

	Commercial Conditions of Contract (CCC), Rev.00	Enquiry No. 88/24/6007/LSY
ISG Bangalore	Engineering Consultancy Services for Design of transfer point/junction tower (above-ground) for 5X800 MW Yadadri TPS	

These Commercial conditions shall be construed as part of tender document and shall be read along with General Conditions of Contract (GCC), Rev.01. In case of any conflict or inconsistency between the general conditions and these commercial conditions, the later shall prevail.


Clause No.	DESCRIPTION
1.0	Project Synopsis and General Information
	Name of the Owner M/s TSGENCO
	Project Name 5X800MW Yadadri TPS.
2.0	Buyer/ Bill To
	BHEL-Industrial Systems Group Post Box No.:1249, Prof. CNR Rao Circle, IISc Post, Malleswaram, BANGALORE – 560012 GSTIN No. of BHEL / Karnataka state: 29AAACB4146P1ZB Any change in the above details shall be informed to the successful bidder.
3.0	Ship To
	BHEL-Industrial Systems Group Post Box No.:1249, Prof. CNR Rao Circle, IISc Post, Malleswaram, BANGALORE – 560012 GSTIN No. of BHEL / Karnataka state: 29AAACB4146P1ZB Any change in the above details shall be informed to the successful bidder.
4.0	Scope of Work
4.1	Engineering Consultancy Services for Design of transfer point/junction tower (above-ground) as per Technical Specifications. No. IS-1-15-2001/096 enclosed.
5.0	Completion Period
5.1	Commencement of work shall be done within 14 days from the date of Letter of Award (LOA). Completion of entire scope of work shall be within three (03) months from the date of Letter of Award (LOA).
6.0	Certificate Towards Completion
6.1	The work under the scope of the contractor shall be deemed to have been Completed in all respects only when so certified by BHEL Engineer. The decision of BHEL in this regard shall be final and binding on the contractor.

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Clause No.	DESCRIPTION
7.0	Extension of Time
7.1	<p>a) If the completion of work as detailed in the scope of work gets delayed beyond the contract period, the contractor shall request for an extension of the contract and BHEL at its discretion may extend the Contract.</p> <p>b) Provisional extension of time pending 'delay analysis' for completion of total work or part thereof can be provided to the contractor. However, such time extension provided to Contractor without deduction of LD/ Penalty shall be subjected to submission of Bank Guarantee (BG) of value equivalent to maximum LD / Penalty amount by Contractor which shall be valid till grant of final Time extension.</p> <p>c) Based on the reviews jointly signed, the works balance at the end of original contract period less the backlog attributable to the contractor shall be quantified, and the number of months of Time extension' required for completion of the same shall be jointly worked out. Within this period of Time extension', the contractor is bound to complete the portion of backlog attributable to the contractor. Any further Time extension' or Time extensions' at the end of the previous extension shall be worked out similarly.</p> <p>d) However if any Time extension' is granted to the contractor to facilitate continuation of work and completion of contract, due to backlog attributable to the contractor alone, then it shall be without prejudice to the rights of BHEL to impose penalty/LD for the delays attributable to the contractor, in addition to any other actions BHEL may wish to take as per the contractual provisions.</p> <p>e) A joint program shall be drawn for the balance amount of work to be completed during the period of Time Extension', along with matching resources to be deployed by the contractor. Review of the program and record of shortfall shall be done during the Time extension period in the same manner as is done for the regular contract period.</p> <p>f) At the end of total work completion as certified by BHEL Engineer, and upon analysis of the total delay, the portion of time extensions attributable to (i) Contractor, (ii) Force majeure conditions, and (iii) BHEL, shall be worked out and shall be considered to be exhausted in the same order. The total period of time extensions shall be the sum of (i), (ii) and (iii) above and shall be equal to period between the scheduled date of completion and the actual date of completion of contract. Liquidated Damages shall be imposed/ levied as per the relevant clause.</p>
8.0	Liquidated Damages
8.1	<p>BHEL reserves the right to recover from the Contractor, as agreed liquidated damages and not by way of penalty, a sum equivalent to 0.5% of the delayed (submission) drawing/ documents (value shall be as per billing schedule for corresponding drawing/ documents), per week of delay or part thereof, subject to a maximum of 10% of the total contract value, if the contractor fails to maintain the required progress of work as per schedule. For this purpose, the period of delay shall be the delay attributable to the Contractor for the</p>

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	completion of work as per contract.
8.2	Cl. no 2.7.9 of General Conditions of Contract (GCC), Rev.01 is not applicable for this tender/ contract.
9.0	Mobilization Advance/ Interest Bearing Recoverable Advance
9.1	Not Applicable for this tender/ Contract.
10.0	Contract Price
10.1	Type of Contract: Unit rate
10.2	<p>Price Basis: Firm till completion of contract, inclusive of all taxes & duties, levies, cess, labour cess etc. (except Goods & Service Tax).</p> <p>All taxes & duties, levies, cess, labour cess etc. to be included in the quoted price. Goods & Service Tax (GST) only shall be payable extra at actual (as applicable as per statutes) to the quoted price, in line with the terms & conditions mentioned in the CCC.</p> <p>Cl. No. 2.17 of General Conditions of Contract (GCC), Rev.01 is not applicable for this tender/ contract.</p>
10.3	Vendor shall quote the total lumpsum price as per the price bid format, for the complete scope of work as per the tender specifications and terms & conditions.
10.4	Percentage allocation against each item of the BOQ is disclosed in the tender document, which becomes the basis for allocation of item wise amount / rate against the total lump-sum price for the entire contracted scope / BOQ. Individual item rate so derived shall be deemed to be the contracted rates for various BOQ items for all purpose.
10.5	The total price for evaluation quoted by the bidder shall include all the stipulation mentioned in the tender documents and nothing extra shall be payable.
10.6	The quantities given in the BOQ are tentative and are likely to change to any extent (increase/ decrease) depending on detailed engineering and actual site conditions during execution of the contract, or some of the items may not be executed at all. The contractor shall have no claim on this account. The rates as mentioned above shall remain valid irrespective of any upward/ downward variation in the quantities throughout the contract period.
10.7	However, the contractor shall inform BHEL in case quantity of any item reaches 100% (Hundred percent) of BOQ Quantity during execution and obtain approval /consent of BHEL Engineer (in writing), for execution of further quantity for this item.
10.8	The unit rates of each item as mentioned above shall be valid for item wise variation in quantity which may vary to any extent and also for the total variation in value of work up to plus or minus 30% of total contract value.
10.9	Clause no. 2.14 of GCC (Rev.01) is not applicable for this tender/ contract.

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11.0	Price Variation Compensation/ Over-run compensation
11.1	Not Applicable for this tender/ contract.
11.2	Cl. No. 2.12 and 2.17 of GCC (Rev.01) is not applicable for this tender/ contract.
12.0	Incentive Clause
12.1	Incentive clause as per Schedule B of unpriced BOQ.
13.0	Taxes and Duties
13.1	All taxes & duties, excluding GST, but including charges, royalties, any state or central levies and other taxes for execution of the contract shall be borne by the bidder and the same shall be included in the basic price quoted by the bidder. Variation in all such taxes & duties, which are included in the basic price, at any stage during execution of the contract, including extension of the contract, shall have to be borne by the bidder.
13.2	GST as applicable shall be payable extra at actual against submission of original GST invoice along with all supporting documents. Terms & Conditions of GST shall be as per Annexure-I to this Commercial Conditions of Contract (CCC).
13.3	Invoices/ returns of vendors/ contractors are to be submitted within the time limit stipulated Under the GST law. Whenever Input Tax Credit could not be availed by BHEL within the time limit, due to delay in submission of invoices or for any other reason attributable to vendors/ contractors, liability towards loss of such credit shall be passed on to such vendors/ contractors.
13.4	In general, Statutory variation for GST is payable to the contractor during currency of the contract. Further, for period beyond the currency of the contract, BHEL will reimburse the actual applicable GST even if the same is higher than the amount applicable within the contractual period in case BHEL is able to take the input tax credit. However, the decision of BHEL in this regard will be final and binding on the seller/contractor otherwise vendor/contractor has to bear the differential upward increase in GST and ex- works/ basic price is to be adjusted accordingly.
13.5	Any new taxes & duties, if imposed subsequent to date of tender opening (Part- 1 bid), by statutory authority during contract period (including extensions, if delay is not attributable to the vendor/ contractor), shall be reimbursed by BHEL on production of relevant supporting documents and original payment receipts (if applicable) to the satisfaction of BHEL. However, vendor/ contractor shall obtain prior approval from BHEL before depositing new taxes & duties. Benefits and/ or abolition of all existing taxes must be passed on to BHEL, by the vendor/ contractor, against new taxes & duties, if any, introduced at a later date. The benefits shall be passed on in terms of commensurate reduction in the basic price.
13.6	TDS under Income Tax and GST provisions, as applicable, shall be deducted at prevailing rates on Gross Invoice Value from the Running Bills unless Exemption Certificate from the Appropriate Authority/ Authorities is furnished.

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13.7	BHEL shall not be liable towards Income Tax of whatever nature including variations thereof arising out of this contract as well as tax liability of the bidder and their personnel. Deduction of tax at source at the prevailing rates shall be effected by BHEL before release of payment as a statutory obligation, unless exemption certificate is produced by the bidder. TDS certificate will be issued by BHEL as per the provisions of Income Tax Act/ GST provisions.
13.8	Cl. No. 2.32 of General Conditions of Contract (GCC), Rev.01 shall not be applicable for this tender/ contract.
14.0	Interim Payments
14.1	As per clause no. 2.23 of GCC (Rev.01).
14.2	Terms of payment: Schedule A 1) 65% progress payment on pro-rata basis along with applicable GST against submission of design & drawing based on certification by BHEL Engineer. 2) 30% progress payment on pro-rata basis along with applicable GST against released of construction drawing based on certification by BHEL Engineer 3) Balance 5% along with applicable GST on completion of work for the entire scope, based on certification by BHEL Engineer. Terms of payment: Schedule B (Incentive Clause) 100% Incentive payment along with applicable GST on completion of work for the entire scope, based on certification by BHEL Engineer.
14.3	Cl. No. 2.31 of GCC (Rev.01) is not applicable for this tender/ contract.
14.4	Documents to be submitted for billing/ payment: A) For payment against submission of drawing/ document: i) GST Invoice ii) Running Account Bill (RAB) jointly signed by BHEL Engineer and Contractor iii) Measurement Book (MB) jointly signed by BHEL Engineer and Contractor iv) Security Deposit as per Order/ Contract. B) For Payment against final bill: i) GST invoice ii) Running Account Bill (RAB) jointly signed by BHEL Engineer and Contractor iii) Measurement Book (MB) jointly signed by BHEL Engineer and Contractor Cl. no. 2.24 of GCC (Rev.01) is not applicable for this tender/ contract.
14.5	No interest shall be payable by the Purchaser on the security amount, bank guarantee amount or balance payment or any money which may become due owing to difference or misunderstanding or any dispute between the Purchaser and the Contractor, or any delay on the part of Purchaser in making periodical or final payment or any other aspects incidental thereto.

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15.0	Guarantee/ Warrantee/ Defect Liability Period
15.1	Not Applicable.
16.0	Insurance
16.1	As per clause no. 2.18 of GCC (Rev.01). Clause no. 2.18.1, 2.18.4, 2.18.5, 2.18.6 and 2.18.7 of GCC (Rev.01) are not applicable to this tender/ contract.
17.0	Arbitration & Reconciliation
17.1	<p>Cl. no. 2.21 of General Conditions of Contract (GCC), Rev.01 shall be read as:</p> <p>All questions and disputes/difference relating to the meaning of the specifications, design, drawings and instructions and or interpretation of the contract or its clauses and as to the quality of workmanship or materials used on the work or as to any other question, claim, right, matter or thing whatsoever in any way arising out of or relating to the contract, designs, drawing, specifications, estimates, instructions, orders or these conditions or otherwise concerning the works or the execution or failure to execute the same whether arising during the progress of the work or after the completion or abandonment thereof shall be referred to the Sole Arbitrator appointed by BHEL. BHEL will suggest three names, giving opportunity to contractor or vendor to choose one of them as sole arbitrator and in case parties could not mutually agree on the sole arbitrator, then the Arbitrator shall be appointed as per the provisions of Arbitration and Conciliation Act 1996 and any Amendments / modification thereon and re-enactments thereof from time to time. The cases referred to arbitration shall be other than those for which the decision of the Dy. General Manager / Sr. Manager /Project Manager/Manager/Sr. Engineer/Engineer, is expressed in the contract to be final and conclusive. The arbitrator to whom the matter is originally referred being unable to act for any reason, another person to act as sole arbitrator shall be appointed in line with Arbitration and Conciliation Act 1996 and any Amendments / modification thereon and re-enactments thereof from time to time and such person shall be entitled to proceed with the reference from the stage at which it was left by his predecessor.</p> <p>Subject as aforesaid the provisions of the Arbitration and Conciliation Act, 1996 or any statutory modification or re-enactment thereof and the rules made there under and for the time being in force shall apply to the arbitration proceedings.</p> <p>It is a term of the contract that the party invoking arbitration shall specify the dispute or disputes including specifying the quantum of financial claim, if any, to be referred to arbitration under this clause together with the amount or amounts claimed in respect of each such dispute.</p> <p>The arbitrator (s) shall complete the entire arbitration and publish an award within a period of twelve months from the date the Tribunal enters upon the reference.</p> <p>The parties to this arbitration agreement may before or at the time of invoking the Arbitration clause, may indicate in writing for FAST TRACK PROCEDURE wherein the Arbitrator shall pass an award within six months from the date the Tribunal enters</p>

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	<p>upon the reference and to that effect, the Tribunal may dispense with any technical formalities and conduct the proceedings without oral hearing, subject to acceptance of such Fast Track procedure by other party.</p> <p>The work under the Contract shall continue during the arbitration proceeding and no payment due to the Contractor shall be withheld on account of such proceedings.</p> <p>The contract shall be governed by and construed in accordance with laws of India, without regards to any conflict of laws principles. The Venue and seat of arbitration shall be Bangalore and the language will be English only. The award of the arbitrator shall be final, conclusive and binding all parties to this contract.</p> <p>Each party submits to the jurisdiction of Courts of Bengaluru for the purposes adjudicating any disputes or differences relating to this contract or arising out of this contract or compelling compliance with the above arbitration provisions and for enforcement of any arbitration award made in accordance with the above provisions.</p> <p>The Conciliation scheme for conducting proceedings under the BHEL conciliation scheme 2018 shall be as per Appendix-A to this CCC.</p>
18.0	Breach of contract, remedies & termination
18.1	<p>1) In case of delays in completion of works or non-fulfilment of any other terms and conditions of the Contract as enumerated subsequently in this clause, then, without prejudice to its right to recover any expenses, losses or damages to which the Buyer may be put to incur or sustain by reason of the Seller/Contractor's default or breach of Order/Contract or to suspend business dealings with the Seller/Contractor in terms of the Buyers' Guidelines for Suspension of Business Dealings as applicable from time to time, the Buyer shall also be entitled to cancel the Order/ Contract either in whole or portion thereof without compensation to Seller. On the occurrence of any of the acts/omissions mentioned below, the Buyer may if it so desires, procure upon such terms and in such manner as deemed appropriate, plant/ equipment/ stores not so delivered or others of similar description where plant/ equipment/ stores exactly complying with particulars are not, in the opinion of the Buyer (which shall be final), readily procurable. Seller shall continue the performance of the Order/Contract to the extent not cancelled under the provisions of this clause. The Seller shall on no account be entitled to any gain on such repurchases.</p> <p>BHEL reserves the right to terminate the contract partially / totally or withdraw portion of work and get is done through other agency after due notice of a period of 14 days by BHEL in any of the following cases:</p> <p>i) If the Seller/Contractor fails to deliver the goods or materials or any instalment thereof within the period(s) fixed for such delivery or the Seller's poor progress of the supply/services vis-à-vis delivery/execution timeline as stipulated in the contract, backlog attributable to the Seller</p>

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	<p>including unexecuted portion of supply does not appear to be executable within balance period available;</p> <ul style="list-style-type: none"> ii) delivers goods or materials not of the contracted quality and failing to adhere to the contract specifications/execution methodology; iii) withdrawal from or repudiation/abandonment of the supply/services by the Seller before completion as per contract or if the Seller refuses or is unable to supply goods or materials covered by the order/Contract either in whole or in part or otherwise fails to perform the Order/Contract. iv) Non supply by the Seller within scheduled completion/delivery period as per contract or as extended from time to time for reasons attributable to the Seller; v) Termination of Contract on account of any other reason(s) attributable to the Seller. vi) Assignment, transfer, sub-letting of Contract without BHEL's written permission resulting in termination of Contract or part thereof by BHEL. vii) If the Seller be an individual or a Sole Proprietorship, in the event of death or insanity of the Seller. viii) If the Seller/Contractor being an individual or if a partnership firm thereof, shall at any time be adjudged insolvent or shall have a receiving order for administration of his estate made against him or shall take any proceeding for composition under any Insolvency Act for the time being in force or make any assignment of the order/Contract or enter into any arrangement or composition with his creditors or suspend payment or if the firm dissolved under the Partnership Act; ix) If the Seller/Contractor being a Company is wound up voluntarily or by order of a Court or a Receiver, Liquidator or Manager on behalf of the debenture holders and creditors is appointed or circumstances have arisen which entitles the Court of debenture holder and creditors to appoint a receiver, liquidator or manager; x) Non- Compliance to any contractual condition or any other default attributable to the Seller. <p>Such defaulting vendor/Seller may not be eligible to participate in re-tendering conducted on account of purchase made due to fault / breach of contract by such vendor/Seller.</p> <p>2) Penalty & Recovery on account of Purchases made by Purchaser on account of breach of contract of Seller/ Contractor shall be:</p> <ul style="list-style-type: none"> i) BHEL reserves the right to Encash / forfeit the availability securities, recovery from the available bills of the contractor, retention amount etc. of the same contract / other contracts if any to the extent of 10% of contract value. In case the available securities, bills, retention amount etc. is less than 10%, then BHEL reserves the right to pursue through legal remedies. <p>The above penalty will be over and above the applicability of liquidated damages,</p>

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	debarment etc, which shall be as per the provisions of the contract.
18.2	<p>Recoveries arising out of Breach of contract, LD or any other recoveries due from Contractor:</p> <p>Without prejudice to the other means of recovery of such dues from the seller/ contractor, recoveries (if any) from the seller/ contractor shall be made from the following:</p> <ul style="list-style-type: none"> a) Dues payable in the form of bills payable to the seller/ contractor, Security Deposits, Bank Guarantees against the same contract. b) Dues payable to the seller/ contractor against other contracts, Security Deposits, Bank Guarantees in the same region/ Unit/ Division of BHEL. c) Dues payable to seller against other contracts, Security Deposits, Bank Guarantees in the different region/ Unit/ Division of BHEL. <p>In case recoveries are not possible with any of the above available options, Legal action shall be initiated for recovery against contractor.</p>
19.0	Compliance to CVC Guidelines for Selection and Employment of Consultants
19.1	The tender/ contract shall be governed by CVC circular no 08/06/11 dt 24.06.2011 (copy enclosed).
19.2	The offers of the parties already available with BHEL-ISG for other tenders shall also be subjected to conditions mentioned in this circular. Only one order, either consultation or supplies/services, whichever is finalized earlier, for the same project, shall be placed on the such bidder and the remaining offer(s) shall not be considered for further processing. This provision shall be applicable for tenders governed by the above mentioned CVC circular.
19.3	If any party, covered or not covered under clause 18.2, is awarded this contract, such parties shall not submit offers to BHEL-ISG against any future open tender (which qualify for the above-mentioned CVC circular), for the same project. If such offers are received, the same shall be rejected. This provision shall be applicable for tenders governed by the above mentioned CVC circular.
20.0	Ethics in Business Dealings:
20.1	In order to protect its commercial interests, BHEL may take action against suppliers/ contractors by way of suspension of business dealings with them, 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 as per the guidelines for Suspension of Business Dealings with Suppliers / Contractors available at www.bhel.com under "supplier registration page".
21.0	Fraud Prevention Policy:
21.1	The Bidder along with its associate/collaborators/sub-contractors/sub vendors/ Consultants/ service providers shall strictly adhere to BHEL Fraud Prevention Policy displayed on BHEL website 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.
22.0	Pradhan Mantri Kaushal Vikas Yojna

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22.1	<p>The contractor shall, at all stages of work deploy skilled/ semi-skilled tradesmen who are qualified and possess certificate in particular trade from CPWD Training Institute/ Industrial Training Institute/ National Institute of Construction Management and Research (NICMAR), National Academy of Construction, CIDC or any similar reputed and recognized Institute managed/ certified by State/ Central Government. The number of such qualified tradesmen shall not be less than 20% of total skilled/ semi-skilled workers required in each trade at any stage of work. The contractor shall submit number of man days required in respect of each trade, its scheduling and list of qualified tradesmen along with requisite certificate from recognized Institute to Engineer-in-Charge for approval. Notwithstanding such approval, if the tradesmen are found to have inadequate skill to execute the work of respective trade, the contractor shall substitute such tradesmen within two days of written notice from Engineer-in-Charge. Failure on the part of contractor to obtain approval of Engineer-in-Charge or failure to deploy qualified tradesmen will attract a compensation to be paid by contractor at the rate of Rs. 100/- per such tradesmen per day. Decision of Engineer-in-Charge as to whether particular tradesman possesses requisite skill and amount of compensation in case of default shall be final and binding.</p> <p>Provided always, that the provisions of this clause, shall not be applicable for works with estimated cost put to tender being less than Rs. 5 Crores.</p>
23.0	MSE Bidders
23.1	<p>MSE suppliers can avail the intended benefits only if they submit along with the offer (Part-1 bid in case of two or three part bid), copy of Udyam Registration Certificate. Non-submission of such documents will lead to consideration of their bid at par with other bidders. No benefit shall be applicable for this enquiry if any deficiency in the above required documents are not submitted before price bid opening/ Reverse Auction. If the tender is to be submitted through e-procurement portal, then the above required documents are to be uploaded on the portal.</p> <p>If the bidder falls under SC/ ST/ Women Entrepreneur category, same shall be indicated in the offer and relevant supporting documents shall be submitted along with the Part-1 bid.</p> <p>The Indented benefits shall be as per the MSMED Act and extant guidelines. The type of tender/ contract for the purpose of this clause shall be "Services".</p>
24.0	Security Deposit (SD)
24.1	As per clause 1.10 of GCC.
24.2	<p>The successful Bidder should deposit the required amount of Security Deposit for satisfactory completion of work. The total amount of Security Deposit will be 5% of the contract value (excluding GST).</p> <p>Details shall be as per cl. no. 1.10 of GCC (Rev.01).</p>
24.3	<p>Modes of deposit: As per cl. no. 1.10.2 of GCC (Rev.01).</p>

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	<p>In addition to modes of deposit mentioned under cl. no. 1.10.2 of GCC (Rev.01), the following shall also be acceptable:</p> <p>vi) Insurance Surety Bonds</p>
24.4	<p>Cl. No. 1.10.7 shall be read as: The Bank Guarantee towards Security Deposit shall be valid initially up to the "contractual completion period + three (03) months" (plus additional 3 months claim period) as stipulated in the Letter of Intent/ Award and the same shall be kept valid by proper renewal, two months before expiry, till the BHEL's acceptance of Final Bills of the Contractor.</p>
24.5	<p>Bidder hereby agrees to submit the Security Deposit (SD) required for execution of the order/ contract within the time period mentioned under cl. no. 1.10 of GCC (Rev.01).</p> <p>In case of delay in submission of Security Deposit, enhanced Security Deposit which would include interest (repo rate + 4%) for the delayed period, shall be submitted by the successful bidder (s). Further, if Security Deposit is not submitted till such time the first bill becomes due, the amount of Security Deposit due shall be recovered from the bills along with due interest.</p>
25.0	Integrity Pact
25.1	Not Applicable
26.0	Intimation of Change of Name/ Re-Constitution of the Organization
26.1	<p>In the event of the organization (Proprietorship/Partnership/Company) undergoing any change of name or reconstitution, prior intimation of the same shall be given to BHEL. Upon such changes coming into effect, the same is to be intimated to BHEL immediately with supporting documents as applicable. Further, the new entity has to intimate BHEL in writing that they will honour all the earlier commitments in respect of the subject contract.</p>
27.0	Force Majeure
27.1	<p>Cl. No. 2.20 of GCC (Rev.01) is not applicable for this tender/ contract. FORCE MAJEURE clause shall be as mentioned below:</p>
27.2	<p>"Force Majeure" shall mean circumstance which is: a) beyond a party's control, b) The party could not reasonably have provided against before entering into the contract, c) Having arisen, such party could not reasonably have avoided or overcome, and d) Is not substantially attributable to the other party. Such circumstances include but not limited to</p> <ul style="list-style-type: none"> i) Exceptionally adverse climatic conditions at the site which are unforeseeable having regard to climate data available or published in the country for the geographical location of the site. ii) War, hostilities (whether war be declared or not), invasion, act of foreign enemies. iii) Rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war.

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	iv) Riot, commotion or disorder by persons other than the contractor's personnel and other employees of the contractor and sub-contractors. v) Strike or lockout not solely involving the contractor's personnel and other employees of the contractor and sub-contractors. vi) Encountering munitions of war, explosive materials, ionizing radiation or contamination by radioactivity, except as may be attributable to the contractor's use of such munitions, explosives, radiation or radio- activity. vii) Natural catastrophes such as earthquake, tsunami, volcanic activity, hurricane or typhoon, flood, fire, cyclones etc.
27.3	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.
27.4	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.
27.5	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.
27.6	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.
27.7	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, Contractor cannot consider deemed short-closure after 1 year of imposition of Force Majeure.
28.0	Consequential Damages and Limitation on liability:
28.1	Except for any specific liability which may be identified in the contract and which may be payable hereunder Contractor shall not be liable for any special, incidental, indirect, or consequential Damages or any loss of business Contracts, revenues or other financial loss (or equivalents thereof no matter how claimed, computed or characterized) arising out of or in connection with the Performance of the Work or supply of Goods unless caused by Contractor's negligence or wilful misconduct. In addition, Purchaser shall have no liability or any special, incidental, indirect or consequential Damages or any loss of business Contracts, revenues or other financial loss arising out of this Contract.
28.2	Notwithstanding anything to the contrary in this Agreement or the Work Order or any other mutually agreed document between the parties, the maximum liability, for damages, of the contractor, its servants or agents, shall under no circumstances exceed an amount equal to the total contract value.

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Clause No.	DESCRIPTION
	<p>This shall not be applicable on the recoveries arising out of Risk and Cost, recoveries for Liquidated Damages, recoveries made by Customer from BHEL on account of Contractor, any other type of recoveries for workmanship, material, T&P etc. due from the contractor.</p>
29.0	Execution of Contract Agreement
29.1	<p>Cl. no. 1.14 of GCC (Rev.01) shall be read as:</p> <p><i>The successful bidder's responsibility under this contract commences from the date of issue of the 'Letter of Award' by Bharat Heavy Electricals Limited. The Bidder shall submit an unqualified acceptance to the 'Letter of Award' within the period stipulated therein.</i></p> <p><i>The Letter of Award (LOA) shall be considered as contract agreement for execution of the work. No separate contract agreement shall be applicable.</i></p>
30.0	Bills submission and e-invoicing
30.1	<p>e-invoicing shall be applicable based on the notification issued by Govt. of India (GoI). Any further notification for change of guidelines/ criteria in this regard shall also be applicable.</p> <p>Following to be complied by the seller/ contractor with regard to e-invoicing and submission of bills.</p> <ol style="list-style-type: none"> 1. Digitally signed tax Invoice along with other supporting documents as specified in the order/ contract shall be uploaded by the seller/ contractor, in the vendor information system of BHEL ISG, whose Turnover during the previous Financial Years is less than or equal to the prescribed limit as per extant GOI guidelines for mandatory e-invoicing. 2. All sellers / contractors whose Turnover is more than the prescribed limit as per extant GOI guidelines, shall prepare invoice on Invoice Registration Portal (IRP) and obtain an Invoice Reference Number (IRN). Digitally signed e-Invoice along with other supporting documents as specified in the contract shall be uploaded by them in the vendor information system of BHEL-ISG. 3. The Digital Signature Certificate (DSC) shall be registered in the name of the authorized official of the Company and shall be of Class II or III. <p>In case of hard copy submission of bills, same shall be submitted to BHEL-ISG, Bangalore.</p>
31.0	<p>Order of Precedence of Documents:</p> <p>Cl. No. 2.30 of General Conditions of Contract (GCC), Rev.01 shall be read as: In the event of any ambiguity or conflict between the Tender documents, the order of precedence shall be in the order below:</p> <ol style="list-style-type: none"> a) Amendments/ Clarifications/ Corrigenda/ Errata etc issued in respect of the tender documents by BHEL.

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Clause No.	DESCRIPTION
	b) Notice Inviting Tender c) Commercial Conditions of Contract (CCC) d) Technical specifications e) General Conditions of Contract (GCC)
32.0	All other terms & conditions shall be as per the General Conditions of Contract (GCC), Rev.01.

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Annexure-I

Terms & Conditions of GST

- 1) Seller/ Contractor is required to ensure that the quoted price should be exclusive of GST.
- 2) Response to Tenders for Indigenous seller/ contractor will be entertained only if the vendor has a valid GST registration Number (GSTIN) which should be clearly mentioned in the offer. If the dealer is exempted from GST registration, a declaration with due supporting documents need to be furnished for considering the offer. Dealers under composition scheme should declare that he is a composition dealer supported by the screen shot taken from GSTN portal. The dealer has to submit necessary documents if there is any change in status under GST.
- 3) Supplier shall mention their GSTIN in all their invoices (incl. credit Notes, Debit Notes) and invoices shall be in the format as specified/ prescribed under GST laws. Invoices shall necessarily contain Invoice number (in case of multiple numbering system is being followed for billing like SAP invoice no, commercial invoice no etc., then the Invoice No. which is linked/uploaded in GSTN network shall be clearly indicated), Billed to party (with GSTIN) & Shipped to party details, item description as per PO, Quantity, Rate, Value, applicable taxes with nomenclature (like IGST, SGST, CGST & UTGST) separately, HSN/ SAC Code, Place of Supply etc. Wherever E-Invoice is applicable, the tax invoice/ CN / DN submitted by the vendor must contain the QR code generated in E-Invoice Portal & IRN.
- 4) All invoices shall bear the HSN Code for each item separately (Harmonized System of Nomenclature)/ SAC code (Services Accounting Code).
- 5) Invoices will be processed only upon completion of statutory requirement and further subject to following:
 - a) Vendor declaring such invoice in their GSTR-1 Return/ IFF
 - b) Receipt of Tax invoice by BHEL
- 6) As the continuous uploading of tax invoices in GSTN portal (in GSTR-1/ IFF) is available for all (i.e. both Small & Large) tax payers, all invoices raised on BHEL may be uploaded immediately in GST portal on dispatch of material /rendering of services. The supplier shall ensure availability of Invoice in GSTN portal before submission of invoice to BHEL. Invoices will be admitted by BHEL only if the invoices are available in GSTN portal (in BHEL's GSTR-2A/ GSTR-2B).
- 7) In case of discrepancy in the data uploaded by the supplier in the GSTN portal or in case of any shortages or rejection in the supply, then BHEL will not be able to avail the tax credit and will notify the supplier of the same. Supplier has to rectify the data discrepancy in the GSTN portal or issue credit note or debit note (details also to be uploaded in GSTN portal) for the shortages or rejections in the supplies or additional claims, within the calendar month informed by BHEL.
- 8) In cases where invoice details have been uploaded by the vendor but failed to remit the GST amount to GST Department (Form PMT-08 or Form GST RET-01 to be submitted) within stipulated time, then GST paid on the invoices pertaining to the month for which

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GST return not filed by the vendor will be recovered from the vendor along with the applicable interest (SBI base rate+6% or interest levied by GST authorities whichever is higher) and all subsequent bills of the vendor will not be processed till filing of the GST return by the vendor.

- 9) In case GST credit is denied to BHEL due to non-receipt or delayed receipt of goods and/or tax invoice or expiry of timeline prescribed in GST law for availing such ITC, or any other reasons attributable to the seller/ contractor, GST amount claimed in the invoice shall be disallowed to the vendor.
- 10) Where any GST liability arising on BHEL under Reverse Charge (RCM), the vendor has to submit the invoices to BHEL well within the timeline prescribed in GST Law, to enable BHEL to discharge the GST liability. If there is a delay in submission of invoice by the vendor resulting in delayed payment of GST by BHEL along with Interest, then such Interest payable or paid shall be recovered from the vendor.
- 11) GST TDS will be deducted as per Section 51 of CGST Act 2017 and in line with Notification 50/2018 –Central Tax dated 13.09.2018. GST TDS certificate will be generated in GSTN portal subsequent to vendor accepting the TDS deduction in the GSTN portal & the vendor can directly download the Certificate from the GSTN Portal.
- 12) A declaration to the effect that all invoice particulars are/ have been uploaded in the GSTN network/ portal & all tax liability as per GST rules and regulations have been and will be discharged, shall be mentioned in the invoice. If not mentioned in the invoice, a separate declaration shall be submitted as per the requirement of BHEL.
- 13) This is to inform that GST portion of invoice shall be released only upon vendor declaring such invoice in his GSTR-1 and receipt of goods and Tax invoice by BHEL and confirmation of payment of GST thereon by vendor on GSTN portal. Alternatively, BG of appropriate value may be submitted by vendor which shall be valid at least one month after the confirmation of date of payment of GST by vendor on GSTN portal and receipt of Tax invoice and receipt of goods, whichever is later. Above is subject to receipt of goods/service and tax invoice thereof along with vendor declaring invoice in his return and paying GST within timeline prescribed for availing ITC by BHEL.
- 14) In case vendor delays, declaring such invoice in his return and GST credit availed by BHEL is denied or reversed subsequently as per GST law, GST amount paid by BHEL towards such ITC reversal as per GST law shall be recoverable from vendor/ contractor along with interest levied/ leviable on BHEL.

15) Anti-profiteering clause:


GST law has a provision that any reduction of rates in GST or the benefits of ITC shall be passed on to the recipient by way of commensurate reduction in price of goods/ services. Hence, Bidder to ensure that benefit of reduction of rates in GST and benefit of ITC are being passed on by way of commensurate reduction in price of goods/services including capital goods.

Such benefit would accrue to vendors/ contractors due to availability of ITC for inter-state Supplies under GST which was not available in pre-GST law due to CST credit not

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being available or ITC reversals under pre-GST law for stock transfers, ITC reversals under pre-GST law on account of common credit etc. Further any element of taxes like Excise, VAT, CST, Service Tax, WCT, Entry Tax etc which are embedded into price of goods/ services shall also be taken into account for working out the benefits and for price reduction.

All benefits, as per the "Anti Profiteering Law" of GST shall be passed on to BHEL by the vendors, by way of commensurate reduction in price of goods/ services.

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Annexure-II

List of BHEL Consortium Banks	
1	State Bank of India
2	Canara Bank
3	IDBI Bank Limited
4	ICICI Bank Limited
5	HDFC Bank Limited
6	Axis Bank
7	IndusInd Bank Limited
8	Bank of Baroda
9	Exim Bank
10	Indian Bank
11	Punjab National Bank
12	Union Bank of India
13	Yes Bank Limited
14	RBL Bank Ltd.
15	Standard Chartered Bank
16	Indian Overseas Bank
17	Kotak Mahindra Bank Limited
18	Federal Bank Limited
19	Hongkong and Shanghai Banking Corporation Ltd

Note: The list of Consortium Banks is periodically reviewed and updated by BHEL from time to time. In case of any revision in the list of Consortium Banks, the same shall be applicable for this tender/ contract.