, Haridwar (Uttarakhand -India) 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

17. PHYTOSANITARY CERTIFICATE

- a) As per the Indian Law, all consignments being imported into India by air / sea require a phytosanitary certificate from the country of origin-if articles have been packed with wooden packaging materials. This is mandatory. Please confirm in your offer / dispatch documents that the required phytosanitary certificate will be submitted.
- b) Packaging material means any kind of material of plant origin used for packing which include hay, straw wood shavings, wood chips, saw dust, wood waste, wooden pallets, dunnage mats, wooden packages, coir pith, peat or sphagnum moss etc.

18. BREACH OF CONTRACT. REMEDIES AND TERMINATION

BREACH OF CONTRACT:

The following shall amount to breach of contract:

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



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

v. Withdrawal from or abandonment of the work by the Supplier/Vendor before completion as per contract.

vi. Assignment, transfer, subletting of Contract by the Supplier/Vendor without BHEL's written permission resulting in termination of Contract or part thereof by BHEL.

vii. Non-compliance to any contractual condition or any other default attributable to Supplier/Vendor.

viii. Any other reason(s) attributable to Vendor towards failure of performance of contract. In case of breach of contract, BHEL shall have the right to terminate the Purchase Order/ Contract either in whole or in part thereof without any compensation to the Supplier/Vendor.

ix. Any of the declarations furnished by the contractor at the time of bidding and/ or entering into the contract for supply are found untruthful and such declarations were of a nature that could have resulted in non-award of contract to the contractor or could expose BHEL and/ or Owner to adverse consequences, financial or otherwise.

x. Supplier/Vendor is convicted of any offence involving corrupt business practices, antinational activities or any such offence that compromises the business ethics of BHEL, in violation of the Integrity Pact entered into with BHEL has the potential to harm the overall business of BHEL/ Owner.

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

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

REMEDIES IN CASE OF BREACH OF CONTRACT:

- 1- Wherein the period as stipulated in the notice issued under above clause has expired and Supplier/Vendor has failed to remedy the breach, BHEL will have the right to terminate the contract on the ground of "Breach of Contract" without any further notice to contractor.
- 2- Upon termination of contract, BHEL shall be entitled to recover an amount equivalent to 10% of the Contract Value for the damages on account of breach of contract committed by the Supplier/Vendor. This amount shall be recovered by way of encashing the security instruments like performance bank guarantee etc available with BHEL against the said contract. In case the value of the security instruments available is less than 10% of the contract value, the balance amount shall be recovered from other financial remedies (i.e. available bills of the Supplier/Vendor, retention amount, from the money due to the Supplier/Vendor etc. with BHEL) or the other legal remedies shall be pursued.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

- 3- Wherever the value of security instruments like performance bank guarantee available with BHEL against the said contract is 10% of the contract value or more, such security instruments to the extent of 10% contract value will be encashed.
- 4- In case the amount recovered under sub clause (a) above is not sufficient to fulfil the amount recoverable then; a demand notice to deposit the balance amount within 30 days shall be issued to Supplier/Vendor.
- 5- If Supplier/Vendor fails to deposit the balance amount within the period as prescribed in demand notice, following action shall be taken for recovery of the balance amount:
 - a. from dues available in the form of Bills payable to defaulted Supplier/Vendor against the same contract.
 - b. If it is not possible to recover the dues available from the same contract or dues are insufficient to meet the recoverable amount, balance amount shall be recovered from any money(s) payable to Supplier/Vendor under any contract with other Units of BHEL including recovery from security deposits or any other deposit available in the form of security instruments of any kind against Security deposit or EMD.
- 6- In-case recoveries are not possible with any of the above available options, Legal action shall be initiated for recovery against defaulted supplier/Vendor.
- 7- It is an agreed term of contract that this amount shall be a genuine pre-estimate of damages that BHEL would incur in completion of balance contractual obligation of the contract through any other agency and BHEL will not be required to furnish any other evidence to the Supplier/Vendor for the purpose of estimation of damages.
- 8- In addition to the above, imposition of PENALTY/LD, debarment, termination, de-scoping, short-closure, etc., shall be applied as per provisions of the contract.

Note:

1. The defaulting Supplier/Vendor shall not be eligible for participation in any of the future enquiries floated by BHEL to complete the balance work. The defaulting contractor shall mean and include:
 - a) In case defaulted Supplier/Vendor is the Sole Proprietorship Firm, any Sole Proprietorship Firm owned by same Sole Proprietor.
 - b) In case defaulted Supplier/Vendor is The Partnership Firm, any firm comprising of same partners/ some of the same partners; or sole proprietorship firm owned by any partner(s) as a sole proprietor.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

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

- a) Penalty/LD against delay in executed supply shall be calculated in line with "Clause 9(j)", for the delay attributable to Supplier/Vendor. For limiting the maximum value of penalty/LD, contract value shall be taken as Executed Value of supply till termination of contract.
- b) Method for calculation of "LD against delay in executed supply in case of termination of contract" is given below.
 - i. Let the time period from scheduled date of start of supply till termination of contract excluding the period of Hold (if any) not attributable to contractor = T1
 - ii. Let the value of executed supply till the time of termination of contract = X
 - iii. Let the Total Executable Value of supply for which inputs/fronTS were made available to Supplier/Vendor and were planned for execution till termination of contract = Y
 - iv. Delay in executed supply attributable to Supplier/Vendor i.e. $T2 = [1 - (X/Y)] \times T1$
 - v. Penalty/LD shall be calculated in line with penalty/LD clause [Clause 9(j)] of the Contract for the delay attributable to Supplier/Vendor taking "X" as Contract Value and "T2" as period of delay attributable to Supplier/Vendor.

19. FORCE MAJEURE CLAUSE

1. "Force Majeure" shall mean circumstance which is:

- a) beyond control of either of the parties to contract,
- b) either of the parties could not reasonably have provided against the event before entering into the contract,
- c) having arisen, either of the parties could not reasonably have avoided or overcome, and
- d) is not substantially attributable to either of the parties

And

Prevents the performance of the contract.

Such circumstances include but shall not be limited to:

- i) War, hostilities, invasion, act of foreign enemies.
- ii) Rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war.
- iii) Riot, commotion or disorder by persons other than the contractor's personnel and other employees of the contractor and sub-contractors.
- iv) Strike or lockout not solely involving the contractor's personnel and other employees of the contractor and sub-contractors.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

v) Encountering munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the contractor's use of such munitions, explosives, radiation or radio- activity.

vi) Natural catastrophes such as earthquake, tsunami, volcanic activity, hurricane or typhoon, flood, fire, cyclones etc.

vii) Epidemic, pandemic etc.

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

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

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

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

i) Constitute a default or breach of the Contract.

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

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

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

20. CONSEQUENTIAL LOSS

Neither party shall be liable to the other for any indirect or consequential loss or damage, including but not limited to loss of use, loss of profits, or loss of contracts, or special, punitive, exemplary losses whatsoever arising out of or in connection with this contract.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

21. NON-DISCLOSURE AGREEMENT

The bidders shall enter into the Non-disclosure agreement separately. Format attached.

22. 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.

23. SETTLEMENT OF DISPUTES / ARBITRATION

SETTLEMENT OF DISPUTE

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

If after the Designated Engineer has given written notice of this decision to the party and no intention to pursue the dispute has been communicated to him by the affected party within 30 days from the receipt of such notice, the said decision shall become final and binding on the parties. In the event the Supplier/Vendor being dissatisfied with any such decision or if amicable settlement cannot be reached then all such disputed issues shall be resolved through conciliation in terms of the BHEL Conciliation Scheme 2018 as per below.

CONCILIATION

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

ARBITRATION



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

- 1- Except as provided elsewhere in this Contract, in case Parties are unable to reach amicable settlement (whether by Conciliation to be conducted as provided in above clause or otherwise) in respect of any dispute or difference; arising out of the formation, breach, termination, validity or execution of the Contract; or, the respective rights and liabilities of the Parties; or, in relation to interpretation of any provision of the Contract; or, in any manner touching upon the Contract (hereinafter referred to as the 'Dispute'), then, either Party may, refer the disputes to Arbitral Institution i.e. Delhi International Arbitration Centre and such dispute to be adjudicated by Sole Arbitrator appointed in accordance with the Rules of said Arbitral Institution.
- 2- A party willing to commence arbitration proceeding shall invoke Arbitration Clause by giving notice to the other party in terms of section 21 of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as the 'Notice') before referring the matter to arbitral institution. The Notice shall be addressed to the Head of the Unit, BHEL, executing the Contract and shall contain the particulars of all claims to be referred to arbitration with sufficient detail and shall also indicate the monetary amount of such claim including interest, if any.
- 3- After expiry of 30 days from the date of receipt of aforesaid notice, the party invoking the Arbitration shall submit that dispute to the Arbitral Institution i.e. Delhi International Arbitration Centre and that dispute shall be adjudicated in accordance with their respective Arbitration Rules. The matter shall be adjudicated by a Sole Arbitrator who shall necessarily be a Retired Judge having considerable experience in commercial matters to be appointed/nominated by the respective institution. The cost/expenses pertaining to the said Arbitration shall also be governed in accordance with the Rules of the respective Arbitral Institution. The decision of the party invoking the Arbitration for reference of dispute to a specific Arbitral institution for adjudication of that dispute shall be final and binding on both the parties and shall not be subject to any change thereafter. The institution once selected at the time of invocation of dispute shall remain unchanged
- 4- The fee and expenses shall be borne by the parties as per the Arbitral Institutional rules.
- 5- The Arbitration proceedings shall be in English language and the seat and venue of Arbitration shall be Haridwar.
- 6- The Governing law of contract shall be the substantive law of India.
- 7- Subject to the above, the provisions of Arbitration & Conciliation Act 1996 and any amendment thereof shall be applicable. All matters relating to this Contract and arising out of invocation of Arbitration clause are subject to the exclusive jurisdiction of the Court(s) situated at Haridwar.
- 8- Notwithstanding any reference to the Designated Engineer or Conciliation or Arbitration herein, a. the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree. Settlement of Dispute clause cannot be invoked by the Contractor, if the Contract has been mutually closed or 'No Demand Certificate' has been furnished by the Contractor or any Settlement Agreement has been signed between the Employer and the Contractor.
- 9- It is agreed that Mechanism of resolution of disputes through arbitration shall be available only in the cases where the value of the dispute is less than Rs. 10 Crores.
- 10- In case the disputed amount Claim, Counter claim including interest is Rs. 10 crores and above, the parties shall be within their rights to take recourse to remedies other than Arbitration, as may be available to them under the applicable laws after prior intimation to the other party. Subject to the



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

aforesaid conditions, provisions of the Arbitration and Conciliation Act, 1996 and any statutory modifications or re-enactment thereof as amended from time to time, shall apply to the arbitration proceedings under this clause.

- 11- In case, multiple arbitrations are invoked (whether sub-judice or arbitral award passed) by any party to under this contract, then the cumulative value of claims (including interest claimed or awarded) in all such arbitrations shall be taken in account while arriving at the total claim in dispute for the subject contract for the purpose of Sl. No. 10 given above. Disputes having cumulative value of less than 10 crores shall be resolved through arbitration and any additional dispute shall be adjudicated by the court of competent jurisdiction.

24. JURISDICTION

The Court situated at Haridwar shall alone have exclusive jurisdiction in regard to all matters in respect of the Contract.

GOVERNING LAWS

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

25. INFORMATION TO THE BIDDERS

- a) Purchase related information is available at our Business-to- Business (B2B) Portal available on our website <https://hwr.bhel.com> The user ID & password can be obtained by sending a request to concerned purchase executives.
- b) Intimate your change in mail address or communication address or changes, if any, by email to AGM (SDX/MM) at hwsdc@bhel.in giving your bidder Code.
- c) Please resolve your rejections and unexecuted overdue purchase order immediately which are posted at our B2B Portal, which can be visited through our site <https://hwr.bhel.com>
- d) Copy of this Tender Enquiry is being sent through the post/ Courier / E-mail or by any existing means.
- e) Invoice description and Unit of measurement should be strictly in accordance with Purchase order.
- f) **Unit of measurement for dimension and weight used in the bid submitted by the vendor must exactly match the units stated in the tender enquiry. Any discrepancy between these units is not acceptable.**
- g) 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



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

bidder is found having indulged in above activities, suitable action shall be taken by BHEL as per extant policies/ guidelines.

- h) Supplier must upload digitally signed e-Invoice on B2B portal (<https://hwr.bhel.com>) for processing of Bills. In other cases, inked signed hard copy of Invoice to be submitted for processing of Bills.

26. RESTRICTIONS UNDER RULE 144(XI) OF THE GENERAL FINANCIAL RULES (GFRs). 2017

All provisions of Order No. F.No.7/10/2021-PPD(1) dated 23/2/2023 of Department of Expenditure (DoE) shall be applicable for this tender enquiry (Order copy is available at <https://doe.gov.in/procurementpolicy-divisions>).

Accordingly, any bidder from a country which shares a land border with India will be eligible to bid in any procurement whether of goods, services (including consultancy services and non-consultancy services) or works (including turnkey projects) only if the bidder is registered with the Competent Authority, specified in Annexure I of the said Order of DoE.

The definition of Bidder from a country which shares a land border with India shall be as defined at Sl.No. 12 of the said order.

Registration with the competent authority as stipulated in the said order shall be responsibility of the bidder.

Bidder has to submit a certificate certifying following along with the offer:

"I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India; I certify that bidder (.... Name of Bidder) is not from such a country or, if from such a country, has been registered with the Competent Authority. I hereby certify that bidder (.....Name of bidder) fulfils all requirements in this regard and is eligible to be considered"

If the bidder is from such country which shares a land border with India, the evidence of valid registration by the Competent Authority shall be attached along with offer. Registration of the bidder with Competent Authority should be valid at the time of submission of bids and at the time of acceptance of the bids.

27. NOTE

- Special conditions of enquiry, if enclosed by BHEL, will supersede the respective standard / general terms of enquiry.
- Any other Standard terms and Conditions of the bidder attached / referred against the tender enquiry will be treated as null and void ab initio.
- In the event of our customer order covering this tender being cancelled /placed on hold /otherwise modified, BHEL would be constrained to accordingly cancel / hold / modify the tender at any stage of execution.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry
(GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

- d) In order to protect the commercial interests of BHEL, it becomes necessary to take action against suppliers/ contractors by way of suspension of business dealings, who either fail to perform or are in default without any reasonable cause, cause loss of business / money / reputation, indulged in malpractices, cheating, bribery, fraud or any other misconducts or formation of cartel so as to influence the bidding process or influence the price etc. Guidelines for Suspension of Business Dealings with Suppliers / Contractors shall prevail over which is available at BHEL website <http://www.bhel.com>.
- e) The bidder along with its associate / collaborators / subcontractors / sub-vendors / consultants / service providers shall strictly adhere to BHEL Fraud Prevention Policy displayed on BHEL website <http://www.bhel.com> and shall immediately bring to the notice of BHEL-Management about any fraud or suspected fraud as soon as it comes to their notice.
- f) BHEL reserves its right to reject an offer due to unsatisfactory past performance by the respective Vendor in the execution of any contract to any BHEL project / Unit.
- g) The offers of the bidders who are under suspension and also the offers of the bidders, who engage the services of the debarred firms /principal/agents, shall be rejected. The list of debarred firms is available on BHEL web site www.bhel.com.
- h) "BHEL shall recover the amount of compensation paid to victim(s) by BHEL towards loss of life / permanent disability due to an accident which is attributable to the negligence of contractor, agency or firm or any of its employees as detailed below;
1. **Victim:** Any person who suffers permanent disablement or dies in an accident as defined below.
 2. **Accident:** Any death or permanent disability resulting solely and directly from any unintended and unforeseen injurious, occurrence caused during the manufacturing / operation and works incidental thereto at BHEL factories/ offices and precincts thereof, project execution, erection and commissioning, services, repairs and maintenance, trouble shooting, serving , overhaul, renovation and retrofitting, trial operation, performance guarantee testing undertaken by the company or during any works / during working at BHEL Units/ Offices/ townships and premises/ project sites.
 3. **Compensation in respect of each of the victims:**
 - i. In the event of death or permanent disability resulting from Loss of both limbs: Rs. 10,00,000/- (Rs. Ten Lakh).
 - ii. In the event of other permanent disability: Rs. 7,00,000/- (Rs. Seven Lakh). **Permanent Disablement:** A disablement that is classified as a permanent total disablement under the proviso to Section 2(I) of the Employees Compensation Act, 1923."
- i) The bidder must comply with applicable laws, rules and regulations throughout the terms of the contract for conducting business and fulfilling obligations under this contract.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

**General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry
(GISTC)**

For Foreign Bidders (Version Aug-2025, Rev: 08)

Annexure-1

ONE SIDED

NON-DISCLOSURE AGREEMENT

THIS NON DISCLOSURE AGREEMENT (this “**Agreement**”) entered into on this day of June, 20.. (the “**Effective Date**”) By and Between **Bharat Heavy Electricals Limited (a Public Sector Undertaking of Government of India)**, a company incorporated under the Companies Act, 1956 and having its registered office at having its registered office at "BHEL House", Siri Fort, New Delhi - 110 049, India (hereinafter referred to as "**BHEL**" of which the expression shall unless repugnant to the context or the meaning thereof be deemed to include its successors and permitted assigns) (hereinafter referred to as "BHEL"),

And

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

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

WHEREAS

(A) The Disclosing Party and The Receiving Party wish to explore and discuss the potential of certain mutually advantageous business relationships for _____, for the purpose ofproducts in India ('the Purpose');

(B) The Disclosing Party, in furtherance of such business relationship, will disclose certain information, including but not limited to, scientific, development, financial, marketing, sales or other proprietary information;

(C) The Receiving Party and the Disclosing Party wish to protect and preserve the confidentiality of such information provided by the Disclosing Party to the Receiving Party by preventing its unauthorized disclosure and use, in accordance with the terms of this Agreement; and

(D) The Receiving Party agrees to hold such information in strict confidence and not to disclose or to use, directly or indirectly, for any purpose other than the performance of this Agreement

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

1. PURPOSE: Purpose to ne mentioned here.

2. DISCLOSING PARTY. means a Party that discloses the confidential information to the other party under this agreement.

3. RECEIVING PARTY means a Party that receives the confidential information from the other party under this agreement.

4. Confidential Information

(a) Subject to the provisions of this Agreement, all information disclosed by the Disclosing Party to the Receiving Party, shall be deemed to be "Confidential Information" for the purposes of this Agreement.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

**General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry
(GISTC)**

For Foreign Bidders (Version Aug-2025, Rev: 08)

(b) (i) It is clarified that Confidential Information shall include, but is not limited to, any trade secret, technique, strategy, component, concept, program, report, study, memorandum, correspondence, documentation, information, manual, record, data, technology, product, plan, design, procedure, method, invention, sample, notes, summaries, analyses, compilations and other writings, producing any such sample, medium, test data relating to any research project, work in progress, future development, engineering, manufacturing, marketing, pricing, billing, servicing, financing, personnel matter, its present or future products, sales, suppliers, clients, customers, employees, investors, or any other information which the Disclosing Party provides to the Receiving Party whether in oral, written, graphic or electronic form and whether or not such information is identified as such by an appropriate stamp or marking. The Confidential Information shall also include all reports, notes or other material prepared by the Receiving Party based on the Confidential Information and/ or any discussion thereon.

(ii) Confidential Information includes information disclosed by the Disclosing Party or by any individual, firm or corporation controlled by, controlling, or under the common control of the Disclosing Party.

(c) Confidential Information shall not include any information which the Receiving Party can demonstrate to the Disclosing Party:

(1) is now, or has become, through no act or failure to act on the part of the Receiving Party, generally known or available to the public;

(2) is known by the Receiving Party at the time of receiving such information as evidenced by its records;

(3) is discovered/independently developed by the Receiving Party independent of any disclosures by the Disclosing Party; or

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

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

5. Disclosure

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

(a) Shall treat as confidential and safeguard all information disclosed and/or its Affiliates in connection

(b) to hold the Confidential Information in strict confidence and to take all necessary precautions to protect such Confidential Information (including, without limitation, all precautions the Recipient employs with respect to its own confidential materials);

(c) limit disclosure of any Confidential Information to its concerned directors, officers and employees, (collectively "Representatives") strictly only to who have a need to know such Confidential Information in connection with the Transaction between the parties to which this Agreement relates, and only for that purpose;

(d) advise its Representatives of the proprietary nature of the Confidential Information and of the obligations set forth 2 in this Agreement and require in writing such Representatives to keep the Confidential Information confidential;

(e) shall keep all Confidential Information strictly confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information;

(f) not disclose any Confidential Information received by it to any third party; and

(g) not to copy or reverse engineer any such Confidential Information.

(h) not to use the Confidential Information for any purpose other than the Transaction.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

**General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry
(GISTC)**

For Foreign Bidders (Version Aug-2025, Rev: 08)

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

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

6. Restriction on Use

- (a) The Receiving Party and its Representatives shall hold the Confidential Information received from the Disclosing Party in confidence, and shall not, directly or indirectly:
 - (i) disclose the Confidential Information to any third party; or
 - (ii) use the Confidential Information for any purpose other than the permitted Purpose.
- (b) The Receiving Party shall not use the Confidential Information for any purpose or in any manner, which would constitute a violation of any applicable laws or regulations, directly or indirectly.
- (c) The Confidential Information shall be the property of the Disclosing Party. No rights, licenses or interests including, but not limited to, trademarks, inventions, copyrights or patents are implied, transferred or granted in relation to the Confidential Information provided by the Disclosing Party to the Receiving Party under this Agreement.
- (d) The Receiving Party shall not reproduce the Confidential Information in any form except as needed for the Purpose of the Agreement as set out above or with the prior written consent of the Disclosing Party.
- (e) All the title and rights in the Confidential Information shall be reserved with the respective Discloser and/or its licensors and no rights or obligations other than those expressly set out in this Agreement are granted or to be implied from this Agreement. In particular no license is granted to the Recipient, directly or indirectly, by this Agreement relating to any invention, discovery, patent, copyright or other industrial or intellectual property right now or in the future.

7. Protection of Confidential Information

- (a) The Receiving Party represents and warrants that it shall protect the Confidential Information received with utmost care and diligence.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

(b) All Confidential Information shall be promptly returned to the Disclosing Party after the Receiving Party's need for it has expired, or upon request of the Disclosing Party, and in any event, upon completion or termination of this Agreement.

8. No Further Warranties

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

9. No Further Business Arrangement

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

10. Term

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

11. Injunctive remedy

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

12. Return of Confidential Information

Recipient shall immediately return and redeliver to the respective Discloser all tangible material embodying the Confidential Information provided hereunder and all notes, summaries, memoranda, drawings, manuals, records, excerpts or derivative information deriving there from and all other documents or materials (“Notes”) (and all copies of any of the foregoing, including “copies” that have been converted to computerized media in the form of image, data or word processing files either manually or by image capture) based on or including any Confidential Information, in whatever form of storage or retrieval, upon the earlier of (i) the completion or termination of the dealings between the parties contemplated hereunder; (ii) the termination of this Agreement; or (iii) any breach of this



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

agreement, in which case the party in breach shall also be liable towards the Disclosers under the law and this Agreement or (iv) at such time as the respective Discloser may so request; provided however that the Recipient may retain such of its documents as is necessary to enable it to comply with its document retention policies. Alternatively, the Recipient, with the written consent of the respective Discloser may immediately destroy any of the foregoing embodying Confidential Information (or the reasonably non-recoverable data erasure of computerized data) and, upon request, certify in writing such destruction by an authorized officer of the Recipient supervising the destruction).

13. Notice of Breach

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

14. Survival

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

15. Governing Law & Dispute Resolution

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

Except as provided elsewhere in this Contract, in case amicable settlement is not reached between the Parties, in respect of any dispute or difference; arising out of the formation, breach, termination, validity or execution of the Contract; or, the respective rights and liabilities of the Parties; or, in relation to interpretation of any provision of the Contract; or, in any manner touching upon the Contract, then, either Party may, by a notice in writing to the other Party refer such dispute or difference to arbitration. The arbitration shall be conducted by three arbitrators, one to be appointed by each of the Parties and a third arbitrator to be appointed by the mutual consent of the two arbitrators so appointed by the Parties.

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

16. No Publication

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



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

17. Miscellaneous

(a) This Agreement constitutes the entire understanding between the parties and supersedes any and all prior or contemporaneous understandings and agreements, whether oral or written, between the parties, with respect to the subject matter hereof. This Agreement can only be modified by a written amendment signed by the party against whom enforcement of such modification is sought.

(b) Any failure by a Discloser to enforce the Recipient's strict performance of any provision of this Agreement will not constitute a waiver of its right to subsequently enforce such provision or any other provision of this Agreement.

(c) Although the restrictions contained in this Agreement are considered by the parties to be reasonable for the purpose of protecting the Confidential Information, if any such restriction is found by a court of competent jurisdiction to be unenforceable, such provision will be modified, rewritten or interpreted to include as much of its nature and scope as will render it enforceable. If it cannot be so modified, rewritten or interpreted to be enforceable in any respect, it will not be given effect, and the remainder of the Agreement will be enforced as if such provision was not included.

(d) Any notices or communications required or permitted to be given hereunder may be delivered by hand, deposited with a nationally recognized overnight carrier, electronic-mail, or mailed by certified mail, return receipt requested, postage prepaid, in each case, to the address of the other party first indicated above (or such other addressee as may be furnished by a party in accordance with this paragraph). All such notices or communications shall be deemed to have been given and received (a) in the case of personal delivery or electronic-mail, on the date of such delivery, and (b) in the case of delivery by a nationally recognized overnight carrier, on the third business day following dispatch.

(e) Parties shall not directly or indirectly assign or transfer it by operation of law or otherwise without the prior written consent of the Disclosers, which consent will not be unreasonably withheld. All obligations contained in this Agreement shall extend to and be binding upon the parties to this Agreement and their respective successors, assigns and designees.

(f) Paragraph headings used in this Agreement are for reference only and shall not be used or relied upon in the interpretation of this Agreement.

18. Notices

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

Notice if to:

BHEL, then to,

Phone : Fax :

E-mail :



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

**General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry
(GISTC)**

For Foreign Bidders (Version Aug-2025, Rev: 08)

ABC, then to,

(Name) _____

(Designation) _____

Phone :

Fax :

E-mail :

19. Counterparts, Telefax Signatures

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

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

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



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry
(GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

Annexure-2

BOTH SIDED

NON-DISCLOSURE AGREEMENT

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

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

AND

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

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

A) In connection with (describe transaction/cooperation) or any successor or replacement transaction (the Transaction), the Parties may have exchanged and wish further to exchange certain information on a confidential basis

B) The Parties wish to define their rights and obligations with regard to such information and protect its confidentiality

1. Definition of Confidential Information

(a) For purposes of this Agreement, "Confidential Information" means the information as well as any data or information that is proprietary of the Discloser and not generally known to the public, whether in tangible or intangible form, whenever and however disclosed, including, but not limited to: (i) any scientific or technical information, invention, design, process, procedure, formula, improvement, technology or method; (ii) any concepts, reports, data, know-how, works-in-progress, designs, development tools, specifications, computer software, source code, object code, flow charts, databases, inventions, information and trade secrets; (iii) any marketing strategies, plans, financial information, or projections, operations, sales estimates, business plans and performance results relating to the past, present or future business activities of such party, its affiliates, subsidiaries and affiliated companies; (iv) plans for products or services, and customer or supplier lists. Confidential Information need not be novel, unique, patentable, copyrightable or constitute a trade secret in order to be designated Confidential Information. The Recipient acknowledges that the Confidential Information is proprietary to the respective Discloser and that the Discloser regards all of its Confidential Information as secrets.

(b) Notwithstanding anything in the foregoing to the contrary, Confidential Information shall not include information which: (i) was known to the Recipient without a duty of confidentiality prior to receiving the Confidential Information from the respective Discloser; (ii) becomes rightfully known to the Recipient from a third-party source not known (after diligent inquiry) by the Recipient to be under an obligation to the respective Discloser to maintain confidentiality; (iii) is or becomes publicly available through no



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

fault of or failure to act by the Recipient in breach of this Agreement; (iv) is required to be disclosed in a judicial or administrative proceeding, or is otherwise requested or required to be disclosed by law or regulation, but only to the extent of any such disclosure, although the requirements of paragraph 4 hereof shall apply prior to any disclosure being made; and (v) is or has been independently developed by the Recipient without violation of the terms of this Agreement or reference or access to any Confidential Information.

2. Disclosure of Confidential Information

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

(a) treat as confidential and safeguard all information disclosed and/or its Affiliates in connection

(b) hold the Confidential Information in strict confidence and to take all necessary precautions to protect such Confidential Information (including, without limitation, all precautions the Recipient employs with respect to its own confidential materials);

(c) limit disclosure of any Confidential Information to its concerned directors, officers and employees, (collectively "Representatives") strictly only to who have a need to know such Confidential Information in connection with the Transaction between the parties to which this Agreement relates, and only for that purpose;

(d) advise its Representatives of the proprietary nature of the Confidential Information and of the obligations set forth 2 in this Agreement and require in writing such Representatives to keep the Confidential Information confidential;

(e) shall keep all Confidential Information strictly confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information;

(f) not disclose any Confidential Information received by it to any third party; and

(g) not to copy or reverse engineer any such Confidential Information.

(h) not to use the Confidential Information for any purpose other than the Transaction.

(i) not use the information for any scientific research or any other research.

(j) Confidential information does not include information:

a. Which is generally available to the public other than as a result of a breach of this Agreement; or

b. Which is already in the possession of Recipient without restriction prior to any disclosure hereunder: or

c. Which is or has been lawfully disclosed to Recipient by someone who is free lawfully to disclose the same without confidentiality restrictions: or

d. Which is independently developed by Recipient or its Affiliates and no Confidential information disclosed hereunder has been used directly or indirectly in such development; or

e. Whose applicable period of confidentiality pursuant hereto, or such other period specifically agreed to in writing by the parties, has ended

(k) This agreement is not intended to, and does not, oblige either party to enter into any further agreements or to proceed with the transaction, any possible relationship or other transaction. Recipient acknowledges that Discloser makes no representation or warranty whether express or implied, as to the



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

**General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry
(GISTC)**

For Foreign Bidders (Version Aug-2025, Rev: 08)

accuracy or completeness of Confidential information, and Discloser disclaims any and all liability unless contained in any definitive agreement.

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

3. Use of Confidential Information

The Recipient agrees to use the Confidential Information solely for the Transaction and not for any purpose other than as authorized by this Agreement without the prior express written consent of an authorized representative of **parties**. No other right or license, whether expressed or implied, in the Confidential Information is granted to the Recipient hereunder. Nothing contained herein is intended to modify the parties' existing agreement of the Transaction. All the title and rights in the Confidential Information shall be reserved with the respective Discloser and/or its licensors and no rights or obligations other than those expressly set out in this Agreement are granted or to be implied from this Agreement. In particular no license is granted to the Recipient, directly or indirectly, by this Agreement relating to any invention, discovery, patent, copyright or other industrial or intellectual property right now or in the future.

4. Term

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

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

5. Remedies

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

6. Return of Confidential Information

Recipient shall immediately return and redeliver to the respective Discloser all tangible material embodying the Confidential Information provided hereunder and all notes, summaries, memoranda, drawings, manuals, records, excerpts or derivative information deriving there from and all other documents or materials ("Notes") (and all copies of any of the foregoing, including "copies" that have been converted to computerized media in the form of image, data or word processing files either manually or by image capture) based on or including any Confidential Information, in whatever form of storage or retrieval, upon the earlier of (i) the completion or termination of the dealings between the



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

parties contemplated hereunder; (ii) the termination of this Agreement; or (iii) any breach of this agreement, in which case the party in breach shall also be liable towards the Disclosers under the law and this Agreement or (iv) at such time as the respective Discloser may so request; provided however that the Recipient may retain such of its documents as is necessary to enable it to comply with its document retention policies. Alternatively, the Recipient, with the written consent of the respective Discloser may immediately destroy any of the foregoing embodying Confidential Information (or the reasonably non-recoverable data erasure of computerized data) and, upon request, certify in writing such destruction by an authorized officer of the Recipient supervising the destruction).

7. Notice of Breach

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

8. No Binding Agreement for Transaction

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

9. Applicable Law and Disputes

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

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

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

10. Miscellaneous

(g) This Agreement constitutes the entire understanding between the parties and supersedes any and all prior or contemporaneous understandings and agreements, whether oral or written, between the parties, with respect to the subject matter hereof. This Agreement can only be modified by a written amendment signed by the party against whom enforcement of such modification is sought.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

(h) Any failure by a Discloser to enforce the Recipient's strict performance of any provision of this Agreement will not constitute a waiver of its right to subsequently enforce such provision or any other provision of this Agreement.

(i) Although the restrictions contained in this Agreement are considered by the parties to be reasonable for the purpose of protecting the Confidential Information, if any such restriction is found by a court of competent jurisdiction/arbitral tribunal to be unenforceable, such provision will be modified, rewritten or interpreted to include as much of its nature and scope as will render it enforceable. If it cannot be so modified, rewritten or interpreted to be enforceable in any respect, it will not be given effect, and the remainder of the Agreement will be enforced as if such provision was not included.

(j) Any notices or communications required or permitted to be given hereunder may be delivered by hand, deposited with a nationally recognized overnight carrier, electronic-mail, or mailed by certified mail, return receipt requested, postage prepaid, in each case, to the address of the other party first indicated above (or such other addressee as may be furnished by a party in accordance with this paragraph). All such notices or communications shall be deemed to have been given and received (a) in the case of personal delivery or electronic-mail, on the date of such delivery, and (b) in the case of delivery by a nationally recognized overnight carrier, on the third business day following dispatch.

(k) Parties shall not directly or indirectly assign or transfer it by operation of law or otherwise without the prior written consent of the Disclosers, which consent will not be unreasonably withheld. All obligations contained in this Agreement shall extend to and be binding upon the parties to this Agreement and their respective successors and permitted assigns. and designees.

(l) Paragraph headings used in this Agreement are for reference only and shall not be used or relied upon in the interpretation of this Agreement.

For Recipient: _____

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

For Discloser : _____

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

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

Witness 1: _____

Witness 2: _____



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403) INDIA

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Foreign Bidders (Version Aug-2025, Rev: 08)

Annexure-3

Declaration for treatment of cases regarding conflict of interest

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

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

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

In case, the Bidder is found having indulged in above activities, the same will be considered as a violation of the tender conditions, and suitable action shall be taken by BHEL as per extant policies/ guidelines.

(Signature of the authorized signatory of the bidder)



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

**General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry
(GISTC)**

For Indian Bidders (Version Aug-2025, Rev: 09)

Table of Contents

S. No.	Title	Page No.
1	GENERAL	2
2	ORIGIN OF QUOTATION	2
3	SUBMISSION OF TENDER	2
4	TENDER OPENING	4
5	SPECIFICATION, DRAWINGS & STANDARD	4
6	PRICE SCHEDULE	4
7	REVERSE AUCTION	5
8	DELIVERY TERMS	5
9	PENALTY/LIQUIDATED DAMAGE FOR LATE DELIVERY	5
10	PAYMENT TERMS	6
11	TAXES & DUTIES	8
12	BANK GUARANTEE	10
13	GUARANTEE / WARRANTY AND CORRESPONDING REPAIRS / REPLACEMENT OF GOODS	11
14	QUALITY REQUIREMENT	11
15	VALIDITY	11
16	RIGHT OF ACCEPTANCE	12
17	TRANSIT INSURANCE	12
18	BREACH OF CONTRACT, REMEDIES AND TERMINATION	12
19	FORCE MAJEURE CLAUSE	15
20	CONSEQUENTIAL LOSS	16
21	NON-DISCLOSURE AGREEMENT	16
22	CARTEL FORMATION	16
23	SETTLEMENT OF DISPUTES / ARBITRATION	17
24	JURISDICTION	19
25	DEMURRAGE RESPONSIBILITY	19
26	CONDITIONS FOR AVAILING MSE BENEFITS	19
27	INFORMATION TO THE BIDDERS	20
28	MAKE IN INDIA (GOVT-NOTIFICATION)	21
29	RESTRICTIONS UNDER RULE 144(XI) OF GFR-2017	21
30	NOTE	22
31	Annexure-1 (Format for NDA-One Sided)	24
32	Annexure-2 (Format for NDA-Both Sided)	31
33	Annexure-3 (Format for Treatment of cases regarding conflict of interest)	36



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

1. GENERAL

These general terms & conditions shall apply to all Tender Enquiries, Notice Inviting Tenders, Request for Quotations concerning the supply of goods and / or rendering of services to Bharat Heavy Electricals Ltd, HEEP, Haridwar (hereinafter referred to as BHEL or the Purchaser). In case of placement of order, these conditions will become part of Purchase Order (P.O.) until unless the deviations are specifically agreed by BHEL.

2. ORIGIN OF QUOTATION

A bidder shall not have conflict of interest with other bidders. Bidders having a conflict of interest shall not be eligible to participate in the tender process.

In this regard, the declaration given in Annexure-3 regarding “Conflict of interest” is required to be submitted by bidders alongwith the tender, which should be signed by the authorized signatory of the bidder.

3. SUBMISSION OF TENDER

- a) Bid / Quotation must be enclosed in sealed cover on which tender enquiry number and the due date MUST BE written and be invariably sent under REGISTERED POST / SPEED POST / COURIER / Dropped in the Tender Box: addressed as follows:

Quotation against Enquiry No. _____

Dated: _____

Due on: _____

To,

**THE HEAD OF MATERIALS MANAGEMENT
Heavy Electrical Equipment Plant
Bharat Heavy Electricals Limited
HARIDWAR-249403 (Uttarakhand), INDIA**

Bid/Quotation can also be submitted through email communication at email address:
tendercell.heep@bhel.in.

All vendors submitting their bids through e-mail are advised to have following clear subject line: -

1. Tender Enquiry Reference No. _____



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

2. Bid Opening Date (Part 1, Techno-Commercial). _____

Vendor to submit their bids as attachment (pdf format) with password protection and share the password through mail (tendercell.heep@bhel.in) after 1.45 pm (IST) on the day of bid opening. However, if no password is received up to 4.00 pm (IST) bids will not be opened and will be ignored. Submission of bids through email shall be considered as consent to open the bid without physically witnessing the event. The total size of the mail including both attachments must not exceed 25 MB.

- b) TENDER ROOM is located at: Room No. - 415, 4th Floor, Main Admin. Building, BHEL-HEEP, Haridwar.**
- c) In case of Three/Two Part Bid, technical bid containing technical offer, duly signed and un-priced copy of the Price Bid should be kept in one envelope. Price Bid containing only the price should be kept in a separate envelope. All envelopes indicating Part-1 or Part-2 or Part-3 as the case may be to be put in a bigger envelope. Please note that un-priced bid should be the exact replica of price bid but without prices.**
- d) The bid / quotation must be posted before due date, keeping allowance for postal transit time. Quotations sent by any mode but not received in time will be ignored. Tender received through authorized E-mail is also acceptable. However, in time submission of tender in tender box shall be the responsibility of the bidder, sent through any mode. Documents submitted with the offer / bid shall be signed and stamped in each page by authorized representative of the bidder.**
- e) The bids of the bidders who are on the debarred list and also the bids of the bidders, who engage the services of the debarred firms, shall be rejected. The list of firms debarred by BHEL is available on BHEL web site www.bhel.com. Bid should be free from correction, overwriting, using corrective fluid, etc. Any interlineation, cutting, erasure or overwriting shall be valid only if they are attested under full signature(s) of person(s) signing the bid else bid shall be liable for rejection.**
- f) Being PMD vendor, if you are not quoting against this tender enquiry, please send your regret letter positively for our reference with valid reasons for not participating in the tender enquiry. Repeated lack of response on the part of bidder may lead to deletion of such PMD vendor from BHEL's approved vendor list.**
- g) The bidders will submit Integrity Pact, duly signed by their authorized signatories, along with their bids wherever applicable as per tender terms.**
- h) In case of open tender, technically qualified unregistered bidders may apply online for registration through <https://www.bhel.com/supplier-registration>.**
- i) BHEL reserves the right to award tendered quantities among more than one bidder (after acceptance of L1 price by the other bidders). BHEL 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.**
- j) In cases of e-Tendering (Online bidding through e-portal), offline bid submitted in hard copy or in any other form by the bidders shall not be accepted. Only e-portal bid shall be accepted. Also, the technical bids and/or the financial bids of different bidders received from the same IP address shall be outrightly rejected and shall not be considered for further evaluation.**



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

k) No interest shall be payable on the security deposit or any other money due to the supplier.

4. TENDER OPENING

Tender opening is scheduled to start in the Tender Room at 2:00 PM, on the due date. Therefore, bid/ quotations must reach this office/tender Box latest by 1:45 PM on due date. Only participating bidders are allowed to attend tender opening. **TENDERS RECEIVED AFTER THE SPECIFIED TIME OF THEIR 'SUBMISSION' WILL BE TREATED AS LATE TENDERS AND SHALL NOT BE CONSIDERED UNDER ANY CIRCUMSTANCES.** The bidders or their authorized representatives may be allowed to attend tender opening if duly authorized by their principals, through a tender specific letter on that particular day. General authorization letter is not acceptable.

5. SPECIFICATION, DRAWINGS & STANDARD

- a) Bidders must give their detailed specification in the quotation along with relevant technical literature/ catalogue etc. against the tender enquiry.
- b) The Bid should be accompanied with relevant copies of catalogues, drawings or specification as per tender enquiry. If these documents are not furnished, the offer is liable to be rejected.
- c) Wherever national / international (N/IN) standards are referred, the latest N/IN standards are to be followed. Mention year & date of standard revision that shall be followed for the supply.
- d) All Drawings and Standards are proprietary of BHEL. It must not be used in any way detrimental to the interest of BHEL or without permission of BHEL.

6. PRICE SCHEDULE

- a) Kindly quote your prices in figures and words both. In case of any discrepancy in value, the prices quoted in words shall be considered for evaluation and establishing L1 status.
- b) Prices quoted should not be more than the prices quoted to any other BHEL units / offices / divisions. Vendor to submit copy of latest Purchase Order placed by any unit of BHEL for similar items in the technical bid.
- c) Prices should be quoted on F.O.R. Destination basis. The offers quoted on other than F.O.R destination basis may result in non-consideration of such bids.
- d) In case BHEL accepts the EX-Works prices, such offers will be loaded by 1.5% of EX-Works value towards freight or with actual freight charges as per BHEL freight rate contract whichever is higher.
- e) Applicable IGST / CGST / SGST and any other statutory levy should be indicated separately and clearly in the bid / quotation.
- f) If it is not otherwise specified by BHEL, bidders can dispatch goods through any Indian Bank Association approved transporter.
- g) Any demurrage/godown rent payable to the transporter or godown's owner due to any delay attributed by the supplier shall be recovered from supplier's account.
- h) Currency of Evaluation shall be INR.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

Note: Financial evaluation of L1, L2 Status will be on the basis of Landed Cost to BHEL.

7. REVERSE AUCTION

Wherever Reverse Auction (RA) is declared in the special terms and conditions of tender enquiry, the following shall be applicable and Bidders to confirm their acceptance for the same:

"BHEL shall resort to Reverse Auction (RA) for this tender (*RA Guidelines are available at www.bhel.com*).

Price bids of all eligible techno-commercially qualified bidders shall be opened and same shall be considered as initial bids of bidders in RA. In case any bidder does not participate in online Reverse Auction, the bidder's sealed envelope price bid along with the applicable loading, if any, shall be considered for ranking."

8. DELIVERY TERMS

- a)** Goods shall be delivered on 'FOR Destination' basis to the named destination unless otherwise called for in the tender enquiry.
- b)** Commencement of delivery period shall be reckoned from the date of PO / LOI or any other agreed milestone.

9. PENALTY/ LIQUIDATED DAMAGES (LD) FOR LATE DELIVERY

a) Where items of Purchase Order are independently usable

Penalty/ Liquidated Damages (LD) for Late Deliveries shall be applicable @0.5% per week or part thereof on the value of respective delayed supplies subject to a maximum of 10% of the value of respective delayed supplies. Value of delayed supplies will mean the Gross Value payable to the vendor (Before LD) against such supplies excluding taxes and duties.

b) Where the total items are required for a main equipment and items are interdependent

Penalty/Liquidated Damages (LD) for Late Deliveries shall be applicable @0.5% per week or part thereof on total value of Purchase Order subject to maximum of 10% of the total value of Purchase Order. Purchase Order value for this purpose shall be the Total Gross Value payable to the vendor (Before Penalty/LD) excluding taxes and duties.

- c)** Bidders are requested to quote the best delivery meeting the delivery requirements. BHEL reserves the right to reject the offers not meeting BHEL's delivery requirement.
- d)** Bidder shall deliver the goods in the manner and schedule agreed under the terms and conditions of Purchase order.
- e) Delivery in Case of Rejection:** In case the material is rejected, then date of replacement will be considered as the actual date of delivery.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

- f) Delivery Against Bank Documents:** In case payment terms quoted by bidder are documents through bank, and the delivery terms being "FOR Haridwar / FOR Transporter Godown" then date of delivery will be date of intimation by transporter / bidder of delivery of material at Haridwar for the LD purpose.
- g)** Where the payments are through bank, the documents may be presented for negotiation to BHEL authorized/ nominated bank.
- h)** BHEL will load maximum penalty under LD clause, to the extent the same is not agreed by the bidder, for the purpose of working out the comparative statement of prices of bidders.
- i)** Payment of Penalty/ Liquidated Damages (LD) shall not in any way relieve the vendor from any of its obligations & liabilities under the contract.
- j)** Penalty/ Liquidated Damages, wherever referred under this Tender/Agreement, shall mean and refer to the damages, not in the nature of penalty, which the supplier agrees to pay in the event of delay in delivery of stores, installation, commissioning, breach of contract etc. as the case may be. Penalty/ Liquidated Damages leviable upon the supplier is a sum which is agreed by the parties as a reasonable and genuine pre-estimate of damages which will be suffered by BHEL on account of delay/breach on the part of the supplier. Grant of any provisional time extension shall by no means be considered as waiver of BHEL rights under the contract or law.

10. PAYMENT TERMS

- a) BHEL's standard payment term is Payment after receipt and acceptance of materials / items at HEEP, BHEL-Stores or at desired destination unless otherwise specified in Special Terms attached to the tender enquiry.
- b) BHEL reserves the right to accept or reject the offer of the bidder who quotes the payment term other than BHEL's standard payment terms.
- c) Loading on account of deviation in payment terms shall be done as per extant rules of BHEL-Haridwar.
- d) Irrespective of the value of the invoice amount, the bidder / vendor should necessarily upload the despatch & invoice details on BHEL SUVIDHA portal at <https://suvidha.bhel.in/suvidha/>, prior to despatch. All documents as per PO checklist, along with additional documents (if any), must be uploaded on the portal. It is mandatory that tax invoices with a net amount (including taxes) exceeding Rs Five lakhs uploaded on the portal are digitally signed using a Class 3 Digital Signature Certificate (DSC) issued by a licensed Certifying Authority. Submission of invoice document in hard copy is allowed for invoices with a net amount (including taxes) equal to and upto Rs Five lakhs, in case they were not digitally signed and uploaded on the portal. The material will not be accepted inside BHEL in absence of the above.
- e) 100% payment along with taxes, freight & insurance shall be made within 90/ 60/ 45 days (as applicable) from material entry date subject to submission of non-discrepant documents by vendor



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

and acceptance of material by BHEL as per terms and conditions of Purchase Order. In case of any objection in documents/acceptance of material, the same shall be informed to vendor within 15 days of delivery of the material. In such a case, the payment shall be made to the vendor within 90/ 60/ 45 days (as applicable) of the day such objection is removed by the vendor.

- f) For MSMEs (covered under MSME Act), wherever such status claimed by vendor and accepted by BHEL, the payment shall be made within 45 days for Micro and Small category and 60 days for Medium category from material entry date or as prescribed in the relevant act. Other conditions w.r.t. submission of dispatch documents and acceptance of material shall remain the same as elaborated above in Sl. No. 10(d).
- g) Adherence to the above time schedule of payment is contingent upon Vendor complying with GST Rules w.r.t. availment of Input Tax Credit by BHEL.
- h) In case GST credit is delayed / denied to BHEL, due to non / delayed receipt of goods and / or tax invoice or expiry of the timeline prescribed in GST Law for availing such ITC, or any other reason not attributable to BHEL, GST amount shall be recoverable from Vendor along with interest levied / leviable on BHEL.
- i) The taxes and duties that are reimbursed would be the ones applicable as on the contractual Purchase order delivery date or the amount actually paid whichever is less.
- j) **The loading criteria for the different payment terms shall be as under:**

Payment Terms	Days of Loading
From material entry date within 90 /60/ 45 (as applicable) days of supply.	No Loading
Against documents through bank (CAD):	60 days – For Micro & Small categories; 75 days – For Medium Category; 105 days – For Normal Category
Letter of Credit (LC)	120 days
Usance LC	No Loading if usance period is > 120 Days.
	Loading of days difference i.e. difference between 120 days and usance period if the usance period is < 120 days.

*Loading for any deviation in the payment terms wrt NIT terms shall be done as follows:

Base rate of SBI (as applicable on the date of bid opening; techno-commercial bid opening in case of 2-part bids) + 6% shall be considered for loading for the period of relaxation sought by bidders.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

11. TAXES & DUTIES

- a) The Supplier/Vendor shall pay all (save the specific exclusions as enumerated in this clause) taxes, fees, license, charges, deposits, duties, tools, royalty, commissions, other charges, etc. which may be levied on the input goods & services consumed and output goods & services delivered in course of his operations in executing the contract. In case BHEL is forced to pay any of such taxes/duties, BHEL shall have the right to recover the same from his bills or otherwise as deemed fit along with the applicable overheads @5% and interest on the total value (i.e. amount paid by BHEL + overhead). However, provisions regarding **GST** on output supply (goods/service) and TDS/TCS as per Income Tax Act shall be as per following clauses.

b) GST (Goods and Services Tax)

1. GST as applicable on output supply (goods/services) are excluded from Supplier/Vendor's scope; therefore, contractor's price/rates shall be **exclusive** of GST. Reimbursement of GST is subject to compliance of following terms and conditions. BHEL shall have the right to deny payment of GST and to recover any loss to BHEL on account of tax, interest, penalty etc. for non-compliance of any of the following condition.
2. The admissibility of GST, taxes and duties referred in this chapter or elsewhere in the contract shall be limited to direct transactions between BHEL & its Supplier/Vendor. BHEL shall not consider GST on any transaction other than the direct transaction between BHEL & its Supplier/Vendor.
3. Supplier/Vendor shall obtain prior written consent of BHEL before billing the amount towards such taxes. Where the GST laws permit more than one option or methodology for discharging the liability of tax/levy/duty, BHEL shall have the right to adopt the appropriate one considering the amount of tax liability on BHEL/Client as well as procedural simplicity with regard to assessment of the liability. The option chosen by BHEL shall be binding on the Contractor for discharging the obligation of BHEL in respect of the tax liability to the Supplier/Vendor.
4. Supplier/Vendor has to submit GST registration certificate of the concerned state. Supplier/Vendor also needs to ensure that the submitted GST registration certificate should be in active status during the entire contract period.
5. Supplier/Vendor has to issue Invoice/Debit Note/Credit Note indicating HSN/SAC code, Description, Value, Rate, applicable tax and other particulars in compliance with the provisions of relevant GST Act and Rules made thereunder.
6. Supplier/Vendor has to submit GST compliant invoice within the due date of invoice as per GST Law. In case of delay, BHEL reserves the right of denial of GST payment if there occurs any hardship to BHEL in claiming the input thereof. In case of goods, Supplier/Vendor has to provide scan copy of invoice & GR/LR/RR to BHEL before movement of goods starts to enable BHEL to meet its GST related compliances. Special care should be taken in case of month end transactions.
7. Supplier/Vendor has to ensure that invoice in respect of such services which have been provided/completed on or before end of the month should not bear the date later than last working day of the month in which services are performed.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

8. Subject to other provisions of the contract, GST amount claimed in the invoice shall be released on fulfilment of all the following conditions by the Supplier/Vendor: -
 - a) Supply of goods and/or services have been received by BHEL.
 - b) Original Tax Invoice has been submitted to BHEL.
 - c) Supplier/Vendor has submitted all the documents required for processing of bill as per contract/ purchase order/ work order.
 - d) In cases where e-invoicing provision is applicable, Supplier/Vendor is required to submit invoice in compliance with e-invoicing provisions of GST Act and Rules made thereunder.
 - e) Supplier/Vendor has filed all the relevant GST return (e.g. GSTR-1, GSTR-3B, etc.) pertaining to the invoice submitted and submit the proof of such return along with immediate subsequent invoice. In case of final invoice/ bill, contractor has to submit proof of such return within fifteen days from the due date of relevant return.
 - f) Respective invoice has appeared in BHEL's GSTR - 2A for the month corresponding to the month of invoice and in GSTR-2B of the month in which such invoices has been reported by the contractor along with status of ITC availability as "YES" in GSTR-2B. Alternatively, BG of appropriate value may be furnished which shall be valid at least one month beyond the due date of confirmation of relevant payment of GST on GSTN portal or sufficient security is available to adjust the financial impact in case of any default by the Supplier/Vendor.
 - g) Supplier/Vendor has to submit an undertaking confirming the payment of all due GST in respect of invoices pertaining to BHEL.
9. Any financial loss arising to BHEL on account of failure or delay in submission of any document as per contract/purchase order/work order at the time of submission of Tax invoice to BHEL, shall be deducted from Supplier/Vendor's bill or otherwise as deemed fit.
10. TDS as applicable under GST law shall be deducted from Supplier/Vendor's bill.
11. Supplier/Vendor shall comply with the provisions of e-way bill wherever applicable. Further wherever provisions of GST Act permit, all e-way bills, road permits etc. required for transportation of goods needs to be arranged by the contractor.
12. Supplier/Vendor shall be solely responsible for discharging his GST liability according to the provisions of GST Law and BHEL will not entertain any claim of GST/interest/penalty or any other liability on account of failure of Supplier/Vendor in complying the provisions of GST Law or discharging the GST liability in a manner laid down thereunder.
13. In case declaration of any invoice is delayed by the vendor in his GST return or any invoice is subsequently amended/alterd/deleted on GSTN portal which results in any adverse financial implication on BHEL, the financial impact thereof including interest/penalty shall be recovered from the Supplier/Vendor's due payment.
14. Any denial of input credit to BHEL or levy of any tax liability on BHEL due to non-compliance of GST Law by the Supplier/Vendor in any manner, will be recovered along with liability on account of interest and penalty (if any) from the payments due to the Supplier/Vendor.
15. In the event of any ambiguity in GST law with respect to availability of input credit of GST charged on the invoice raised by the contractor or with respect to any other matter having impact on BHEL, BHEL's decision shall be final and binding on the Supplier/Vendor.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

16. Variation in Taxes & Duties:

Any upward variation in GST shall be considered for reimbursement provided supply of goods and services are made within schedule date stipulated in the contract or approved extended schedule for the reason solely attributable to BHEL. However downward variation shall be subject to adjustment as per actual GST applicability.

In case the Government imposes any new levy/tax on the output service/goods after price bid opening, the same shall be reimbursed by BHEL at actual. The reimbursement under this clause is restricted to the direct transaction between BHEL and its Supplier/Vendor only and within the contractual delivery period only.

In case any new tax/levy/duty etc. becomes applicable after the date of Bidder's offer but before opening of the price Bid, the Bidder/ Supplier/Vendor must convey its impact on his price duly substantiated by documentary evidence in support of the same before opening of price bid. Claim for any such impact after opening the price bid will not be considered by BHEL for reimbursement of tax or reassessment of offer.

c) INCOME TAX:

TDS/TCS as applicable under Income Tax Act, 1961 or rules made thereunder shall be deducted/collected from Supplier/Vendor's bill.

d) IMPORTED GOODS OFFERED BY INDIAN BIDDERS AGAINST DEALER INVOICE:

Wherever the material being offered is imported, the bidder must quote the prices inclusive of IGST. The rate and value of IGST as included in the price must be indicated separately. In case quantum of IGST is not mentioned by the bidder the same will not be considered for evaluation. However, bidder will have to pass on the benefit of IGST to BHEL at the time supply.

- e) In case of directly dispatchable items to Customer's Site, BHEL-Haridwar will inform the GST registration number of the respective customer which must be mentioned on the vendor's invoice. Vendor to ensure availability of such information from BHEL-Haridwar before dispatch of any material. However, while filing GSTN-1, BHEL Haridwar GSTN number to be quoted.

Note: - Vendors must ensure compliance of all the applicable rules and procedure as envisaged in the GST Regime. Any loss to BHEL-Haridwar due to fault / non-compliance by the vendor will be to the vendor's account.

12. BANK GUARANTEE

In case the bank guarantees are required to be deposited towards security deposit/performance guarantee or for any other purpose as per the terms of this tender enquiry, such bank guarantees of the requisite value in the denominated currency of the purchase order should be from one of the Indian branches of BHEL consortium banks and the bank guarantee should be in the proforma as prescribed by BHEL. The proforma of bank guarantee and the list of consortium banks are displayed at BHEL website <https://hwr.bhel.com>. However, in case the bank guarantee is not from BHEL consortium banks, then the



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

bidder has to get the bank guarantee confirmed from one of the Indian branches of BHEL consortium banks and the bank charges for such confirmation will be borne by the bidder.

13. GUARANTEE / WARRANTY AND CORRESPONDING REPAIRS / REPLACEMENT OF GOODS

- a) Goods shall comply with the specifications for material, workmanship and performance. Unless otherwise specified, the warranty shall be for a period of 18 months from the date of receipt. If the delivered product is found non-compliant during the 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) or 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 based on the contract conditions. In case the defects attributable to Seller are detected during processing of the goods at BHEL or at our subcontractor's works, the Seller shall be responsible for free replacement / repair of the goods as required by BHEL.
- b) In case the material is rejected, then date of replacement will be considered as the actual date of delivery.
- c) **RETURN OF REJECTED MATERIAL FOR REPLACEMENT:** The bidder shall have to pay 5% incidental charges while taking back supplied material if it is found rejected on receipt. The rejected material shall be sent back only after receipt of replacement/submission of BG/refund of amount paid.

14. QUALITY REQUIREMENT

- a) The vendor's bid / quotation should have specific confirmation regarding meeting all our quality requirements such as (i) Test Certificate (TC) (ii) Guarantee Certificate (GC) / Warranty Certificate (WC) (iii) Quality Plan (QP) (if applicable) and (iv) Pre-Dispatch Inspection at vendor's works (if applicable).
- b) For Indian suppliers, the 3rd party inspection charges are paid by BHEL. Hence, in all such cases, where bids have been received from both Indian and Foreign bidders, the offers of Indian bidders shall be loaded by 0.20% to work out the comparative status of the prices.

15. VALIDITY

The quotation should be valid for a minimum period of 90 days effective from the date of opening of tender, unless otherwise specified in the tender enquiry.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

16. RIGHT OF ACCEPTANCE

- a) BHARAT HEAVY ELECTRICALS LIMITED HARIDWAR reserves the right to reject any or all the bids/ quotations. BHEL also reserves the right to increase or decrease the tendered quantities. Bidders should be prepared to accept order for reduced quantity without any extra charges.
- b) Any discount / revised offer / bids submitted by a bidder on its own shall be considered, provided it is received on or before the due date and time of offer / bid submission (Part-1). Conditional discounts shall not be considered for evaluation of tenders.
- c) Unsolicited discounts / revised offers / bids given after Part-1 bid opening shall not be accepted. No change in price will be permitted within the validity period asked for in the tender enquiry.
- d) 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 the latest price bid shall prevail. However, in both situations, original price bid will be necessarily opened.
- e) The bidder whose bid is technically not accepted will be informed & EMD wherever submitted shall be returned after finalization of contract. EMD shall be forfeited in the event of bidder opting out after tender opening.
- f) BHEL reserves the right to short close the existing Purchase Order / Rate Contract / Work Order or any extension thereof at any stage.

17. TRANSIT INSURANCE

- a) In case of Ex-Works dispatch by seller, Transit Insurance will be covered by BHEL under its open Insurance Policy. Seller shall inform dispatch particulars (Purchase Order, RR /GR, Invoice value etc.) to Purchase Department, BHEL, Ranipur, Haridwar (Uttarakhand-India) within 7 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.
- b) In case of FOR Destination dispatch by seller, Transit Insurance shall be arranged by seller.

18. BREACH OF CONTRACT, REMEDIES AND TERMINATION

BREACH OF CONTRACT:

The following shall amount to breach of contract:

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



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

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

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

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

REMEDIES IN CASE OF BREACH OF CONTRACT:

- 1- Wherein the period as stipulated in the notice issued under above clause has expired and Supplier/Vendor has failed to remedy the breach, BHEL will have the right to terminate the contract on the ground of "Breach of Contract" without any further notice to contractor.
- 2- Upon termination of contract, BHEL shall be entitled to recover an amount equivalent to 10% of the Contract Value for the damages on account of breach of contract committed by the Supplier/Vendor. This amount shall be recovered by way of encashing the security instruments like performance bank guarantee etc available with BHEL against the said contract. In case the value of the security instruments available is less than 10% of the contract value, the balance amount shall be recovered from other financial remedies (i.e. available bills of the Supplier/Vendor, retention amount, from the money due to the Supplier/Vendor etc. with BHEL) or the other legal remedies shall be pursued.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

- 3- Wherever the value of security instruments like performance bank guarantee available with BHEL against the said contract is 10% of the contract value or more, such security instruments to the extent of 10% contract value will be encashed.
- 4- In case the amount recovered under sub clause (a) above is not sufficient to fulfil the amount recoverable then; a demand notice to deposit the balance amount within 30 days shall be issued to Supplier/Vendor.
- 5- If Supplier/Vendor fails to deposit the balance amount within the period as prescribed in demand notice, following action shall be taken for recovery of the balance amount:
 - a. from dues available in the form of Bills payable to defaulted Supplier/Vendor against the same contract.
 - b. If it is not possible to recover the dues available from the same contract or dues are insufficient to meet the recoverable amount, balance amount shall be recovered from any money(s) payable to Supplier/Vendor under any contract with other Units of BHEL including recovery from security deposits or any other deposit available in the form of security instruments of any kind against Security deposit or EMD.
- 6- In-case recoveries are not possible with any of the above available options, Legal action shall be initiated for recovery against defaulted supplier/Vendor.
- 7- It is an agreed term of contract that this amount shall be a genuine pre-estimate of damages that BHEL would incur in completion of balance contractual obligation of the contract through any other agency and BHEL will not be required to furnish any other evidence to the Supplier/Vendor for the purpose of estimation of damages.
- 8- In addition to the above, imposition of liquidated damages, debarment, termination, de-scoping, short-closure, etc., shall be applied as per provisions of the contract.

Note:

1. The defaulting Supplier/Vendor shall not be eligible for participation in any of the future enquiries floated by BHEL to complete the balance work. The defaulting contractor shall mean and include:
 - a) In case defaulted Supplier/Vendor is the Sole Proprietorship Firm, any Sole Proprietorship Firm owned by same Sole Proprietor.
 - b) In case defaulted Supplier/Vendor is The Partnership Firm, any firm comprising of same partners/ some of the same partners; or sole proprietorship firm owned by any partner(s) as a sole proprietor.

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



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

Penalty/ LD against delay in executed supply shall be calculated in line with Clause No. 9(j), for the delay attributable to Supplier/Vendor. For limiting the maximum value of LD, contract value shall be taken as Executed Value of supply till termination of contract.

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

- i. Let the time period from scheduled date of start of supply till termination of contract excluding the period of Hold (if any) not attributable to contractor = T1
- ii. Let the value of executed supply till the time of termination of contract = X
- iii. Let the Total Executable Value of supply for which inputs/fronts were made available to Supplier/Vendor and were planned for execution till termination of contract = Y
- iv. Delay in executed supply attributable to Supplier/Vendor i.e. $T2 = [1 - (X/Y)] \times T1$
- v. Penalty/ LD shall be calculated in line with LD clause [Clause 9(j)] of the Contract for the delay attributable to Supplier/Vendor taking "X" as Contract Value and "T2" as period of delay attributable to Supplier/Vendor.

19. FORCE MAJEURE CLAUSE

1. "Force Majeure" shall mean circumstance which is:
 - a) beyond control of either of the parties to contract,
 - b) either of the parties could not reasonably have provided against the event before entering into the contract,
 - c) having arisen, either of the parties could not reasonably have avoided or overcome, and
 - d) is not substantially attributable to either of the partiesAnd
Prevents the performance of the contract.

Such circumstances include but shall not be limited to:

- i. War, hostilities, invasion, act of foreign enemies.
- ii. Rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war.
- iii. Riot, commotion or disorder by persons other than the contractor's personnel and other employees of the contractor and sub-contractors.
- iv. Strike or lockout not solely involving the contractor's personnel and other employees of the contractor and sub-contractors.
- v. Encountering munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the contractor's use of such munitions, explosives, radiation or radio- activity.
- vi. Natural catastrophes such as earthquake, tsunami, volcanic activity, hurricane or typhoon, flood, fire, cyclones etc.
- vii. Epidemic, pandemic etc.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

**General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry
(GISTC)**

For Indian Bidders (Version Aug-2025, Rev: 09)

2. The following events are explicitly excluded from Force Majeure and are solely the responsibilities of the non-performing party: a) any strike, work-to-rule action, go-slow or similar labour difficulty (b) late delivery of equipment or material (unless caused by Force Majeure event) and (c) economic hardship.
3. If either party is prevented, hindered or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances thereof within 15 (fifteen) days after the occurrence of such event.
4. The party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such party's performance is prevented, hindered or delayed. The Time for Completion shall be extended by a period of time equal to period of delay caused due to such Force Majeure event.
5. Delay or non-performance by either party hereto caused by the occurrence of any event of Force Majeure shall not-
 - i. Constitute a default or breach of the Contract.
 - ii. Give rise to any claim for damages or additional cost expense occasioned thereby, if and to the extent that such delay or non-performance is caused by the occurrence of an event of Force Majeure.
6. BHEL at its discretion may consider short closure of contract after 1 year of imposition of Force Majeure in line with extant guidelines. In any case, Supplier/Vendor cannot consider deemed short-closure after 1 year of imposition of Force Majeure

20. CONSEQUENTIAL LOSS

Neither party shall be liable to the other for any indirect or consequential loss or damage, including but not limited to loss of use, loss of profits, or loss of contracts, or special, punitive, exemplary losses whatsoever arising out of or in connection with this contract.

21. NON-DISCLOSURE AGREEMENT

The bidders shall enter into the Non-disclosure agreement separately. Format attached.

22. 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



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

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.

23. SETTLEMENT OF DISPUTE/ ARBITRATION

Settlement of Dispute -

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

If after the Designated Engineer has given written notice of this decision to the party and no intention to pursue the dispute has been communicated to him by the affected party within 30 days from the receipt of such notice, the said decision shall become final and binding on the parties. In the event the Supplier/Vendor being dissatisfied with any such decision or if amicable settlement cannot be reached then all such disputed issues shall be resolved through conciliation in terms of the BHEL Conciliation Scheme 2018 as per below.

CONCILIATION

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

ARBITRATION

- 1- Except as provided elsewhere in this Contract, in case Parties are unable to reach amicable settlement (whether by Conciliation to be conducted as provided in above clause or otherwise) in respect of any dispute or difference; arising out of the formation, breach, termination, validity or execution of the Contract; or, the respective rights and liabilities of the Parties; or, in relation to interpretation of any provision of the Contract; or, in any manner touching upon the Contract (hereinafter referred to as the 'Dispute'), then, either Party may, refer the disputes to Arbitral Institution i.e. Delhi International Arbitration Centre and such dispute to be adjudicated by Sole Arbitrator appointed in accordance with the Rules of said Arbitral Institution.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

**General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry
(GISTC)**

For Indian Bidders (Version Aug-2025, Rev: 09)

- 2- A party willing to commence arbitration proceeding shall invoke Arbitration Clause by giving notice to the other party in terms of section 21 of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as the 'Notice') before referring the matter to arbitral institution. The Notice shall be addressed to the Head of the Unit, BHEL, executing the Contract and shall contain the particulars of all claims to be referred to arbitration with sufficient detail and shall also indicate the monetary amount of such claim including interest, if any.
- 3- After expiry of 30 days from the date of receipt of aforesaid notice, the party invoking the Arbitration shall submit that dispute to the Arbitral Institution i.e. Delhi International Arbitration Centre and that dispute shall be adjudicated in accordance with their respective Arbitration Rules. The matter shall be adjudicated by a Sole Arbitrator who shall necessarily be a Retired Judge having considerable experience in commercial matters to be appointed/nominated by the respective institution. The cost/expenses pertaining to the said Arbitration shall also be governed in accordance with the Rules of the respective Arbitral Institution. The decision of the party invoking the Arbitration for reference of dispute to a specific Arbitral institution for adjudication of that dispute shall be final and binding on both the parties and shall not be subject to any change thereafter. The institution once selected at the time of invocation of dispute shall remain unchanged
- 4- The fee and expenses shall be borne by the parties as per the Arbitral Institutional rules.
- 5- The Arbitration proceedings shall be in English language and the seat and venue of Arbitration shall be Haridwar.
- 6- The Governing law of contract shall be the substantive law of India.
- 7- Subject to the above, the provisions of Arbitration & Conciliation Act 1996 and any amendment thereof shall be applicable. All matters relating to this Contract and arising out of invocation of Arbitration clause are subject to the exclusive jurisdiction of the Court(s) situated at Haridwar.
- 8- Notwithstanding any reference to the Designated Engineer or Conciliation or Arbitration herein, a. the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree. Settlement of Dispute clause cannot be invoked by the Contractor, if the Contract has been mutually closed or 'No Demand Certificate' has been furnished by the Contractor or any Settlement Agreement has been signed between the Employer and the Contractor.
- 9- It is agreed that Mechanism of resolution of disputes through arbitration shall be available only in the cases where the value of the dispute is less than Rs. 10 Crores.
- 10- In case the disputed amount Claim, Counter claim including interest is Rs. 10 crores and above, the parties shall be within their rights to take recourse to remedies other than Arbitration, as may be available to them under the applicable laws after prior intimation to the other party. Subject to the aforesaid conditions, provisions of the Arbitration and Conciliation Act, 1996 and any statutory modifications or re-enactment thereof as amended from time to time, shall apply to the arbitration proceedings under this clause.
- 11- In case, multiple arbitrations are invoked (whether sub-judice or arbitral award passed) by any party to under this contract, then the cumulative value of claims (including interest claimed or awarded) in all such arbitrations shall be taken in account while arriving at the total claim in dispute for the subject contract for the purpose of Sl. No. 10 above. Disputes having cumulative value of less than 10



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

crores shall be resolved through arbitration and any additional dispute shall be adjudicated by the court of competent jurisdiction.

12- In case of Contract with Public Sector Enterprise (PSE) or a 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 commercial contract(s) between Central Public Sector Enterprises (CPSEs)/ Port Trusts inter se and also between CPSEs and Government Departments/Organizations (excluding disputes concerning Railways, Income Tax, Customs & Excise Departments), such dispute or difference shall be taken up by either party for resolution through AMRCD (Administrative Mechanism for Resolution of CPSEs Disputes) as mentioned in DPE OM No. 05/0003/2019-FTS-10937 dated 14-12-2022 as amended from time to time.

24. JURISDICTION

The Court situated at Haridwar shall alone have exclusive jurisdiction in regard to all matters in respect of the Contract.

GOVERNING LAWS

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

25. DEMURRAGE RESPONSIBILITY

In the event of delay in receipt of documents by Manager (Stores-Shipping) BHEL-Haridwar and in case where dispatches are made through Unapproved Transporter the sole responsibility for demurrage for such delay shall be that of supplier.

26. CONDITIONS FOR AVAILING MICRO & SMALL ENTERPRISES (MSE) BENEFITS

MSE Suppliers can avail the intended benefits only if they submit valid "Udhyam Registration certificate" with the offer.

1. However, credentials of all MSE suppliers will be verified before advancing the intended benefits.
2. MSE bidders claiming SC/ST status will have to submit SC/ST certificate of the Proprietor from competent authority. Attested (notarized or attested by Gazetted officer) copy to be submitted along with the offer.
3. In case techno-commercial accepted bidders include MSE source and their prices (based on landed cost – considering quoted prices) are within the price band of 15% w.r.t. L-1 bidder, then BHEL can offer **25%** of quantity of respective item (rounded off to nearest number) to MSE bidders at L-1 price and in case, more than one MSE bidder is in 15 % band and the same is accepted by more than one MSE bidders then **25%** quantities of respective items will be considered for ordering on proportionate basis amongst MSE bidders.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

4. There will be minimum of 3% reservation for women owned MSEs within the above mentioned 25% reservation.
5. The reservation for MSEs owned by SC/ST will be 6.25% {25% out of target of 25% - refer para 4 of Public Procurement Policy for the Micro and Small Enterprises (MSEs)}.
6. The definition of MSEs owned by Women Entrepreneurs is clarified as under:
 - a) In case of proprietary MSE, proprietor shall be Woman.
 - b) In case of partnership MSE, the Woman partners shall be holding at least 51% of share in the unit.
 - c) In case of Private Limited companies, at least 51% share shall be held by Women promoters.
7. The definition of MSEs owned by SC/ST is clarified as under:
 - a) In case of proprietary MSE, proprietor(s) shall be SC/ST.
 - b) In case of partnership MSE, the SC/ST partners shall be holding at least 51% of shares in the unit.
 - c) In case of Private Limited companies, at least 51% share shall be held by SC/ST promoters.
8. While distributing the **25%** quantity amongst MSE bidders the decimal points in quantity shall be ignored for all the bidders except the L-1 amongst MSE bidders. Balance quantity after allocating the quantity to other MSE bidders ignoring the quantities in decimal, shall be given to L-1 (amongst MSE) bidder. However, if there are more than one MSE bidder at the same price level than preference for additional quantities due to ignoring off the decimal (as mentioned above) shall be given to the bidder offering favorable terms to BHEL and if the conditions offered are also same then preference will be given to the bidder having high SPR rating.
9. In case there are more than one MSE bidders (with different landed cost to BHEL) within 15% price band of lowest bidder and quantity to be offered is 1 no. only, then preference shall be given to the MSE bidder with lowest landed cost.
10. In case there are more than one MSE bidders (with same landed cost to BHEL) within 15% price band of lowest bidder and quantity to be offered is 1 no. only, then preference shall be given first, based on the favorable terms in the bid and in case terms are also same, the bidder with high SPR rating shall be given preference.
11. If L1 bidder is MSE bidder, entire quantity will be given to such MSE bidder only.
12. Note: It may however be noted that MSE guidelines as on date (Date of Technical Bid Opening Part-1) shall prevail.
13. As per the OM No. F.No. 1(2)(1)/2016-MA dtd. 09.02.2017 issued from the Office of Development Commissioner (Micro, Small & Medium Enterprises), Traders and agents should not be allowed to avail the benefits extended under the PP Policy. In view of this, it is clarified that benefits of MSE (such as EMD Waiver, Tender fee exemption, Price preference, Payment preference etc.) will be given only to those MSE Vendors who are manufacturers of offered items against the NIT. No MSE benefits shall be provided to Agents / Stockists / Dealers / Traders etc. for the items offered but not manufactured by themselves.

27. INFORMATION TO THE BIDDERS

- a) Purchase related information is available at our Business-to- Business (B2B) Portal available on our website <https://hwr.bhel.com> . The user ID & password can be obtained by sending a request to concerned purchase executives.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

- b) Intimate your change in mail address or communication address or changes, if any, by email to AGM (SDX/MM) at hwsdc@bhel.in giving your bidder Code.
- c) Unit of measurement for dimension and weight used in the bid submitted by the vendor must exactly match the units stated in the tender enquiry. Any discrepancy between these units is not acceptable.
- d) Please resolve your rejections and unexecuted overdue purchase order immediately which are posted at our B2B Portal, which can be visited through our site <https://hwr.bhel.com>
- e) 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.
- f) Supplier must upload digitally signed e-Invoice on B2B portal for processing of Bills. In other cases, inked signed hard copy of Invoice to be submitted for processing of Bills at <https://hwr.bhel.com>.

28. MAKE IN INDIA (GOVT-NOTIFICATION)

- A. For this procurement, the local content to categorize a supplier as 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 19.07.2024 issued by DPIIT. In case of subsequent orders issued by the nodal ministry, changing the definition of local content for the items of the NIT, the same shall be applicable even if issued after issue of this NIT, but before opening of Part-II bids against the NIT.
- B. Vendors shall specifically confirm if they are Class-I local supplier or Class-II local supplier or not as per the above-mentioned notification. Accordingly, the 'Class-I local supplier' / 'Class-II local Supplier' at the time of bidding shall be required to indicate percentage of local content and provide self-certification that the offered item meets the local content requirement for 'Class-I local supplier' / 'Class-II local Supplier', as the case may be. They shall also give details of the location(s) at which the local value addition is made.
- C. In cases of Procurement for a Value in Excess of Rs. 10 Crores, the 'Class-I local supplier' / 'Class-II local Supplier' shall be required to provide a Certificate from the Statutory Auditor or Cost Auditor of the Company (in the case of companies) or from a practicing Cost Accountant or practicing Chartered Accountant (in respect of suppliers other than companies) indicating the percentage of Local Content.
- D. For contracts valuing more than Rs 10 crores, local content (in cases of self-certification submitted by bidders at the time of tendering) will be re-verified during execution of contract by Cost/Chartered Accountant, and in case of defaults, penalty upto 10% of the contract value shall be imposed.

29. RESTRICTIONS UNDER RULE 144(XI) OF THE GENERAL FINANCIAL RULES (GFRs). 2022

All provisions of Order No. F.No.7/10/2021-PPD(1) dated 23/2/2023 of Department of Expenditure (DoE) shall be applicable for this tender enquiry (Order copy is available at <https://doe.gov.in/procurementpolicy-divisions>).



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

Accordingly, any bidder from a country which shares a land border with India will be eligible to bid in any procurement whether of goods, services (including consultancy services and non-consultancy services) or works (including turnkey projects) only if the bidder is registered with the Competent Authority, specified in Annexure I of the said Order of DoE.

The definition of Bidder from a country which shares a land border with India shall be as defined at Sl.No. 12 of the said order.

Registration with the competent authority as stipulated in the said order shall be responsibility of the bidder.

Bidder has to submit a certificate certifying following along with the offer:

"I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India; I certify that bidder (.... Name of Bidder) is not from such a country or, if from such a country, has been registered with the Competent Authority. I hereby certify that bidder (.....Name of bidder) fulfils all requirements in this regard and is eligible to be considered"

If the bidder is from such country which shares a land border with India, the evidence of valid registration by the Competent Authority shall be attached along with offer. Registration of the bidder with Competent Authority should be valid at the time of submission of bids and at the time of acceptance of the bids.

30. NOTE

- a) Special conditions of enquiry, if enclosed by BHEL, will supersede the respective standard / general terms of enquiry.
- b) Any other Standard terms and Conditions of the bidder attached / referred against the tender enquiry will be treated as null and void ab initio.
- c) In the event of our customer order covering this tender being cancelled /placed on hold /otherwise modified, BHEL would be constrained to accordingly cancel / hold / modify the tender at any stage of execution.
- d) 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



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

provisions Guidelines for Suspension of Business Dealings with Suppliers / Contractors shall prevail which is available at BHEL website <http://www.bhel.com>.

- e) Any change in applicable rates of Tax or any other statutory levies (Direct / Indirect) or any new introduction of any levy by means of statute and its corresponding liability for the deliveries beyond the agreed delivery date for reasons not attributable to BHEL will be to vendors account. BHEL will not reimburse the same and any subsequent claim in this respect will be summarily rejected.
- f) BHEL reserves its right to reject an offer due to unsatisfactory past performance by the respective Vendor in the execution of any contract to any BHEL project / Unit.
- g) The offers of the bidders who are under suspension and also the offers of the bidders, who engage the services of the debarred firms /principal/agents, shall be rejected. The list of debarred firms is available on BHEL web site www.bhel.com.
- h) The bidder along with its associate / collaborators / subcontractors / sub-vendors / consultants/ service providers shall strictly adhere to BHEL Fraud Prevention Policy displayed on BHEL website <http://www.bhel.com> and shall immediately bring to the notice of BHEL-Management about any fraud or suspected fraud as soon as it comes to their notice.
- i) BHEL shall recover the amount of compensation paid to victim(s) by BHEL towards loss of life / permanent disability due to an accident which is attributable to the negligence of contractor, agency or firm or any of its employees as detailed below;
 - 1. **Victim:** Any person who suffers permanent disablement or dies in an accident as defined below.
 - 2. **Accident:** Any death or permanent disability resulting solely and directly from any unintended and unforeseen injurious, occurrence caused during the manufacturing / operation and works incidental thereto at BHEL factories/ offices and precincts thereof, project execution, erection and commissioning, services, repairs and maintenance, trouble shooting, serving , overhaul, renovation and retrofitting , trial operation, performance guarantee testing undertaken by the company or during any works / during working at BHEL Units/ Offices/ townships and premises/ project sites.
 - 3. **Compensation in respect of each of the victims:**
 - i. In the event of death or permanent disability resulting from Loss of both limbs: Rs. 10,00,000/- (Rs. Ten Lakh).
 - ii. In the event of other permanent disability: Rs. 7,00,000/- (Rs. Seven Lakh).
 - 4. **Permanent Disablement:** A disablement that is classified as a permanent total disablement under the proviso to Section 2(I) of the Employees Compensation Act, 1923."
- j) The bidder must comply with applicable laws, rules and regulations throughout the terms of the contract for conducting business and fulfilling obligations under this contract.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

**General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry
(GISTC)**

For Indian Bidders (Version Aug-2025, Rev: 09)

Annexure-1

ONE SIDED

NON-DISCLOSURE AGREEMENT

THIS NON DISCLOSURE AGREEMENT (this “**Agreement**”) entered into on this day of June, 20.. (the “**Effective Date**”) By and Between **Bharat Heavy Electricals Limited (a Public Sector Undertaking of Government of India)**, a company incorporated under the Companies Act, 1956 and having its registered office at having its registered office at "BHEL House", Siri Fort, New Delhi - 110 049, India (hereinafter referred to as "**BHEL**" of which the expression shall unless repugnant to the context or the meaning thereof be deemed to include its successors and permitted assigns) (hereinafter referred to as "BHEL"),

And

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

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

WHEREAS

(A) The Disclosing Party and The Receiving Party wish to explore and discuss the potential of certain mutually advantageous business relationships for _____, for the purpose ofproducts in India ('the Purpose');

(B) The Disclosing Party, in furtherance of such business relationship, will disclose certain information, including but not limited to, scientific, development, financial, marketing, sales or other proprietary information;

(C) The Receiving Party and the Disclosing Party wish to protect and preserve the confidentiality of such information provided by the Disclosing Party to the Receiving Party by preventing its unauthorized disclosure and use, in accordance with the terms of this Agreement; and

(D) The Receiving Party agrees to hold such information in strict confidence and not to disclose or to use, directly or indirectly, for any purpose other than the performance of this Agreement

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

1. PURPOSE: Purpose to ne mentioned here.

2. DISCLOSING PARTY. means a Party that discloses the confidential information to the other party under this agreement.

3. RECEIVING PARTY means a Party that receives the confidential information from the other party under this agreement.

4. Confidential Information

(a) Subject to the provisions of this Agreement, all information disclosed by the Disclosing Party to the Receiving Party, shall be deemed to be "Confidential Information" for the purposes of this Agreement.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

**General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry
(GISTC)**

For Indian Bidders (Version Aug-2025, Rev: 09)

(b) (i) It is clarified that Confidential Information shall include, but is not limited to, any trade secret, technique, strategy, component, concept, program, report, study, memorandum, correspondence, documentation, information, manual, record, data, technology, product, plan, design, procedure, method, invention, sample, notes, summaries, analyses, compilations and other writings, producing any such sample, medium, test data relating to any research project, work in progress, future development, engineering, manufacturing, marketing, pricing, billing, servicing, financing, personnel matter, its present or future products, sales, suppliers, clients, customers, employees, investors, or any other information which the Disclosing Party provides to the Receiving Party whether in oral, written, graphic or electronic form and whether or not such information is identified as such by an appropriate stamp or marking. The Confidential Information shall also include all reports, notes or other material prepared by the Receiving Party based on the Confidential Information and/ or any discussion thereon.

(ii) Confidential Information includes information disclosed by the Disclosing Party or by any individual, firm or corporation controlled by, controlling, or under the common control of the Disclosing Party.

(c) Confidential Information shall not include any information which the Receiving Party can demonstrate to the Disclosing Party:

(1) is now, or has become, through no act or failure to act on the part of the Receiving Party, generally known or available to the public;

(2) is known by the Receiving Party at the time of receiving such information as evidenced by its records;

(3) is discovered/independently developed by the Receiving Party independent of any disclosures by the Disclosing Party; or

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

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

5. Disclosure

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

(a) Shall treat as confidential and safeguard all information disclosed and/or its Affiliates in connection

(b) to hold the Confidential Information in strict confidence and to take all necessary precautions to protect such Confidential Information (including, without limitation, all precautions the Recipient employs with respect to its own confidential materials);

(c) limit disclosure of any Confidential Information to its concerned directors, officers and employees, (collectively "Representatives") strictly only to who have a need to know such Confidential Information in connection with the Transaction between the parties to which this Agreement relates, and only for that purpose;

(d) advise its Representatives of the proprietary nature of the Confidential Information and of the obligations set forth 2 in this Agreement and require in writing such Representatives to keep the Confidential Information confidential;

(e) shall keep all Confidential Information strictly confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information;

(f) not disclose any Confidential Information received by it to any third party; and

(g) not to copy or reverse engineer any such Confidential Information.

(h) not to use the Confidential Information for any purpose other than the Transaction.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

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

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

6. Restriction on Use

- (a) The Receiving Party and its Representatives shall hold the Confidential Information received from the Disclosing Party in confidence, and shall not, directly or indirectly:
 - (i) disclose the Confidential Information to any third party; or
 - (ii) use the Confidential Information for any purpose other than the permitted Purpose.
- (b) The Receiving Party shall not use the Confidential Information for any purpose or in any manner, which would constitute a violation of any applicable laws or regulations, directly or indirectly.
- (c) The Confidential Information shall be the property of the Disclosing Party. No rights, licenses or interests including, but not limited to, trademarks, inventions, copyrights or patents are implied, transferred or granted in relation to the Confidential Information provided by the Disclosing Party to the Receiving Party under this Agreement.
- (d) The Receiving Party shall not reproduce the Confidential Information in any form except as needed for the Purpose of the Agreement as set out above or with the prior written consent of the Disclosing Party.
- (e) All the title and rights in the Confidential Information shall be reserved with the respective Discloser and/or its licensors and no rights or obligations other than those expressly set out in this Agreement are granted or to be implied from this Agreement. In particular no license is granted to the Recipient, directly or indirectly, by this Agreement relating to any invention, discovery, patent, copyright or other industrial or intellectual property right now or in the future.

7. Protection of Confidential Information



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

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

8. No Further Warranties

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

9. No Further Business Arrangement

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

10. Term

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

11. Injunctive remedy

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

12. Return of Confidential Information

Recipient shall immediately return and redeliver to the respective Discloser all tangible material embodying the Confidential Information provided hereunder and all notes, summaries, memoranda, drawings, manuals, records, excerpts or derivative information deriving there from and all other documents or materials (“Notes”) (and all copies of any of the foregoing, including “copies” that have been converted to computerized media in the form of image, data or word processing files either manually or by image capture) based on or including any Confidential Information, in whatever form of



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

storage or retrieval, upon the earlier of (i) the completion or termination of the dealings between the parties contemplated hereunder; (ii) the termination of this Agreement; or (iii) any breach of this agreement, in which case the party in breach shall also be liable towards the Disclosers under the law and this Agreement or (iv) at such time as the respective Discloser may so request; provided however that the Recipient may retain such of its documents as is necessary to enable it to comply with its document retention policies. Alternatively, the Recipient, with the written consent of the respective Discloser may immediately destroy any of the foregoing embodying Confidential Information (or the reasonably non-recoverable data erasure of computerized data) and, upon request, certify in writing such destruction by an authorized officer of the Recipient supervising the destruction).

13. Notice of Breach

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

14. Survival

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

15. Governing Law & Dispute Resolution

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

Except as provided elsewhere in this Contract, in case amicable settlement is not reached between the Parties, in respect of any dispute or difference; arising out of the formation, breach, termination, validity or execution of the Contract; or, the respective rights and liabilities of the Parties; or, in relation to interpretation of any provision of the Contract; or, in any manner touching upon the Contract, then, either Party may, by a notice in writing to the other Party refer such dispute or difference to arbitration. The arbitration shall be conducted by three arbitrators, one to be appointed by each of the Parties and a third arbitrator to be appointed by the mutual consent of the two arbitrators so appointed by the Parties.

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

16. No Publication

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

17. Miscellaneous



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

**General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry
(GISTC)**

For Indian Bidders (Version Aug-2025, Rev: 09)

(a) This Agreement constitutes the entire understanding between the parties and supersedes any and all prior or contemporaneous understandings and agreements, whether oral or written, between the parties, with respect to the subject matter hereof. This Agreement can only be modified by a written amendment signed by the party against whom enforcement of such modification is sought.

(b) Any failure by a Discloser to enforce the Recipient's strict performance of any provision of this Agreement will not constitute a waiver of its right to subsequently enforce such provision or any other provision of this Agreement.

(c) Although the restrictions contained in this Agreement are considered by the parties to be reasonable for the purpose of protecting the Confidential Information, if any such restriction is found by a court of competent jurisdiction to be unenforceable, such provision will be modified, rewritten or interpreted to include as much of its nature and scope as will render it enforceable. If it cannot be so modified, rewritten or interpreted to be enforceable in any respect, it will not be given effect, and the remainder of the Agreement will be enforced as if such provision was not included.

(d) Any notices or communications required or permitted to be given hereunder may be delivered by hand, deposited with a nationally recognized overnight carrier, electronic-mail, or mailed by certified mail, return receipt requested, postage prepaid, in each case, to the address of the other party first indicated above (or such other addressee as may be furnished by a party in accordance with this paragraph). All such notices or communications shall be deemed to have been given and received (a) in the case of personal delivery or electronic-mail, on the date of such delivery, and (b) in the case of delivery by a nationally recognized overnight carrier, on the third business day following dispatch.

(e) Parties shall not directly or indirectly assign or transfer it by operation of law or otherwise without the prior written consent of the Disclosers, which consent will not be unreasonably withheld. All obligations contained in this Agreement shall extend to and be binding upon the parties to this Agreement and their respective successors, assigns and designees.

(f) Paragraph headings used in this Agreement are for reference only and shall not be used or relied upon in the interpretation of this Agreement.

18. Notices

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

Notice if to:

BHEL, then to,

Phone : Fax :

E-mail :



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

**General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry
(GISTC)**

For Indian Bidders (Version Aug-2025, Rev: 09)

ABC, then to,

(Name) _____

(Designation) _____

Phone :

Fax :

E-mail :

19. Counterparts, Telefax Signatures

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

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

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



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry
(GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

Annexure-2

BOTH SIDED

NON-DISCLOSURE AGREEMENT

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

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

AND

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

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

A) In connection with (describe transaction/cooperation) or any successor or replacement transaction (the Transaction), the Parties may have exchanged and wish further to exchange certain information on a confidential basis

B) The Parties wish to define their rights and obligations with regard to such information and protect its confidentiality

1. Definition of Confidential Information

(a) For purposes of this Agreement, "Confidential Information" means the information as well as any data or information that is proprietary of the Discloser and not generally known to the public, whether in tangible or intangible form, whenever and however disclosed, including, but not limited to: (i) any scientific or technical information, invention, design, process, procedure, formula, improvement, technology or method; (ii) any concepts, reports, data, know-how, works-in-progress, designs, development tools, specifications, computer software, source code, object code, flow charts, databases, inventions, information and trade secrets; (iii) any marketing strategies, plans, financial information, or projections, operations, sales estimates, business plans and performance results relating to the past, present or future business activities of such party, its affiliates, subsidiaries and affiliated companies; (iv) plans for products or services, and customer or supplier lists. Confidential Information need not be novel, unique, patentable, copyrightable or constitute a trade secret in order to be designated Confidential Information. The Recipient acknowledges that the Confidential Information is proprietary to the respective Discloser and that the Discloser regards all of its Confidential Information as secrets.

(b) Notwithstanding anything in the foregoing to the contrary, Confidential Information shall not include information which: (i) was known to the Recipient without a duty of confidentiality prior to receiving the Confidential Information from the respective Discloser; (ii) becomes rightfully known to the Recipient from a third-party source not known (after diligent inquiry) by the Recipient to be under an obligation



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

to the respective Discloser to maintain confidentiality; (iii) is or becomes publicly available through no fault of or failure to act by the Recipient in breach of this Agreement; (iv) is required to be disclosed in a judicial or administrative proceeding, or is otherwise requested or required to be disclosed by law or regulation, but only to the extent of any such disclosure, although the requirements of paragraph 4 hereof shall apply prior to any disclosure being made; and (v) is or has been independently developed by the Recipient without violation of the terms of this Agreement or reference or access to any Confidential Information.

2. Disclosure of Confidential Information

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

- (a) treat as confidential and safeguard all information disclosed and/or its Affiliates in connection
- (b) hold the Confidential Information in strict confidence and to take all necessary precautions to protect such Confidential Information (including, without limitation, all precautions the Recipient employs with respect to its own confidential materials);
- (c) limit disclosure of any Confidential Information to its concerned directors, officers and employees, (collectively "Representatives") strictly only to who have a need to know such Confidential Information in connection with the Transaction between the parties to which this Agreement relates, and only for that purpose;
- (d) advise its Representatives of the proprietary nature of the Confidential Information and of the obligations set forth 2 in this Agreement and require in writing such Representatives to keep the Confidential Information confidential;
- (e) shall keep all Confidential Information strictly confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information;
- (f) not disclose any Confidential Information received by it to any third party; and
- (g) not to copy or reverse engineer any such Confidential Information.
- (h) not to use the Confidential Information for any purpose other than the Transaction.
- (i) not use the information for any scientific research or any other research.
- (j) Confidential information does not include information:
 - a. Which is generally available to the public other than as a result of a breach of this Agreement; or
 - b. Which is already in the possession of Recipient without restriction prior to any disclosure hereunder: or
 - c. Which is or has been lawfully disclosed to Recipient by someone who is free lawfully to disclose the same without confidentiality restrictions: or
 - d. Which is independently developed by Recipient or its Affiliates and no Confidential information disclosed hereunder has been used directly or indirectly in such development; or
 - e. Whose applicable period of confidentiality pursuant hereto, or such other period specifically agreed to in writing by the parties, has ended
- (k) This agreement is not intended to, and does not, oblige either party to enter into any further agreements or to proceed with the transaction, any possible relationship or other transaction. Recipient



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

acknowledges that Discloser makes no representation or warranty whether express or implied, as to the accuracy or completeness of Confidential information, and Discloser disclaims any and all liability unless contained in any definitive agreement.

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

3. Use of Confidential Information

The Recipient agrees to use the Confidential Information solely for the Transaction and not for any purpose other than as authorized by this Agreement without the prior express written consent of an authorized representative of **parties**. No other right or license, whether expressed or implied, in the Confidential Information is granted to the Recipient hereunder. Nothing contained herein is intended to modify the parties' existing agreement of the Transaction. All the title and rights in the Confidential Information shall be reserved with the respective Discloser and/or its licensors and no rights or obligations other than those expressly set out in this Agreement are granted or to be implied from this Agreement. In particular no license is granted to the Recipient, directly or indirectly, by this Agreement relating to any invention, discovery, patent, copyright or other industrial or intellectual property right now or in the future.

4. Term

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

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

5. Remedies

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

6. Return of Confidential Information

Recipient shall immediately return and redeliver to the respective Discloser all tangible material embodying the Confidential Information provided hereunder and all notes, summaries, memoranda, drawings, manuals, records, excerpts or derivative information deriving there from and all other documents or materials ("Notes") (and all copies of any of the foregoing, including "copies" that have been converted to computerized media in the form of image, data or word processing files either manually or by image capture) based on or including any Confidential Information, in whatever form of



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

storage or retrieval, upon the earlier of (i) the completion or termination of the dealings between the parties contemplated hereunder; (ii) the termination of this Agreement; or (iii) any breach of this agreement, in which case the party in breach shall also be liable towards the Disclosers under the law and this Agreement or (iv) at such time as the respective Discloser may so request; provided however that the Recipient may retain such of its documents as is necessary to enable it to comply with its document retention policies. Alternatively, the Recipient, with the written consent of the respective Discloser may immediately destroy any of the foregoing embodying Confidential Information (or the reasonably non-recoverable data erasure of computerized data) and, upon request, certify in writing such destruction by an authorized officer of the Recipient supervising the destruction).

7. Notice of Breach

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

8. No Binding Agreement for Transaction

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

9. Applicable Law and Disputes

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

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

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

10. Miscellaneous



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

(g) This Agreement constitutes the entire understanding between the parties and supersedes any and all prior or contemporaneous understandings and agreements, whether oral or written, between the parties, with respect to the subject matter hereof. This Agreement can only be modified by a written amendment signed by the party against whom enforcement of such modification is sought.

(h) Any failure by a Discloser to enforce the Recipient's strict performance of any provision of this Agreement will not constitute a waiver of its right to subsequently enforce such provision or any other provision of this Agreement.

(i) Although the restrictions contained in this Agreement are considered by the parties to be reasonable for the purpose of protecting the Confidential Information, if any such restriction is found by a court of competent jurisdiction/arbitral tribunal to be unenforceable, such provision will be modified, rewritten or interpreted to include as much of its nature and scope as will render it enforceable. If it cannot be so modified, rewritten or interpreted to be enforceable in any respect, it will not be given effect, and the remainder of the Agreement will be enforced as if such provision was not included.

(j) Any notices or communications required or permitted to be given hereunder may be delivered by hand, deposited with a nationally recognized overnight carrier, electronic-mail, or mailed by certified mail, return receipt requested, postage prepaid, in each case, to the address of the other party first indicated above (or such other addressee as may be furnished by a party in accordance with this paragraph). All such notices or communications shall be deemed to have been given and received (a) in the case of personal delivery or electronic-mail, on the date of such delivery, and (b) in the case of delivery by a nationally recognized overnight carrier, on the third business day following dispatch.

(k) Parties shall not directly or indirectly assign or transfer it by operation of law or otherwise without the prior written consent of the Disclosers, which consent will not be unreasonably withheld. All obligations contained in this Agreement shall extend to and be binding upon the parties to this Agreement and their respective successors and permitted assigns. and designees.

(l) Paragraph headings used in this Agreement are for reference only and shall not be used or relied upon in the interpretation of this Agreement.

For Recipient: _____

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

For Discloser : _____

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

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

Witness 1: _____

Witness 2: _____



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version Aug-2025, Rev: 09)

Annexure-3

Declaration for treatment of cases regarding conflict of interest

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

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

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

In case, the Bidder is found having indulged in above activities, the same will be considered as a violation of the tender conditions, and suitable action shall be taken by BHEL as per extant policies/ guidelines.

(Signature of the authorized signatory of the bidder)