



## TRANSPORT SERVICES DEPARTMENT, BHEL, BHOPAL

(This document to be attached as ATC on NIC Portal)

### 1. Introduction:

BHEL, a schedule "A" Maharatna CPSE of Govt. of India, is an integrated power plant manufacturer and one of the largest engineering and manufacturing company of its kind in India engaged in the design, engineering, manufacture, construction, testing, commissioning and servicing of a wide range of products and services for core sectors of the economy, viz. Power, Transmission, Industry (cement, fertilizers), Transportation (Railways), Renewable energy, Oil & Gas, Water and Defense with over 180 products offerings to meet the needs of these sectors.

### 2. Scope of work:

#### Special Terms & condition

1. Experienced and resourceful operating Transport Contractors (with complete maintenance and comprehensive insurance) are invited to participate in the tender. The Fuel shall be provided by Transport Contractors. The vehicle so provided by the successful bidder on operating lease basis to BHEL, should not be sub-leased to any third party.

Monthly assured run of 2000 km. In case the running of vehicle is less / more than 2000 km, the same shall be carry forwarded / adjusted in the 06 Months period.

Bidders are required to quote Monthly Rental for assured 2000 km.

2. **Requirement:** Vehicle purchased **brand new (show room)** duly registered in their own name/firm/ partner's name "Hyundai Verna 1.5 SX MT (Petrol) Car" or equivalent shall be deployed in BHEL Bhopal, on operating contract basis for a period of 02 years (24 months). The Vehicle will be required to be equipped with the genuine accessories as are fitted/provided by the OEMs, if the same are not provided/ equipped by the Car manufacturers like extra wheel, Standard tool kit, seat cover, side mirror glass, steel guard, foot safety guard etc.
3. **Documentation:** Registration Certificate, Fitness Certificate, Road Permit, Comprehensive Insurance and other relevant documents etc. required for running the Car should bear names of Transport Contractors.
4. Release of rentals shall commence only after delivery of the Car with permanent registration number and all documents required driving the Car on road. The Transport Contractors shall submit RC, Insurance, Permit, Fitness & Invoice for purchase of the Car, etc.
5. **Fuel:** The fuel shall be provided by Transport Contractors.
6. **Driver:** -The driver shall be provided by BHEL (Car Pool).
7. **Delivery:** Successful Transport Contractors shall ensure delivery of the Car within One month from the date of receipt of Work Order.
8. **Break-down Services:** In case the Car is immobilized on road due to malfunction/accident, the Transport Contractors shall arrange at the earliest for its service/repair as the case may be so that it does not cause any inconvenience to its user. During the break down / absence of Car the Transport Contractors should provide another Car.
9. **Repair and Maintenance:** All running repairs and maintenance (other than major accident) will be rectified immediately by the Transport Contractors at the sole risk, responsibility and cost of the Transport Contractors. Regarding major accident(s), it will be repaired by the Transport Contractors in Car manufacturer's authorized workshop at the cost and risk of the Transport Contractors, subject to insurance claim being admissible by the insurer as per IRDA norms. Settling claims with insurance company will be the sole responsibility of Transport Contractors. BHEL will have no liability in this regard. However, BHEL shall provide all necessary documentation as the beneficiary of the Insurance Policy.



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10. **Monthly rentals:** Monthly rentals (GST Extra) will be paid during the entire contract period for of 2 years (24 Months).
11. **Other essential conditions will be as under:**
  - i) Replacement of tyres, tubes and battery, as and when required during the entire contract period of 2 years (24 Months) by the Transport Contractors.
12. **Agreement tenure & Contract period:** The Agreement for the Car on operating contract basis from the successful Transport Contractors will be valid for a period of 02 years (24 months) from the date of deployment of vehicles.
13. In case, rate happens to be identical, the evaluation criteria will be on the basis of the following order: -
  - i) Experience with BHEL in the field of deployment of vehicles by way of rendering satisfactory services.
  - ii) Experience with any other organization in the field of deployment of vehicles.
  - iii) Higher number of vehicles quoted for deployment.
  - iv) Turnover of last two years (Financial Year: 21-22 and 22-23) as per Balance Sheet / IT Return. A copy of the same is to be enclosed along with Tender documents.
- 14) BHEL reserves the right to reject any tender at any stage without assigning any reason thereof and no correspondence shall be entertained in this regard.
15. The Vehicle will be utilised by BHEL, Bhopal for plying in Township/adjoining areas generally within the municipal limits of Bhopal and sometimes outside Bhopal also (within MP). In case Car is required to go outside Bhopal permit will be arranging by the Transport Contractors.

### **Minimum Qualification of the bidders:**

- a) Transport Contractors should have establishment /office within Municipal limits of Bhopal with landline telephone / Post-paid Mobile No.
- b) Transport Contractors, registered under MP shop & establishment act at Bhopal are eligible or shall have office at Bhopal within one months from the award of contract.
- c) Transport Contractors should have experience of minimum continuous one year period in last seven year period i.e. 01.01.2017 to 31.12.2023 of running at least one vehicle (Dzire Car, Dzire Tour, Hyundai Xcent, Toyota Etios, Tata Tigor, Skoda Rapid, Sunny Nissan, Tata Indigo ecs, Tata Indica, Mahindra Bolero, Mahindra Maxxi, Loading Pickup, Commander (Jeep), Tata Sumo, Mahindra Scorpio, Bus, Hyundai Verna Car, Tavera, Innova as well as equivalent new model vehicles etc.) on full time basis in any Industrial Establishment/ office. The experience has to be for regular deployment of vehicles on day to day basis during the above mentioned period.
- d) All the Annexures of NIT shall be signed by the bidders if not signed, bid shall be cancelled. 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, otherwise shall be liable for rejection. They have to furnish the following documents in support of their requisite experience.
  - 1) A copy of duly signed work order(s) issued by the Industrial establishment / Office / Institutions/ hospital etc. clearly indicating WO ref, date, duration of work and the nature of work done.

OR

A copy of agreement signed between the bidder and organization mentioning the period of contract and number & type of above mentioned vehicles deployed against LOI / Work Order.

  - 2) Experience certificate from organization clearly mentioning the number & type of vehicles deployed and the period for which the vehicles were deployed besides mentioning that the services were found to be satisfactory during the entire contract period.



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The work completion certificate should be verifiable and contact details of signing authority must be provided. In case BHEL desires to verify the document, responsibility lies with the bidder to get it verified to the full satisfaction of BHEL. Otherwise BHEL reserves the right to reject the tender and no claim or correspondence shall be entertained in this regard.

(3)

- i) If bidder's is a partnership firm, the partnership should be in existence for the past minimum one year from the date of publication of this NIT and the firm must have done business in the name of the partnership firm for which experience is claimed in this tender.
- ii) Transport Contractors should have minimum one vehicle any of the following type (Dzire Car, Dzire Tour, Hyundai Xcent, Toyota Etios, Tata Tigor, Skoda Rapid, Sunny Nissan, Tata Indigo ecs, Tata Indica, Mahindra Bolero, Bus, Hyundai Verna Car, Mahindra Maxxi, Loading Pickup, Commander (Jeep), Tata Sumo, Mahindra Scorpio, Bus, Tavera, Innova as well as equivalent new model vehicles etc.) of not prior to 01.01.2016 model duly registered in their own name/firm/partner's name. Holding power of attorney for vehicles will not suffice to be ownership. **After receiving the Work Order from the BHEL, vehicle to be deployed shall be brand new (show room) duly registered in their own name / firm / partner's name only and deploy the quoted vehicles (brand new) within one month from the date of award of work order.**

### General Terms & conditions

01. The name of tenderer with full official address and Post Paid Mobile/Landline phone number(s) should be furnished. In case of partnership firm, the name and addresses of all the partners together with a certified copy of the partnership deed shall be furnished along with the tender. All parties have to sign the tender document unless signed by the power of Attorney holder. In the later case, copy of the power of Attorney duly attested by a Gazetted officer must accompany the tender.
02. Belated and revised offers after opening of the Technical Bid will not be considered.
03. BHEL reserves the right to negotiate for reduction in rates/ terms of offer or invite fresh tender.
04. If a tenderer withdraws his offer after submission of the tender or after Award of Work fails to deploy the required numbers of vehicles, BHEL reserves the right to forfeit the Earnest Money so deposited and terminate the contract.
05. This tender document shall be deemed to form an integral part of the contract to be entered into for this work.
06. BHEL Bhopal reserves the rights to have parallel contract with any number of Transport Contractors.
07. Rate of the tenders should remain valid for acceptance for a minimum period of ninety (90) days from the date of opening of the Technical Bid for placing the Work Order. The rates quoted should be firm for a period for full contract period from the date of acceptance of the tender.
08. The successful tenderers shall produce Registration Certificate, Taxi Permit, Insurance coverage, Fitness Certificate etc. of the vehicle in original in respect of the vehicles under contract to get the veracity of the submitted copies authenticated prior to award of contract and subsequently on a monthly basis with the bills to ascertain its continuance.

**REVERSE AUCTION** - "BHEL shall be resorting to Reverse Auction (RA) (Guidelines as available on [www.bhel.com](http://www.bhel.com) &/ or on NIC Portal ) for this tender. RA shall be conducted among the techno commercially qualified bidders. Price bids of all techno-commercially qualified bidders shall be opened and same shall be considered for RA. In case any bidder(s) do(es) not participate in online Reverse Auction, their sealed price bid along with applicable loading, if any, shall be considered for ranking.



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**Termination clause:** Due to non-satisfactory performance, BHEL reserves the right to short close / terminate the contract any time prior to the expiry of contract period at its sole discretion. BHEL reserves the right to accept the offers in part or in full, cancel the Tender enquiry or close the contract without assigning any reason. BHEL reserves to short close the contract at its discretion at any point of time without assigning any reason thereof.

### 3. Quantity:

Sr.No.	Description of Work	Total quantity
1	Hiring of Hyundai Verna 1.5 SX MT (Petrol) Car" or equivalent with Fuel (Petrol) without drivers on 24 Hours deployment basis for 02 years.	01 No.

### 4. Splitting of order: Not applicable.

5. **Contract Period:** The Agreement for the Car on operating contract basis from the successful Transport Contractors will be valid for a period of 02 years (24 months) from the date of deployment of vehicles.

6. **Commencement of Contract:** As per LOI (Tentatively from 01<sup>st</sup> April 2025).

7. Mobilization period - **Not applicable.**

8. **Statutory Requirement:** The firm should have following to participate in this tender: -

- (a) Transport Contractors should have PAN for deduction of TDS as per Income Tax Act.
- (b) Transport Contractors should have / applied for GST Number / GST Code for remittance of GST under the GST Act.
- (c) TDS: TAX Deduction at source TDS as per extant provisions of the GST and Income Tax Act shall be deducted from supplier/contractor bill.

### 9. Pre-Qualification Requirement/ Qualification Criteria:

(A) **Experience criteria:** Contractor shall submit copy of work order of similar work completed in last 7 years ending last day of month previous to the one in which enquiry is invited.

- Three similar completed works of contract value not less than Rs.2.46 Lakh / year.  
Or
- Two similar completed works of contract value not less than Rs.3.08 Lakh / year.  
Or
- One similar completed works of contract value not less than Rs.4.93 Lakh / year.

### (B)

#### Note :-

- i. All the above conditions should be met by bidder firm only, not by any associate firm. The bidding firms shall submit the work order copies & its completion certificates to prove the desired experience. Only the firms meeting the above requirements shall be qualified technically for further processing of tender.
- ii. The value of number of work orders allocated against same enquiry to a contractor will be considered as single work order value for qualifying purpose.
- iii. Those contractors who have worked in other PSUs / Govt. / Semi-Govt. / reputed Public companies for similar work should submit documents with respect to experience as below:



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Enclose copy of work order and work completion certificate clearly indicating WO ref, date, duration of work and the nature of work done. The work completion certificate should be verifiable and contact details of signing authority must be provided. In case BHEL desires to verify the document, responsibility lies with the bidder to get it verified to the full satisfaction of BHEL. Otherwise BHEL reserves the right to reject their bid and no claim or correspondence shall be entertained in this regard.

- iv. Experience certificate of any Private organization, in addition to the requirements as in (iv) above, must be supported by CA certification in "ANNEXURE-I".
- v. For consideration of running work order, the value completed on last day of month, previous to the one in which applications are invited will be considered based on certification of executing authority.
- vii. In case of composite Work order in which scope of work comprises multiple type of work then only that part of work will be considered, which pertains to similar works and value of similar works in total value should be mentioned in completion certificate.
- vi. No relaxation/exemption in prior experience & prior turnover criteria shall be considered for MSE/Start-ups.

### 10. Taxes and Duties:

- I. TAX Deduction at source TDS as per extant provisions of the GST and Income Tax Act shall be deducted from supplier/contractor bill.
- II. Wherever bidders are required to render services at project site Party has to submit GST registration no. of the State in which project site is located along with copy of registration certificate at the time of submission of BID. In case the same is not available at the time of submission of bid, the contractor has to give an undertaking that the same will be arranged before award of work order.
- III. HSN Code/ SAC, rate of tax under GST and applicable GST (IGST, CGST/SGST/UTGST) and GST IN shall be clearly mentioned by the Bidder.
- IV. GST portion of the invoice shall be released only upon: -
  - a. Receipt of goods/services and Tax Invoice by BHEL. All invoices raised by contractors/ vendors must be GST compliant Tax invoices as per GST invoice rules.
  - b. Contractor declaring such invoice in his GSTR-1 or any modified return as notified by government.
  - c. On availment of ITC by BHEL.
  - d. Confirmation of payment of GST on GSTN portal by contractor.
  - e. In case GST credit is delayed/denied to BHEL due to non/delayed receipt of services/goods and /or tax invoice or expiry of the timeline prescribed in GST law for availing such ITC, or any other reasons not attributable to BHEL, GST amount shall be recoverable from the contractor along with interest levied/leviable on BHEL.
- V. In respect of free issue material by BHEL, the contractor shall return the processed material within the time line as per the provisions of GST. In case of any additional tax liability on BHEL on account of noncompliance by the contractor, the additional financial implications on BHEL shall be passed on to the contractor.
- VI. **Reverse Charge under GST:-**
  - a. In respect of services covered under Reverse Charge Mechanism, reverse charge liability shall arise at the earliest of date of payment to service provider or 60 days from the date of issue of invoice by service provider. Contractor has to submit bill for payment within 30 days from the date of invoice. Any interest or penalty implications attributable to the contractor shall be recovered from them.
  - b. Any GST liability arising on BHEL under reverse charge before actual receipt of goods and /or invoice thereof would be subject to recovery of interest leviable for the period between the date of such



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liability and actual date of eligibility of ITC based on receipt of goods, receipt of invoices and other condition specified in GST Law.

### 11. Payment Terms :

Payment terms shall be, within 45 days for MSEs, 60 days for Medium category and 90 days for non MSME bidders. Prices are to be quoted inclusive of GST.

### 12. Price Variation Clause

In case of any change in the cost of Fuel, the hiring rate shall increase/ decrease for every one Rupee or part thereof per liter increase/ decrease in the cost of fuel subject to documentary evidence. The change will be as per following rates: -

Type of Vehicle	PVC per km
Hyundai Verna 1.5 SX MT (Petrol) Car" or equivalent	08 paisa

Base Fuel Price of Petrol: Rs.108.67.

No increase will be admissible on any other account.

PVC = 1 / 12 (mileage) = 0.08 Paise

Assured km = 2000

PVC formula = Assured 2000 km rate + {(Current fuel rate – Base fuel rate) x PVC (0.08) X 2000 km }

### 13. ORC – Not applicable.

### 14. LD/Penalty Clause:

- In the event of any delay in delivery of the vehicle a penalty @ 0.5 % per week or part thereof subject to a maximum of 10% of the total contract rent for entire contract period for the vehicle, the delivery of which is delayed, shall be levied on the contractor for vehicle not delivered in time as per Delivery schedule.
- In case of non-operating the provided Car more than 02 hours of immobilized/breakdown of contracted vehicle on road due to malfunction/accident, BHEL reserves right to impose a penalty of Rs500/- per day. BHEL decision on this regard shall be final and binding.

**15.** in case of misbehaviour, disobedience, dishonesty, clandestine insolvency, any court order, non-sanction of road permit or any other related activities on their part or their failure to fulfil the terms and conditions of this agreement, this contract may be terminated at any time without paying compensation whatsoever to the Contractor

### 16. Benefits earmarked for Micro & Small Enterprises (MSEs) :-

- MSE Vendors are exempted from payment of EMD and tender fee.
- Purchase Preference – Subject to meeting terms and conditions stated in the tender document including but not limiting to prequalification criteria, twenty-five percent of the total quantity of the tender is earmarked for MSEs. Where the tendered quantity can be split, MSEs quoting a price within a price band of L1 + 15 percent shall be allowed to supply up to 25 percent of total tendered quantity provided they match L1 price. In case the tendered quantity cannot be split, MSE shall be allowed to supply total tendered quantity provided their quoted price is within a price band of L1 + 15 percent and they match the L1 price. In case of more than one such MSEs are in the price band of L1 + 15% and matches the L1 price, the supply may be shared proportionately.





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III. MSE suppliers can avail the intended benefits only if they submit UDYAM Certificate along with the offer

### 17. Service specific Terms and Condition of contract

- a) Service/Job Specific Technical Terms to be mentioned by the concerned department.
- b) Bidder will have to obtain insurance cover for his employees and equipment/ tools / tackles etc. and take third party risk insurance coverage at his own cost. BHEL will not be responsible for any loss, damage, pilferage of his property/ or his employees.
- c) Bidder shall be directly responsible for providing necessary staff, with the prescribed uniform. He will also be responsible for their courteous behavior toward the CISF/security authorities and BHEL authorities. The Bidder should abide by the company's security rules and the factory premises.
- d) In case BHEL be held liable for any loss, damage or compensation to third parties arising from or in relation to any operations done by the Bidder, such loss, damage or compensation shall be paid by the Bidder to BHEL together with the costs incurred by BHEL on any legal proceedings pertaining thereto.
- e) The Bidder is directly responsible for injuries/death of any person employed by him as well as to the third party occupants or other users arising due to accident or otherwise of vehicle during the contractual period. At any point of time, BHEL will not be responsible for any loss / damage either to the person or to the vehicle arising out of accident of or by the vehicle while performing the contractual obligations.
- f) Any amount recoverable from Bidder towards the loss / damage will be recovered from the outstanding payments due. In case the amount is insufficient for such recoveries, Bidder shall make good the balance amount by remitting in the cash office at BHEL. The company reserves the right to enter into parallel contracts for the same period or any part thereof.
- g) Bidder or his authorized engineer shall regularly visit and meet the block in charge on every day to obtain the information about the breakdowns and presence of his employees and should monitor and review the complaint if any and ensure that the work is done efficiently & effectively, without delay and will report the status of the jobs on a day-to-day basis to BHEL in charge, failing which In charge shall be free to take suitable action as per relevant terms & conditions of agreement at his discretion as required.
- h) If the vehicle/ equipment/ component are required to be transported to the Bidder's service workshop for repairs, the same shall be undertaken at the risk and cost of the Bidder.
- i) BHEL is ISO: 14001 certified plant, hence all the waste generated in the process of execution of the work is to be disposed/ deposited complying with the approved procedure as per ISO: 14001 Environment Management System.
- j) Bidder shall be required to follow working instructions mentioned below without fail.
  - i. All efforts should be made for optimum utilization of resources like water, electricity, compressed air etc. provided free of cost to him.
  - ii. All efforts should be made to minimize the waste generation in the process of the execution of the job.
  - iii. Any waste generated during the course of execution of the job, efforts should be made to re-use it elsewhere in consultation with Engineer-In-Charge. If the waste generated during the execution of the job cannot be re-utilized, it should be disposed in as per standard guidelines in consultation with Engineer-In-Charge. Ensure that all applicable legal and other requirements related to Environmental protection and pollution prevention are complied with.
  - iv. The Bidder shall always keep his work areas, site office and surroundings clean and tidy, free from dust, rubbish, scrap, surplus material and unwanted tools and equipment.
  - v. The welding and other electrical cable shall be routed to allow safe traffic by all concerned
  - vi. All the employee of Bidder shall be provided with Identity card by the Bidder.



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- vii. The Bidder & his employees shall strictly follow the security instructions and safety instructions applicable as per the instruction of the block Engineer in charge.
- viii. Contractor must ensure all desired safety aspects regarding material handling equipment & the operators deployed by him and must ensure provision & usage of personal protective equipment (PPEs) for the staff deployed.
- ix. Contractor shall ensure that his employee do not indulge in any unsafe or hazardous practices. They use safety equipment such as safety belts, safety shoes, goggles, helmet and masks where use of such equipment is required in day-to-day operations.
- x. In case of violation of safety norms including non-use of personal protective equipment by the Bidder's employee, the Bidder shall be levied penalty. In case the Bidder is not taking effective steps to improve his safety performance as directed by Engineer In charge based on advice given by Head, Industrial Safety & Fire, the Bidder shall be further penalized including termination of his contract.
- xi. All tools, tackles, meters, testing equipment and any other tools etc. required for effective maintenance work of standard quality and to maintain the vehicles in excellent working conditions, shall be provided by the Bidder and should be available at the place of work till completion of the contract period.
- xii. The Bidder shall furnish local contact telephone number, Mobile number & contact address.
- xiii. Bidder shall be allowed to take back tools, tackles and equipment (if any) on production of entry gate passes/ permission of CISF/ security against which these materials were brought inside the factory on returnable basis.
- xiv. The Bidder shall be responsible for the materials handed over to him, and in case of any mishandling or missing the same shall be replaced or repaired at his own risk and cost. Any damage caused to any of the material/ equipment/ tools/ installation, or to the building of BHEL particularly due to negligence shall be entire responsibility of Bidder to repair, rectify or replace the same free of cost. Cost of damages caused due to bad workmanship shall be recovered from the Bidder.
- xv. Engineer in charge will have the right to withdraw the work permit for any of the contract workmen for reasons of misconduct, incompetence in work, violation of safety and fire rules, negligence on duty etc.
- xvi. Bidder should insure his workmen suitable workmen compensation insurance policy for every individual worker.
- xvii. Personal protective equipment including disposable clothing, gloves, etc. shall be worn during duty hrs.
- xviii. There will be section in-charge who will certify the work done in each bay. Proper log/ measurement book be maintained by the party and signature of bay in charge to be taken on two occasions (shift wise). Names of officers to certify shall be given after placement of works contract.

**18. FREE OF COST SUPPLY OF ITEMS BY BHEL: Not applicable.**

**19. STAFF EXPERIENCE: Not applicable.**

### **20. PERFORMANCE EVALUATION**

- (a) If the work is not satisfactory, the contract may either be terminated or extended for another three months to observe for any further improvement.
- (b) The performance of the Bidder & his employees will be assessed periodically and the Bidder shall be informed from time to time orally or in writing.





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- (c) **The work shall be done under the complete and full time administrative supervision of the firm. All issues regarding discipline at the works like Work allocation, early exit, snacks distribution etc. are to be his responsibility.**
- (d) Firm has to take responsibility to safe and satisfactory operation. Workers have to adhere to safety norms strictly. If any careless / casualty is noticed (at BHEL discretion) in the work, penalty will be imposed on the firm.
- (e) Contractor have to complete the assigned work and quantity, as per BHEL directives and up to the satisfaction of shop executive.
- (f) Performance of manpower engaged by the contractor shall be regularly monitored to ensure safety in crane operation & safe handling of jobs & lifting tackles.

**21. RECORD KEEPING :** The contractor shall, generally, maintain the following records:-

- (a) Log book/measurement register.
- (b) Contractor shall be responsible to provide records as required and directed from time to time

The above mentioned list of records is indicative and non-exhaustive. The contractor may have to maintain more records for statutory compliance and efficient/effective execution of the contract as per the instruction of the Engineer-In-charge.

- 22.** The contractor shall be held responsible for damage of any sort caused to the property of BHEL due to negligence by him or his workmen/supervisor. Cost of all such damages shall be calculated by BHEL as per standard practice and recovered from the amount payable to him.
- 23.** In case of persistent unsatisfactory performance of the contractor, the value of original award may be restricted to any amount and the contract may be short closed as decided by the Engineer-In-charge and the work for balance amount shall be got executed through other agency .

**24. Bill Processing:**

Monthly bills will be made. Contractor will submit the bills (in duplicate) on monthly basis, which will be dully verified, checked and passed by HR-TSX and forwarded to Finance Department for releasing payment to the party.

Payment shall be released normally, within 60 days, (45 days for MSE) from receipt of services subject to submission of the bills (Measurement book). All payments shall be released through electronic-pay mode only. The rates shall be derived as below formula for billing purpose (to be formulated by dept).

**25. EARNEST MONEY DEPOSIT (EMD): Not applicable.**

- a** EMD is to be paid before tender opening/along with offer by tenderers for securing fulfillment of any obligations in terms of the NIT.
- b** Cash deposit as permissible under the extant Income Tax Act.
- c** Electronic Fund Transfer credited in BHEL account, Banker's cheque/ Pay order/ Demand draft, in favour of BHEL.
- d** Insurance Surety Bonds.
- e** FDR 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)
- f** EMD in excess of Rs.2 lakh also accepted in the form of BG. The Bank Guarantee in such cases shall be valid for atleast six months.
- g** Forfeiture of EMD

EMD by the Tenderer will be forfeited as per NIT conditions, if:



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- (i) After opening the tender and within the offer validity period, the tenderer revokes his tender or makes any modification in his tender which is not acceptable to BHEL.
- (ii) The Contractor fails to deposit the required Security deposit or commence the work within the period as per LOI/ Contract.
- (iii) EMD by the tenderer shall be withheld in case any action on the tenderer 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.
- h EMD given by all unsuccessful tenderers shall be refunded normally within fifteen days of award of work.

### 26. SECURITY DEPOSIT

- a Upon acceptance of offer, the successful bidder shall deposit 5% of the contract value as security deposit.
- b The balance amount to make up the required Security Deposit of the contract value may be accepted in the following forms :
  - i Cash (as permissible under the extant Income Tax Act).
  - ii Local cheques of Scheduled Banks (subject to realization)/ Pay Order/ Demand Draft/ Electronic Fund Transfer in favour of BHEL.
  - iii Bank Guarantee from Scheduled Banks/ Public Financial Institutions as defined in the Companies Act. The Bank Guarantee format should have the approval of BHEL.
  - iv 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).
  - v 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). □ Insurance Surety Bonds
- c The full or 50% Security Deposit may be deposited in any modes above before start of work. The balance 50% of Security Deposit shall be recovered from the running bills@10% of the value of each running bill commencing from first running bill itself till the full Security Deposit is made up.
- d 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.
- e If the value of work done at any time exceeds the contract value, the amount of Security Deposit shall be correspondingly enhanced and the additional Security Deposit shall be immediately deposited by the Contractor or recovered from payment/s due to the Contractor.
- f The Security deposit shall be refunded to the firm, only after minimum 1 month, of successful completion of the contract, after producing "Clearance and No Dues Certificate" from the concerned executive.
- g The recoveries made from running bills (cash deduction towards balance SD amount) can be released against submission of equivalent Bank Guarantee in acceptable form, but only once, before completion of work, with the approval of the authority competent to award the work.
- h In case of (a) small value contracts not exceeding Rs. 20 lakhs or (b) SAS jobs, work can be started before the required Security Deposit is collected. However, payment can be released only after collection/ recovery of initial 50% Security Deposit).

### 27. Agreement signing:

The firm will be required to sign a contract with BHEL on a proper Non-judicial stamp paper of appropriate value (as per prevailing Govt. guidelines) in a prescribed format. The cost towards agreement shall be borne by the firm.



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### 28. FORCE MAJEURE

- a The following shall amount to force majeure conditions: Acts of God, act of any Government, War, sabotage, riots, civil commotion, police action, revolution, flood, fire, cyclone, earthquake and epidemic and other similar causes over which no contractor has any control.
- b In such cases, firm shall resume their operations, after reasonable and mutually agreed time.
- c Notwithstanding anything contained in the contract, neither BHEL nor the Contractor shall be held responsible for total or partial non-execution of any of the contractual obligations, should the obligation become unreasonably onerous or impossible due to occurrence of a 'Force Majeure' which directly affects the obligations to be performed by the BHEL or the contractor; Such events include war, military operations of any nature, blockages, revolutions, insurrections, riots, civil commotions, insurgency, sabotage, acts of public enemy, fires, explosion, epidemics, quarantine restrictions, floods, earthquake, or acts of God, restrictions by Govt. authorities; over which the BHEL or the contractor has no control.

The party claiming to be affected by force majeure shall notify the other party in writing without delay, within two weeks from the occurrence of such situation and on the cessation thereof. Extension of time sought by the contractor along with supporting evidence and so granted by BHEL for the work affected, if any, shall not be construed as waiver in respect of remaining execution. Rescheduling of execution on account of force majeure conditions, if so agreed by BHEL, will not entail the contractor to claim any increase in the price on whatsoever account.

Notwithstanding above provisions, BHEL shall reserve the right to cancel the Contract, wholly or partly, in order to meet the overall project schedule and make alternative arrangements. If deemed necessary, BHEL may takeover partly processed work at a mutually agreed price

### 29. Safety Compliances & Others

- a The contractor shall be fully responsible for safety of the vehicles, personnel and to comply with the security /safety regulations of BHEL/Govt. inside factory. The contractor is required to maintain first aid box at work place. The contractor shall ensure that no damage is caused to any person/any existing work / property of BHEL/ other parties working inside the factory.
- b Accident occurred, if any, during the course of company's work should be reported by the Contractors to BHEL immediately and certainly not later, than 24 hours. This should be followed by a detailed report from the Contractor.
- c The contractor shall arrange necessary Insurance cover with appropriate Third Party Liability cover for the vehicles/cranes and WC/Personal Accident Policy as applicable for the O&M crew. If any accident/ injury/ loss occur due to the operation of the vehicles/ cranes, to any other person/ public and the properties of BHEL/ client/ other agencies/ third party, the contractor shall have to pay necessary compensation and other expenses, so decided by the appropriate authorities/victims.
- d The Contractor will have to indemnify BHEL against –
  - I. All claims for injury or damage to any person/property caused by his negligence or negligence of his staffs and any other unforeseen claims, whilst in BHEL premises.
  - II. Observance of Labour & Industrial Laws, including regular remittance to EPF and ESI.
  - III. The Contractor will accept liability for compensation in accordance with the provision of the Indian Worker's Compensation Act, 1948, amendments thereafter and or other law for the time being in force for personal injury caused to any workmen by accident arising out of and in the course of this contract.
  - IV. BHEL shall not be held liable for any loss, damage or compensation to third parties rising from or in relation to transport operations done by the contractor. If any such damage/loss is caused, the contractor shall be responsible to make good the losses and compensate the affected parties/victims at his own cost.
  - V. The Contractor will indemnify the company against all payments by way of compensation or otherwise which the company may be called upon to make under the provisions of the said Acts to any workmen as aforesaid, and any cost incurred by the company in connection with any claim preferred by such



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workmen and or against all actions, claims and demand whatsoever in respect thereof or in respect of any loss, injury or damages whatsoever to any third person arising out of or occasioned by the negligent, imperfect or improper performance of this contract by the Contractor, their workmen servants or agents.

- VI. The contractor shall be responsible for all acts and omissions of their staff and Liabilities arising out of the acts and omissions of such staff shall be borne by the contractor. BHEL shall in no way be responsible for any such acts, omissions or any liabilities arising there from.

**The contractor will be required to submit Indemnity Bond in favor of BHEL as per above on Non – Judicial Stamp Paper of appropriate value.**

### 30. GENERAL CONDITIONS:

- (a) The contractor should follow the prevailing industrial / labour laws/ Govt. laws as amended from time to time
- (b) Any other requirement as per MV Act/Labor Laws etc.
- (c) The Contractor shall be fully responsible for the performance of the workmen deployed by them. The work shall be executed strictly in accordance with the instructions given by BHEL.
- (d) **Gate Pass** for entry into BHEL Factory would be required for all the persons deployed by the contractor. Special permission would be required for working beyond normal working hours. The contractor shall be arranging the passes and working permission beyond normal working hours on their own. BHEL Engineer shall provide necessary help and guidance for the same.
- (e) Only the authorized staff attached to the contracted work or representative nominated by the contractor shall be allowed entry inside the company's or any other premises during the period of contract.
- (f) The contractor will be solely responsible for all disputes, strikes and other issues connected with his workmen. The contractor has to ensure that the people deployed by them restrict their movement in the area earmarked.
- (g) BHEL reserves the right to short close the contract at its discretion at any point of time with one month notice period without assigning any reason thereof.
- (h) The contract shall be governed by the law for the time being in force in the Republic of India. The Civil Court at Bhopal shall alone have exclusive jurisdiction in regard to all claims in respect of this Contract.
- (i) Firm shall arrange his own finance for smooth execution of contract, wages payment, other statutory payments to his employees and all other agreed conditions Payment against running bills, on achievement of milestones, will have no relation with the payment schedule of firm for wages etc. of their personnel
- (j) Progressive payment may subject to the deductions towards security deposit, income tax with surcharge, any other tax or levies applicable and recoveries towards materials/ services rendered on chargeable basis.

### 31. RIGHTS OF BHEL

BHEL reserves to itself the following rights in respect of this Contract without entitling the Contractor to any compensation:-

To terminate the contract at its discretion at any point of time with one month notice period without assigning any reason thereof and forfeit the Security Deposit and recover the loss sustained in getting the balance work done through other agencies in addition to liquidated damages in any event of the followings:-

- a) Contractor's continued poor performance, withdrawal from or abandonment of the work before the completion of contractual period.
- b) Assignment, transfer, subletting of the contract work without BHEL's written permission.



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- c) In case of misbehavior, disobedience, dishonesty, clandestine insolvency, any court order or any other related activities on their part or their failure to fulfill the terms and conditions of this agreement.
- d) The bidders offer may be rejected based on unsatisfactory past performance, default on earlier occasions in their contractual obligation & statutory obligation in any of the contracts of BHEL Bhopal or any of its units.
- e) Terminate the contract without advance notice depending upon the severity of the case for non compliance/ violation/ contravention of any of the provisions of labour laws, non-implementation of court orders or orders from labour law authorities received from time to time. BHEL may also initiate action for suspension of business dealings with the contractor in the event of failure on his part to discharge his contractual obligation based on the severity of the default.

### 32. Car ACCIDENTS WHILE AT WORK:

- (a) In case the Car is immobilized on road due to malfunction/accident, the Transport Contractors shall arrange at the earliest for its service/repair as the case may be so that it does not cause any inconvenience to its user. During the break down / absence of Car the Transport Contractors should provide another Car.
- (b) All running repairs and maintenance (other than major accident) will be rectified immediately by the Transport Contractors at the sole risk, responsibility and cost of the Transport Contractors. Regarding major accident(s), it will be repaired by the Transport Contractors in Car manufacturer's authorized workshop at the cost and risk of the Transport Contractors, subject to insurance claim being admissible by the insurer as per IRDA norms. Settling claims with insurance company will be the sole responsibility of Transport Contractors. BHEL will have no liability in this regard. However, BHEL shall provide all necessary documentation as the beneficiary of the Insurance Policy.

### 33. PROHIBITION ON INFLUENCING AND INTERFERING ON BEHALF OF CONTRACTOR

"The Contractor shall neither try to influence, chase or interfere into the working of BHEL officials nor engage BHEL employee or any other third person for the same. In case such incident does occur, it may lead to disqualification / debarring from the contract. Any contractor shall be debarred from consideration if any of his relations is working in the product/functional group in which the contract is being issued. Before issuing tender form to any contractor for limited tender enquiry a confirmation has to be given by contractor that none of his relations are working in that product/functional group."

### 34. "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.

- a Victim: Any person who suffers permanent disablement or dies in an accident as defined below.
- b 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 thereof at BHEL factories/ officers 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/ Officers/ townships and premises/ Project Sites.
- c 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)



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- d Permanent Disablement: A disablement that is classified as a permanent total disablement under the proviso to Section 2 (I) of the Employee's Compensation Act, 1923".

35. In order to comply above clause 34.0, contractor may submit an undertaking (Annexure -V) that, in case they bag the contract, they will fulfil the necessary condition w.r.t. insurance coverage of workers as mentioned in the clause by way of taking an accidental insurance cover of the said amount for their workers. After issue of work order, the successful contractors will have to take insurance and submit documents before commencement of work. However, if otherwise clause 39.0 as above shall be applicable.

### 36. THE BHEL CONCILIATION SCHEME:

The Parties agree that if at any time (whether before, during or after the arbitral or judicial proceedings), any Disputes (which term shall mean and include any dispute, difference, question or disagreement arising in connection with construction, meaning, operation, effect, interpretation or breach of the agreement, contract or the Memorandum of Understanding (delete whichever is inapplicable), which the Parties are unable to settle mutually), arise inter-se the Parties, the same may, be referred by either party to Conciliation to be conducted through Independent Experts Committee to be appointed by competent authority of BHEL from the BHEL Panel of Conciliators.

#### Notes:

- (i) No serving or a retired employee of BHEL/Administrative Ministry of BHEL shall be included in the BHEL Panel of Conciliators.
- (ii) Any other person(s) can be appointed as Conciliator(s) who is/are mutually agreeable to both the parties from outside the BHEL Panel of Conciliators.

The proceedings of Conciliation shall broadly be governed by Part-III of the Arbitration and Conciliation Act 1996 or any statutory modification thereof and as provided in ANNEXURE-VII (BRIEF PROCEDURE FOR CONDUCT OF CONCILIATION PROCEEDINGS) .

### 37. FRAUD PREVENTION POLICY

The Bidder along with its associate / collaborators / 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 fraud or suspected fraud as soon as it comes to their notice and Fraud Prevention policy are available on public domain

<http://www.bhel.com/pdf/BHEL%20Fraud%20Prevention%20Policy.pdf>

### 38. SUSPENSION OF BUSINESS DEALINGS WITH SUPPLIERS/CONTRACTORS

Penal action can be initiated on the suppliers / Contractors in line with extant "Guidelines for Suspension of Business Dealings with Suppliers / Contractors". The abridged version of extant 'Guidelines for suspension of business dealings with suppliers / contractors' has been uploaded on <http://www.bhel.com> on "supplier registration page" and available on public domain

[http://www.bhel.com/vender\\_registration/pdf/Suspension\\_guidelines\\_abridged.pdf](http://www.bhel.com/vender_registration/pdf/Suspension_guidelines_abridged.pdf)

39. 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.





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

### 40. STATUTORY COMPLIANCES TO BE ENSURED BY WORK ORDER ISSUING AUTHORITY

- a BHEL shall have the privacy of the contract with the contractor only and will give instructions to the contractor or his authorized representative. BHEL will have nothing to do or be concerned with the employment of employees working for the contractor. The relationship between BHEL and the Contractor will be that of independent entities and nothing herein contained will amount to joint venture, partnership or an employer-employee relationship.
- b The contractor shall maintain regular contact with the designated employee(s) of BHEL and will interact on matters relating to the work awarded under this contract.

### 41. SAFETY AND DISCIPLINARY ACTION

- (a) Contract awarded is liable for termination for any contravention of statutory provisions or any other reasons without assigning any explanation or notice to the contractor.
- (b) Contractor shall fully comply provisions of various applicable labour laws.

### 42. Breach of contract, Remedies and Termination

In case of breach of contract, wherever the value of security instruments like performance bank guarantee available with BHEL against the said contract is atleast 10% of the contract value, the same be encashed. In case the value of the security instruments available is less than 10% of the contract value, the balance amount be recovered from other financial remedies (i.e. available bills of the contractor, retention amount, etc. with BHEL) or legal remedies be pursued.

Further, levy of liquidated damages, debarment, termination, de-scoping, short-closure, etc., shall be applied as per provisions of the contract.

### 43. Arbitration Clause :

Settlement of Disputes & Arbitration

- a All questions/interpretations regarding subject matter of the Contract shall be decided by the BHEL on the request of the Bidder and the decision of the BHEL shall be final.
- b In case of dispute, steps shall be taken by the parties to the contract to settle the same through negotiations.
- c In case, dispute is not settled in negotiations, it shall be referred to Conciliator appointed by the competent authority of the BHEL.
- d Except as provided elsewhere in this Contract, in case amicable settlement is not reached between the Parties, in respect of any dispute or difference; arising out of the formation, breach, termination, validity or execution of the Contract; or, the respective rights and liabilities of the Parties; or in relation to interpretation of any provision of the Contract; or, in any manner touching upon the Contract, then, either Party may, by a notice in writing to the other party refer such dispute or difference to the sole arbitration of an arbitrator appointed by Head of the BHEL Unit/Region/Division issuing the Contract.
- e 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 Bhopal.

The cost of arbitration shall be borne as per award of the Arbitrator.

Subject to the arbitration in terms of Clause above, the Courts at Bhopal shall have exclusive jurisdiction over any matter arising out of or in connection with this Contract.



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Notwithstanding the existence or any dispute or differences and /or reference for the arbitration, the Contractor shall proceed with and continue without hindrance the performance of its obligations under this Contract with due diligence and expedition in a professional manner except where the Contract has been terminated by either Party in terms of this Contract.



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### ANNEXURE – I

We confirm that (contractor) M/S.....has completed work  
\_\_\_\_\_ for M/S..... vide Work Order  
No..... dated..... , for the period from \_\_\_\_\_ to \_\_\_\_\_ and  
completion certificate Ref..... dated..... We also confirm that (contractor)  
M/S..... has received payment against the above WO and the same is recorded in book  
of accounts.

Sign & Seal of CA

FRN NO

UDIN NO

If any of the information given in tender to qualify, found incorrect or false then BHEL may out rightly reject this offer  
and may also consider debarring us from participation in subsequent tenders.

Signature & Seal of Bidder

Contractor's Name :

Address :

Phone No. :

Email:



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### ANNEXURE –II

#### DECLARATION SHEET

I / We, ..... hereby certify that, all the information and data furnished by me / us with regard to this GeM-Bidding are true and complete to the best of my / our knowledge. I / We have gone through the scope of work, ATC in detail and agree to comply with the requirements and intent of specification, without any deviation.

I/We confirm that none of our group concern or affiliates etc., appears on the list of banned firms /companies by BHEL (list available on [www.bhel.com](http://www.bhel.com)) nor any of the Director / Partner / proprietor of Service Provider/such group concern or affiliate etc. are involved with such company.

I/We also declare that, we have not been suspended or black listed or issued with Show Cause Notice by BHEL- Bhopal or any other BHEL Unit or any PSU/ Government organization.

I / We, further certify that I / we am / are the duly authorized representative(s) of the under mentioned Bidder and a valid power of attorney to this effect is also enclosed.

Name & signature of the bidder

(Seal)



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ANNEXURE –III

### DECLARATION BY BIDDER

We declare that the following family firms or sister concern affiliates / subsidiary firms are participating in NIC Bidding.

1.0.....

2.0.....

3.0.....

.....

I..... , hereby declare on behalf of M/s..... and the family firms or sister concern affiliates / subsidiary firms listed above that we are not indulging in cartel formation for NIC Bidding.

**Name & signature of the bidder**

**(Seal)**



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### ANNEXURE – IV

#### Bank Details

(Not applicable if submitted earlier)

BHEL has decided to make all payments through Electronic Fund Transfer. Bidders are requested to give the following details along with your quotations so that this can be stored in our records for effecting Electronic Fund Transfer. Please note that hence forth we propose to make all payments through EFT.

Following data is required to enable processing of e-payments to vendors. Name of the Supplier (max 60 char.)

1. Account Number (max 17 char)
2. Name of the bank, branch, city (max 0 char, max 40 char, max 20 char)
3. Branch Code (max 5 char)
4. MICR Code (max 30 char)
5. IFSC Code (max 30 char) (Every NEFT enabled bank /branch has a unique IFSC Code (Indian financial security code, this code may differ from RTGS IFSC code)

VENDORS /BIDDERS ARE SUPPOSED TO SUBMIT THE INFORMATION ON FIRM'S LETTER HEAD DULY ENDORSED AND STAMPED BY THEIR BANKERS.

Those who had already sent the EFT details may please reconfirm/check the details (it is available in your B2B login)

Vendors /bidders may please further note that the above requirements are deemed to be part of the Tender / purchase enquiries issued by BHEL Bhopal even if it is not explicitly stated in the printed Tender / purchase enquiry form.

In addition to the above information please also furnish the following details to enable faster clearance of bills.

6. Email address (max 40 char Compulsory)
7. Details of TIN No (11 char)
8. Micro Small Medium (MSMED)Certificate (if applicable)

Signature of Contractor/Bidder

(Seal)





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### ANNEXURE – VI

#### CHECKLIST & SCHEDULE OF GENERAL PARTICULARS

NOTE: - Bidder shall fill in the following details and no column should be left blank.

Sl. No.	Particulars	Details
1.	Name & Address of the Bidder	
2.	Email Address	
3.	Phone No. (Office)/ Mobile nos.	
4.	Name & designation of the official of the tenderer to whom all the references shall be made	
5.	Whether EMD/UDYAM certificate if applicable	
6.	Submission copy of work order and work completion certificate as per clause 9 of ATC to full fill PQR.	YES/NO
7.	Submission of Financial Documents for last three years as per clause 9 (Note (ii)) of ATC.	YES/NO
8.	Submission of Details about type of ownership of the firm.	YES/NO
9.	Submission of copy of PAN, ESI certificates, PF certificate, GSTIN (if applicable)	YES/NO
10.	Submission of duly filled ANNEXURES 'I' to 'X'	YES/NO
11.	Submission of Attested copy of power of attorney if signed by person other than the owner.	YES/NO
12.	Submission of duly filled ANNEXURE-I, In case of Experience certificate submitted of any Private organization	YES/NO
13.	Integrity Pact (IP) duly signed by the authorized signatory of the vendor who signs the bid (if applicable)	YES/NO



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### ANNEXURE-VII

#### DECLARATION BY THE CONTRACTOR

I, Shri \_\_\_\_\_, owner of M/S \_\_\_\_\_, hereby declare that I do not have any relations, as specified below, in the (dept name), BHEL Bhopal

I hereby authorize BHEL to cancel my tender, if this statement is found wrong, i.e. if it is found that any of my relatives, as defined below is found to be working in any of the division( division/dept name):

1. Husband/ Wife
2. Father
3. Mother (including step-mother)
4. Son (including step-son)
5. Son's wife
6. Daughter (including step-daughter)
7. Father's father
8. Father's mother
9. Mother's mother
10. Mother's father
11. Son's Son
12. Son's wife
13. Son's daughter
14. Son's daughter's husband
15. Daughter's husband
16. Daughter's son
17. Daughter's son's wife
18. Daughter's daughter
19. Daughter's husband
20. Brother (including step-brother)
21. Brother's wife
22. Sister (including step-sister)
23. Sister's husband
24. Brother's wife
25. Sister (including step-sister)
26. Sister's husband

I also understand that in such case, following action may be taken against my company: - 1.  
Termination of contract.

2. Disqualification/debarring from all future contracts

I also, promise neither try to influence, chase or interfere into the working of BHEL officials nor engage BHEL employee or any other third person for the same. In case such incident does occur, it may lead to my disqualification/debarring from the contract.

**Signature and Seal of the Bidder**



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### ANNEXURE-IX

#### **\BRIEF PROCEDURE FOR CONDUCT OF CONCILIATION PROCEEDINGS**

1. 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 herein:
2. The party desirous of resorting to Conciliation shall send an invitation/notice in writing to the other party to conciliate specifying all points of Disputes with details of the amount claimed. The party concerned shall not raise any new issue thereafter. Parties shall also not claim any interest on claims/counter-claims from the date of notice invoking Conciliation till the conclusion of the Conciliation proceedings.
3. The party receiving the invitation/notice for Conciliation shall within 30 days of receipt of the notice of Conciliation intimate its consent for Conciliation along with its counter-claims, if any.
4. The Conciliation in a matter involving claim or counter-claim (whichever is higher) up to Rs 5 crores shall be carried out by sole Conciliator nominated by BHEL while in a matter involving claim or counter-claim (whichever is higher) of more than Rs 5 crores Conciliation shall be carried out by 3 Conciliators nominated by BHEL.
5. The Parties shall be represented by only their duly authorized in-house executives/officers and neither Party shall be represented by a Lawyer.
6. The first meeting of the IEC shall be convened by the IEC by sending appropriate communication/notice to both the parties as soon as possible but not later than 30 days from the date of his/their appointment. The hearings in the Conciliation proceeding shall ordinarily be concluded within two (2) months and, in exceptional cases where parties have expressed willingness to settle the matter or there exists possibility of settlement in the matter, the proceedings may be extended by the IEC by a maximum of further 2 months with the consent of the Parties subject to cogent reasons being recorded in writing.
7. The IEC shall thereafter formulate recommendations for settlement of the Disputes supported by reasons at the earliest but in any case within 15 days from the date of conclusion of the last hearing. The recommendations so formulated along with the reasons shall be furnished by the IEC to both the Parties at the earliest but in any case within 1 month from the date of conclusion of the last hearing.
8. Response/modifications/suggestions of the Parties on the recommendations of the IEC are to be submitted to the IEC within time limit stipulated by the IEC but not more than 15 days from the date of receipt of the recommendations from the IEC.
9. In the event, upon consideration, further review of the recommendations is considered necessary, whether by BHEL or by the other Party, then, the matter can be remitted back to the IEC with request to reconsider the same in light of the issues projected by either/both the Parties and to submit its recommendations thereon within the following 15 days from the date of remitting of the case by either of the Parties.
10. Upon the recommendations by the Parties, with or without modifications, as considered necessary, the IEC shall be called upon to draw up the Draft Settlement Agreement in terms of the recommendations.
11. When a consensus can be arrived at between the parties only in regard to any one or some of the issues referred for Conciliation the draft Settlement Agreement shall be accordingly formulated in regard to the said Issue(s), and the said Settlement Agreement, if signed, by the parties, shall be valid only for the said issues. As regards the balance issues not settled, the parties may seek to resolve them further as per terms and conditions provided in the contract.
12. In case no settlement can be reached between the parties, the IEC shall by a written declaration, pronounce that the Conciliation between the parties has failed and is accordingly terminated.
13. Unless the Conciliation proceedings are terminated in terms of para 22 (b), (c) & (d) herein below, the IEC shall forward his/its recommendations as to possible terms of settlement within one (1) month from the date of last hearing. The date of first hearing of Conciliation shall be the starting date for calculating the period of 2 months.



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14. In case of 3 members IEC, 2 members of IEC present will constitute a valid quorum for IEC and meeting can take place to proceed in the matter after seeking consent from the member who is not available. If necessary, videoconferencing may be arranged for facilitating participation of the members. However, the IEC recommendations will be signed by all members. Where there is more than one (1) Conciliator, as a general rule they shall act jointly. In the event of differences between the Members of IEC, the decision/recommendations of the majority of the Members of IEC shall prevail and be construed as the recommendation of the IEC.
15. The Draft Settlement Agreement prepared by the IEC in terms of the consensus arrived at during the Conciliation proceedings between the Parties shall be given by the IEC to both the parties for putting up for approval of their respective Competent Authority.
16. Before submitting the draft settlement agreement to BHEL's Competent Authority viz. the Board Level Committee on Alternative Dispute Resolution (BLCADR) for approval, concurrence of the other party's Competent Authority to the draft settlement agreement shall be obtained by the other party and informed to BHEL within 15 days of receipt of the final draft settlement agreement by it. Upon approval by the Competent Authority, the Settlement Agreement would thereafter be signed by the authorized representatives of both the Parties and authenticated by the members of the IEC.
17. In case the Draft Settlement Agreement is rejected by the Competent Authority of BHEL or the other Party, the Conciliation proceedings would stand terminated.
18. A Settlement Agreement shall contain a statement to the effect that each of the person(s) signing thereto (i) is fully authorized by the respective Party(ies) he/she represents, (ii) has fully understood the contents of the same and (iii) is signing on the same out of complete freewill and consent, without any pressure, undue influence.
19. The Settlement Agreement shall thereafter have the same legal status and effect as an arbitration award on agreed terms on the substance of the dispute rendered by an arbitral tribunal passed under section 30 of the Arbitration and Conciliation Act, 1996.
20. Acceptance of the Draft Settlement Agreement/recommendations of the Conciliator and/or signing of the Settlement Agreement by BHEL shall however, be subject to withdrawal/closure of any arbitral and/or judicial proceedings initiated by the concerned Party in regard to such settled issues.
21. Unless otherwise provided for in the agreement, contract or the Memorandum of Understanding, as the case may be, in the event of likelihood of prolonged absence of the Conciliator or any member of IEC, for any reason/incapacity, the Competent Authority/Head of Unit/Division/Region/Business Group of BHEL may substitute the Conciliator or such member at any stage of the proceedings. Upon appointment of the substitute Conciliator(s), such reconstituted IEC may, with the consent of the Parties, proceed with further Conciliation into the matter either de-novo or from the stage already reached by the previous IEC before the substitution.
22. The proceedings of Conciliation under this Scheme may be terminated as follows:
  - a) On the date of signing of the Settlement agreement by the Parties; or,
  - b) By a written declaration of the IEC, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of the declaration; or,
  - c) By a written declaration of the Parties addressed to the IEC to the effect that the Conciliation proceedings are terminated, on the date of the declaration; or,
  - d) By a written declaration of a Party to the other Party and the IEC, if appointed, to the effect that the Conciliation proceedings are terminated, on the date of the declaration.
  - e) On rejection of the Draft Settlement Agreement by the Competent Authority of BHEL or the other Party.



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23. The Conciliator(s) shall be entitled to following fees and facilities:

Sl No	Particulars	Amount
1.	Sitting fees	Each Member shall be paid a Lump Sum fee of Rs 75,000/- for the whole case payable in terms of paragraph No. 27 herein below.
2.	Towards drafting of settlement agreement	In cases involving claim and/or counter-claim of up to Rs 5 crores.  Rs 50,000/- (Sole Conciliator) In cases involving claim and/or counter-claim of exceeding Rs. 5 crores but less than Rs 10 crores. Rs. 75,000 (per Conciliator) in cases involving claim and/or counter-claim of more than Rs.10crores. Rs 1,00,000/- (per Conciliator) Note: The aforesaid fees for the drafting of the Settlement Agreement shall be paid on Signing of the Settlement Agreement after approval of the Competent Authority or Rejection of the proposed Settlement Agreement by the Competent Authority of BHEL.
3.	Secretarial expenses	Rs 10,000/- (one time) for the whole case for Conciliation by a Sole Member IEC. Where Conciliation is by multi member Conciliators –Rs 30,000/- (one time)- to be paid to the IEC
4.	Travel and transportation and stay at outstation i) Retired Senior Officials of other Public Sector Undertakings (pay scale wise equivalent to or more than E-8 level of BHEL)	As per entitlement of the equivalent officer (pay scale wise) in BHEL.
	Others	As per the extant entitlement of whole time Functional Directors in BHEL. Ordinarily, the IEC Member(s) would be entitled to travel by air Economy Class.



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5	Venue for meeting	Unless otherwise agreed in the agreement, contract or the Memorandum of Understanding, as the case may be, the venue/seat of proceedings shall be the location of the concerned Unit / Division / Region / Business Group of BHEL. Without prejudice to the seat/venue of the Conciliation being at the location of concerned BHEL Unit / Division / Region / Business Group, the IEC after consulting the Parties may decide to hold the proceedings at any other place/venue to facilitate the proceedings. Unless, Parties agree to conduct Conciliation at BHEL premises, the venue is to be arranged by either Party alternately.
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24. The parties will bear their own costs including cost of presenting their cases/evidence/ witness(es)/expert(s) on their behalf. The parties agree to rely upon documentary evidence in support of their claims and not to bring any oral evidence in IEC proceedings.
25. If any witness(es) or expert(s) is/are, with the consent of the parties, called upon to appear at the instance of the IEC in connection with the matter, then, the costs towards such witness(es)/ expert(s) shall be determined by the IEC with the consent of the Parties and the cost so determined shall be borne equally by the Parties.
26. The other expenditures/costs in connection with the Conciliation proceedings as well as the IEC's fees and expenses shall be shared by the Parties equally.
27. Out of the lump sum fees of Rs 75,000/- for Sitting Fees, 50% shall be payable after the first meeting of the IEC and the remaining 50% of the Sitting Fees shall be payable only after termination of the conciliation proceedings in terms of para 22 hereinabove.
28. The travelling, transportation and stay at outstation shall be arranged by concerned Unit as per entitlements as per Serial No. 3 of the Table at para 23 above, and in case such arrangements are not made by the BHEL Unit, the same shall be reimbursed to the IEC on actuals limited to their entitlement as per Serial No. 4 of the Table at Para 23 above against supporting documents. The IEC Member(s) shall submit necessary invoice for claiming the fees/reimbursements.
29. The Parties shall keep confidential all matters relating to the conciliation proceedings. Confidentiality shall extend also to the settlement agreement, except where its disclosure is necessary for purposes of its implementation and enforcement or as required by or under a law or as per directions of a Court/Governmental authority/ regulatory body, as the case may be.
30. The Parties shall not rely upon or introduce as evidence in any further arbitral or judicial proceedings, whether or not such proceedings relate to the Disputes that is the subject of the Conciliation proceedings:
  - a) Views expressed or suggestions made by the other party in respect of a possible settlement of the Disputes;
  - b) admissions made by the other party in the course of the Conciliator proceedings;
  - c) proposals made by the Conciliator;
  - d) The fact that the other Party had indicated his willingness to accept a proposal for settlement made by the Conciliator.
31. The Parties shall not present the Conciliator(s) as witness in any Alternative Dispute Resolution or Judicial proceedings in respect of a Disputes that is/was the subject of that particular Conciliation proceeding.
32. None of the Conciliators shall act as an arbitrator or as a representative or counsel of a Party in any arbitral or judicial proceeding in respect of a Disputes that is/was the subject of that particular Conciliation proceeding.
33. The Parties shall not initiate, during the Conciliation proceedings, any arbitral or judicial proceedings in respect of a Disputes that is the subject matter of the Conciliation proceedings except that a Party may initiate arbitral or judicial proceedings where, in his opinion, such proceedings are necessary for preserving his rights including





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for preventing expiry of period of limitation. Unless terminated as per the provisions of this Scheme, the Conciliation proceedings shall continue notwithstanding the commencement of the arbitral or judicial proceedings and the arbitral or judicial proceedings shall be primarily for the purpose of preserving rights including preventing expiry of period of limitation.

34. The official language of Conciliation proceedings under this Scheme shall be English unless the Parties agree to some other language.

### Format 2 to BHEL Conciliation Scheme, 2018

#### **FORMAT FOR SEEKING CONSENT FOR REFERRING THE DISPUTES TO CONCILIATION THROUGH IEC**

To,

M/s. (Stakeholder's name)

**Sub: Resolution of the Disputes through conciliation by Independent Expert Committee (IEC). Ref:**

Contract No/MoU/Agreement/LOI/LOA& date \_\_\_\_\_.

Sir,

With reference to above referred Contract/MoU/Agreement/LOI/LOA, you have raised certain Disputes/claims. Vide your letter dated\_\_\_\_\_ you have requested BHEL to refer the Disputes/claims to IEC for Conciliation.

We are enclosing herewith Format (3) for giving consent and the terms and conditions of BHEL Conciliation Scheme, 2018 governing conciliation through IEC. You are requested to give your unconditional consent to the said terms and conditions of the Scheme by returning the same duly sealed and signed on each page. On receipt of your consent, matter will be put to the Competent Authority for consideration and decision.

Please note that BHEL has also certain claims against you (if applicable). BHEL reserves its right to agree or not to agree conciliation of the said disputes through BHEL and this letter is being issued without prejudice to BHEL's rights and contentions available under the contract and law.

Yours faithfully,

**Representative of BHEL**



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### Format 3 to BHEL Conciliation Scheme, 2018

#### FORMAT FOR GIVING CONSENT BY CONTRACTOR/VENDOR/CUSTOMER/COLLABORATOR / CONSORTIUM PARTNERS FOR REFERRING THE DISPUTES TO CONCILIATION THROUGH IEC

To,  
BHEL

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#### Sub: Resolution of Disputes through Conciliation by Independent Expert Committee (IEC).

Ref: Contract/MoU/Agreement/LOI/LOA No & date\_\_\_\_\_

With reference to above referred contract, our following bills/invoices/claims submitted to BHEL are still unpaid giving rise to Disputes:

SL. no.	Claim Description	Bill submitted to BHEL(no.and date)	Amount of the bill/claim	Amount received from BHEL	Outstanding Amount

Accordingly we request you to kindly refer the Disputes in respect of above claims to IEC for Conciliation.

We hereby agree and give our unconditional consent to the terms and conditions of BHEL Conciliation Scheme, 2018 governing conciliation through IEC. We have signed the same on each page and enclosed it for your consideration.

Yours faithfully,

**(Signature with stamp)**

**Authorized Representative of Contractor**

**Name, with designation Date**



## TRANSPORT SERVICES DEPARTMENT, BHEL, BHOPAL

### Format 5 to BHEL Conciliation Scheme, 2018

#### STATEMENT OF CLAIMS/COUNTER CLAIMS TO BE SUBMITTED TO THE IEC BY BOTH THE PARTIES

1. Chronology of the Disputes
2. Brief of the Contract/MoU/Agreement/LOI/LOA
3. Brief history of the Disputes:
4. Issues:
5. Details of Claim(s)/Counter Claim(s):

Sl. No.	Description of claim(s)/ Counter Claim	Amount (in INR) Or currency applicable in the contract	Relevant contract clause

6. Basis/Ground of claim(s)/counter claim(s) (along with relevant clause of contract)

**Note :-** The Statement of Claims/Counter Claims may ideally be restricted to maximum limit of 20 pages. Relevant documents may be compiled and submitted along with the statement of Claims/Counter Claims. The statement of Claims/Counter Claims is to be submitted to all IEC members and to the other party by post as well as by email.