

**General Conditions of Contract for
Works in Power Sector of
Bharat Heavy Electricals Limited
For Mechanical, Electrical , C & I and Enabling works**

SECTION-I

GENERAL INSTRUCTIONS TO THE TENDERER FOR SUBMITTING BIDS:-

1.1 DESPATCH INSTRUCTIONS:

- 1.1.1 This tender specification as a whole, duly furnishing all the details required and other documents as required in the following pages, shall be duly signed and sent in sealed cover duly superscribing the name of work as given in the tender notice.
- 1.1.2 The tender shall be addressed to the Officer inviting tender as indicated in the tender notice.
- 1.1.3 Tenders shall be submitted through **“REGISTERED POST ACKNOWLEDGEMENT DUE” / COURIER SERVICE / SPEED POST** and shall be despatched with due allowance for any delay. The tenders received after the due date and time of opening is liable to be rejected. **The Offers received by fax, electronic mail, etc. will not be considered.**
- 1.1.4 Tenders shall be opened by authorized official of BHEL at his office at the time and date as specified in the tender notice in the presence of those tenderers or their authorized representatives who may be present.
- 1.1.5 The tenderers before quoting, shall closely peruse all the clauses, specifications and drawings indicated in the Tender Documents. Should the tenderer have any doubt about the meaning of any portion of the Tender Specifications or find discrepancies or omission, the tender documents issued are incomplete or shall require clarification on any of the technical and commercial aspects, scope of work etc., he shall at once contact the authority inviting the tender for clarification before the submission of the tender.

- 1.1.6 Before tendering, the tenderers are advised to inspect the site of work and the environments and be well acquainted with the actual working and other prevalent conditions, facilities available, position of material and labour. No claim will be entertained later on the ground of lack of knowledge.
- 1.1.7 **TENDERER MUST FILL UP ALL THE ANNEXURES / SCHEDULES AND FURNISH ALL THE REQUIRED INFORMATION AS PER THE INSTRUCTIONS GIVEN IN VARIOUS SECTIONS OF THE TENDER SPECIFICATION. EACH AND EVERY PAGE OF THE TENDER SPECIFICATION MUST BE SIGNED, STAMPED AND SUBMITTED ALONG WITH THE OFFERS BY THE TENDERER IN TOKEN OF COMPLETE ACCEPTANCE THEREOF. THE INFORMATION FURNISHED SHALL BE COMPLETE BY ITSELF.**
- 1.1.8 The tenderer shall quote the rates in English Language and international numerals. These rates shall be entered in figures as well as in words. In case of difference in rates between words and figures, the least of the two will be treated as valid rate. For the purpose of the tender, the metric system of units shall be used. The price / rate shall be quoted in Indian Rupees only.
- 1.1.9 All entries in the tender shall either be typed or to be written in ink, including ball point pens. Erasing and overwriting are not permitted and may render such tenders be liable to summary rejection. All cancellations and insertions shall be duly attested by the tenderer, without fail.

1.2 QUALIFICATION OF TENDERERS:

Only tenderers who have previous experience in the work of this nature and description detailed in this tender specification are expected to quote for this work. Offers from tenderers who do not have proven and established experience in the field are not likely to be considered. The tenderers are requested to refer to the NOTICE INVITING TENDER for any specific requirements of technical and financial qualification.

1.3 DATA / DOCUMENTS TO BE ENCLOSED BY THE TENDERER
Full information/documents shall be given by the tenderer in respect of the following. Non submission of this information may lead to rejection of the offer.

1.3.1 Financial Status:

Audited Annual Financial Statements such as Profit and Loss Account and Balance Sheet along with all its Schedules and Annexures for three consecutive financial years, duly certified by Chartered Accountant Firm shall be attached by the tenderer, to assess the financial capability. For this relevant information as mentioned in **Annexure-1** shall be furnished by the tenderer along with the supporting documents.

1.3.2. Income Tax Permanent Account Number

Certified copies of Permanent Account Numbers as allotted by Income Tax Department for the Company/Firm/Individual Partners, etc. shall be furnished along with tender.

1.3.3 Previous Experience

A statement giving particulars duly supported by documentary evidence (such as detailed LOI, completion certificate from the end user/clients)of the various erection services completed / executed as per technical qualification criteria (refer NIT and Clause 1.2 shown above) shall be submitted by the tenderer. The tenderer indicating the value of each work, site location, duration, date of completion, etc. Information required in **Annexure-2** shall be furnished by the tenderers along with the offer.

1.3.4 Erection Work in Progress

In continuation to the statement referred in Clause 1.3.3 above, separate statement for the work in progress as on the date of tender for the scope of work specified in this tender shall be furnished as per format shown in **Annexure-3**.

1.3.5 Organization Chart

The organization pattern that is totally available with him and that will be employed by the tenderer for this work duly indicating the number of executives, supervisors, skilled and unskilled persons etc. as per the enclosed format to be furnished in **Annexure-4**. Information are to be furnished,

(i) in the case of an individual, his full name, address and place and nature of business

(ii) in the case of Partnership firm, the name of the partners and their addresses along with a copy of the partnership deed certified by Notary Public and

(iii) in the case of Companies, Copy of Certificate of Registration giving date and place of registration including date of commencement along with the certified copies of Memorandum and Articles of Association, Nature of business carried on by the Company and the provisions of the Memorandum relating thereof and Names and particulars including addresses of all the Directors and their previous experience.

1.3.6 Tools & Plants

A list of tools and tackles, equipments, etc. that the tenderer is having and those that will be used on this job shall be furnished as shown in the **Annexure-5**.

1.3.7 Rate Analysis of the Quote

The tenderer shall furnish the analysis of their quoted rate in the form of percentages for the categories shown in the **Annexure-6**.

1.3.8 Declaration by the Tenderer

Should a tenderer, in the case of a firm/Company/any one or more of its partners/Shareholders/ Directors have a relation or relations employed in BHEL, the authority inviting tender shall be informed of the fact along with the offer as per **Annexure-7**, failing which BHEL may at its sole discretion reject the tender or cancel the contract and forfeit the Earnest Money/Security Deposit

1.4 EARNEST MONEY DEPOSIT

1.4.1 Every tender must be accompanied by the prescribed amount of Earnest Money Deposit in the following forms.

- (i) Pay Order or Demand Draft duly drawn in favour of Bharat Heavy Electricals Limited.
- (ii) Cash, to the extent permitted under Income-Tax Act.

Note:

- a) Cheques, currency notes enclosed in covers, money order or postal orders will not be accepted.
- b) Bank guarantee will not be accepted.

1.4.2 One time Earnest Money Deposit of Rs.2.00 lakhs (Rupees Two Lakhs only) shall also be accepted by BHEL. Those tenderers who have already deposited one time EMD earlier, need not submit EMD for the present tender.

1.4.3 Tenders received without Earnest Money in full in the manner prescribed above are liable to be rejected

1.4.4 The Earnest Money Deposit of the successful tenderer will be retained towards cash portion of Security Deposit.

1.4.5 In the case of unsuccessful tenderers, the Earnest Money shall be refunded to them normally within 15 days from the date of acceptance of award of work by the successful tenderer.

1.4.6 Earnest Money Deposit by the Tenderer will be forfeited, if

- (i). after opening the tender, the tenderer revokes/withdraws his tender within the validity period, revises / alters his earlier quoted rates/conditions.
- (ii) the tenderer does not commence the work within the period as per LOI / Contract. In case the LOI / Contract is silent in this regard then within 15 days after award of contract.

1.4.7 Earnest Money Deposit shall not carry any Interest.

1.5 AUTHORISATION AND ATTESTATION

- 1.5.1 Tenders shall be signed by persons duly authorized /employed to do so. Power of Attorney, duly notarized, shall be attached along with the tender, in case the tender documents are signed by individual other than sole proprietor.
- 1.5.2 BHEL will not be bound by any Power of Attorney granted by the tenderer or by changes in the composition of the firm made subsequent to the execution of the agreement. They may, however, recognize such Power of Attorney and changes after obtaining proper legal advice, the cost of which will be chargeable to the contractor concerned

1.6 VALIDITY OF OFFER

- 1.6.1 The rates / price quoted in the Tender shall be kept open for acceptance for a minimum period of **SIX MONTHS** from the date of opening of tenders. In case Bharat Heavy Electricals Limited calls for negotiation, such negotiation shall not amount to cancellation or withdrawal of the original offer which shall be binding on the tenderers.

1.7 REJECTION OF TENDER AND OTHER CONDITIONS:

- 1.7.1 The acceptance of tender will rest with BHEL which does not bind itself to accept the lowest tender or any tender and reserves to itself full rights for the following without assigning any reasons whatsoever.
 - 1.7.1.1. To reject any or all of the tenders.
 - 1.7.1.2 To split up the work (Please refer NIT and Special Conditions of Contract).
 - 1.7.1.3 Either of the contingencies stated (1.7.1.1) and (1.7.1.2) above to modify the time for completion suitably.
- 1.7.2 Conditional tenders, tenders containing absurd or unworkable rates and amounts and tenders which are incomplete and otherwise considered defective and tenders not in accordance with the tender conditions, specifications etc, are liable to be rejected.

- 1.7.3 If a tenderer expires after the submission of his tender or after the acceptance of his tender, BHEL may at their discretion, cancel such tender. If a partner of a firm expires after the submission of the tender or after the acceptance of the tender, BHEL may cancel such tender at their discretion unless the firm retains its character.
- 1.7.4 If the tenderer deliberately gives wrong information in his tender, BHEL reserves the right to reject such tender at any stage or to cancel the contract, if awarded and forfeit the Earnest Money/Security deposit and any other money due.
- 1.7.5 If the tenderers resort to canvassing in any form in connection with the tenders submitted by them, such tenders are liable to rejection.
- 1.7.6 No interest shall be payable by BHEL on Earnest Money, Security Deposit or any Money due to the contractor by BHEL.

1.8 SUMMARY OF ANNEXURES

Annexure 1- Financial Status

Annexure 2-Details regarding jobs executed by tenderer

Annexure3-Particulars of work in progress in other projects

Annexure 4-Organizational Structure

Annexure 5-List of Equipments, Machinery/T & P owned
by the tenderer and proposed to be deployed
for this work – Annexure-5

Annexure 6-Analysis of unit rate quoted

Annexure 7- Declaration sheet

ANNEXURE-1

FINANCIAL STATUS OF THE TENDERER (Refer Clause 1.3.1 of General Instructions to the Tenderer)

- 1) Turnover for the three preceding Financial Years
(Refer NIT)

		<u>Turnover</u>	<u>Net Profit</u>
1 st Year	200..... - 200....		
2 nd Year	200..... - 200....		
3 rd Year	200..... - 200....		

	Total	-----	
	Average Turnover	Rs.....	

- 2) Net worth as on Rs.....

- 3) Guarantee limits as certified by bank
(if any enjoyed by the tenderer) Rs.....

- 4) Overdraft / cash credit limits as certified by bank
(if any enjoyed by the tenderer) Rs.....

(Attach certificates from bank for
Sl.No.3 and 4)

- 5) Please state whether Audited Profit & Loss
Account and Balance Sheet along with all
annexures and schedules for last 3 years are
enclosed.

YES / NO

Signature of Tenderer

NOTE: (i) Net worth means total of the paid up capital plus free reserves. Any debit balance of Profit & Loss Account and Miscellaneous expenditure to the extent not adjusted or written off, if any, shall be reduced from reserves and surplus.
(ii) Other income shall not be considered for arriving at average turnover.

ANNEXURE-2

DETAILS REGARDING JOBS EXECUTED BY TENDERER.
(for the scope of work specified in this tender only)
(Refer Clause 1.3.3 of General Instructions to the Tenderer)

Sl.No.	Details of jobs executed with name of the projects and for whom, in the last 7 years.	Financial value of the contract	No. of skilled/unskilled workers deployed at the project/site for the job.	Duration of execution.	Date of completion of entire scope of work.
(1)	(2)	(3)	(4)	(5)	(6)

NOTE: Please attach copies of documents for particulars shown under Column 2 & 6 above.

Signature of the Tenderer

ANNEXURE-3

PARTICULARS OF WORK IN PROGRESS IN OTHER PROJECTS **(For the scope of work specified in this tender)**

(Refer Clause 1.3.4 of General Instructions to the Tenderer)

Sl.No	Details of jobs in progress with name of the projects and for whom.	Financial value of the contract	Duration of execution of work	% of completion as on the date of submission of this tender	Expected date of entire completion of work	Remarks, if any.
(1)	(2)	(3)	(4)	(5)	(6)	(7)
(A)	<u>IN BHEL POWER SECTOR REGIONS</u>					
(B)	<u>OTHER CLIENTS / CUSTOMER</u>					

Signature of the Tenderer

ANNEXURE-4

ORGANISATION STRUCTURE (Refer Clause 1.3.5 of General Instructions to the Tenderer)

1. **Management Structure of the Tenderer:** whether Public Limited/Private Limited / / Partnership / sole Proprietorship
2. Details of the Staff presently on permanent rolls of the Organisation.

Sl. No.	Name and Designation	Qualification	Erection Experience and Specialization	State if proposed to be deployed at site for this job	Remarks
A)	ENGINEERING STAFF				
B)	SKILLED WORKMEN				
C)	ADMINISTRATION				

Signature of the Tenderer

ANNEXURE-5

List of Equipments/ machinery / T& P Owned by the Contractor & Proposed to be deployed by the Contractor for this work

(Refer Clause 1.3.6 of General Instructions to the Tenderer)

Sl No.	Name of the Equipment	Total Quantity Available with the Company	Quantity Proposed to be deployed for this job	Type capacity, Specifications	Year of Make	Present Location of the equipment	Utility Factor	Remarks If any
1.	2.	3.	4.	5.	6.	7.	8.	9.

Note: The Tenderers are required to furnish the details with regard to the Equipments, Machinery, Tools & Tackles and Workshop facilities owned by them along with documentary proof for the same.

Signature of the Tenderer

ANALYSIS OF UNIT RATE QUOTED
(Refer Clause 1.3.7 of General Instructions to the Tenderer)

Sl.No.	Description	Percentage of the unit rate quoted	Remarks, if any.
1	Site Office facilities viz. Shed, Electricity, water, workshop and other infrastructure facilities		
2	Salary & Wages to workers.		
3	Retrenchment benefits		
4	Consumables : a) Gas & Electrode b) Others		
5	Expenditure on Erection Tools & Plants and other related items.		
6	Establishment & Admn. Expenses of site		
7	Overheads		
8	Profit		
9	Total		

NOTE: MOST IMPORTANT:

All Tenderers are requested to note, the rates quoted by them are not disclosed in any way while furnishing the above details.

Signature of the Tenderer

ANNEXURE-7

DECLARATION SHEET **(Refer Clause 1.3.8 of General Instructions to the Tenderer)**

The Bidders are requested to furnish the following information while quoting, failing which their offer will be summarily rejected.

- | | |
|---|---|
| 1. Whether any relative(s) is presently employed in BHEL? If so, his connection with the Firm | : YES/ NO
(If yes, please give particulars) |
| 2. Whether any ex-BHEL employee Is associated /working with the Firm? | : YES/NO (If Yes, please give particulars) |
| 3. Whether any BHEL employee is Holding any share in Firm? | : YES/NO (If yes, please give particulars) |

Signature of the Tenderer

Note:

1. Attach separate sheet, if necessary.
2. If the BHEL Management comes to know, at a later date, that the information furnished by the Bidder is false, suitable action will be taken according to law against the contractor.

SECTION-II

INDEX TO GENERAL CONDITIONS OF CONTRACT

<u>Clauses</u>	<u>Description</u>	<u>Page No.</u>
2.1	Applicability	1
2.2	Definitions	1
2.3	Law Governing the Contract & Court Jurisdiction	3
2.4	Issue of Notice	4
2.5	Use of Land	4
2.6	Security Deposit	4
2.7	Return of Security Deposit	6
2.8	Execution of Contract Agreement	6
2.9	Sub-contracting	7
2.10	Commencement of work	7
2.11	Payment to Contractors	7
2.12	Amount due from Contractors	8
2.13	Time of Completion	9
2.14	Extension of time for completion	9
2.15	Engagement of Labour	9
2.16	Compliance with Labour Laws & Rules	10
2.17	Strikes & Lockouts	11
2.18	Taxes & Duties	11
2.19	Tools & Plants	11
2.20	Supplementary / Extra Work	12
2.21	Quantity Variation	12
2.22	Mobilization Advance	12
2.23	Progress of Work	13
2.24	Poor progress of work	13
2.25	Care to be taken by the contractor	14
2.26	Insurance	14
2.27	Health, Safety & Environment	15
2.28	Guarantee for Workmanship	15
2.29	Liquidated Damages / Penalty	16
2.30	Force Majeure	16
2.31	Termination of Contract	16
2.32	Consequences of Termination of Contract	17
2.33	Breach of Contract	17
2.34	Banning of Business Dealings	18
2.35	Disputes	18
2.36	Arbitration	18
<u>ANNEXURES</u>		
GCC-1	Bank Guarantee Format for Security Deposit	
GCC-2	Contract Agreement	
GCC-3	Bank Guarantee Format for Mobilization Advance	
GCC-4	Bank Guarantee Format for release of Guarantee Money (last 5%)	

GENERAL CONDITIONS OF CONTRACT

For Mechanical, Electrical, C & I and Enabling works

SECTION II

2.1 APPLICABILITY

The following terms shall have the meaning hereby assigned to them except where the context otherwise required.

2.2 DEFINITIONS

- 2.2.1 **BHEL** (or B.H.E Ltd) shall mean Bharat Heavy Electricals Limited, Power Sector-Southern Region, No.690, Anna Salai, Nandanam, Chennai-600 035, a company registered under Companies Act 1956, with its Registered Office at BHEL House, Siri Fort, New Delhi –110 049, or its Authorized Officers or its Site Engineers or other employees authorized to deal with any matters with which these persons are concerned on its behalf.
- 2.2.2 **“EXECUTIVE DIRECTOR”** shall mean the Officer-in-charge of Southern Region of Power Sector, BHEL.
- 2.2.3 **“GENERAL MANAGER”** shall mean the Officer in Administrative charge of Power Sector of BHEL.
- 2.2.4 **“ENGINEER”** or **“ENGINEER IN CHARGE”** shall mean engineer deputed by BHEL. The term includes “Additonal General Manager / Deputy General Manager”, “Site Incharge”, “Erection Engineer / Site Engineer” of BHEL at the site as well as the Officers in charge at Power Sector-Southern Region, Chennai.
- 2.2.5 **“SITE”** shall mean the place or places at which the plants/ equipment are to be erected and services are to be performed as per the specification of this contract.
- 2.2.6 **“COMPETENT AUTHORITIES”** shall mean Executive Director or General Manager of BHEL and BHEL Officers who are empowered to act on behalf of Executive Director of BHEL.

- 2.2.7 **“CLIENT OF BHEL”** or **“CUSTOMER”** shall mean the project authorities to whom BHEL is supplying the equipments/services.
- 2.2.8 **“CONTRACTOR”** shall mean the individual, firm or company who enters into contract with BHEL and shall include their executors, administrators, successors and permitted assignees.
- 2.2.9 **“CONTRACT”** or **“CONTRACT DOCUMENT”** shall mean/and include the agreement, letter of indent, the accepted appendices of rates, Schedule of Quantities, if any and General Conditions of Contract, the Special Conditions of Contract, instructions to the tenderers, the drawings, the technical specifications, the special specifications, etc. issued by BHEL. Any conditions or terms stipulated by the contractor in the tender documents or subsequent letters shall not form part of the contract unless, specially accepted in writing by BHEL, in the Letter of Intent and incorporated in the agreement.
- 2.2.10 **“GENERAL AND SPECIAL CONDITIONS OF CONTRACT”** shall mean the “Instructions to Tenderers in Section I, General Conditions of Contract in Section II applicable as commonly for all contracts and Special Conditions of Contract in Section III, applicable for the work for which the tenderers are called for.
- 2.2.11 **“TENDER SPECIFICATION”** shall mean the specific conditions, Technical specifications, appendices, site information and drawing” pertaining to the work in which the tenderers are required to submit their offer. Individual specification number will be assigned to each tender specification.
- 2.2.12. **“TENDER DOCUMENTS”** shall mean the General and Special Conditions of Contract (2.2.10) and tender specification (2.2.11)
- 2.2.13. **“LETTER OF INTENT”** shall mean the intimation by a letter to the tenderer that the tender has been accepted in accordance with provisions contained in that letter with instruction to commence the work in consultation with Site Incharge. The responsibility of the tenderer commences from the date of acceptance of this letter by the said tenderer and all the terms and conditions specified in the tender documents are applicable from that date.

- 2.2.14. **“COMPLETION TIME”** shall mean the period by date specified in the acceptance of tender or date mutually agreed upon for handing over of the erected equipment/plant which are found acceptable by BHEL Engineer being of required standard and confirming to the specifications of the contract.
- 2.2.15 **“PLANT”** shall mean and connote the assembly of the plant and equipment covered by the contract.
- 2.2.16 **“EQUIPMENT”** shall mean all equipments, machineries, materials, structurals, electricals and other components of the plant covered by the contract
- 2.2.17 **“TESTS”** shall mean and include such test or tests to be carried out on the part of the contractor as are prescribed in the contract or considered necessary by BHEL, in order to ascertain the quality, workmanship, performance and efficiency of the contract work or part thereof.
- 2.2.18 **“APPROVED” “DIRECTED” or “INSTRUCTED”** shall mean approved, directed or instructed by BHEL.
- 2.2.19 **“WORK OR CONTRACT WORK”** shall mean and include supply of all categories of labours, specified consumables, tools and tackles required for complete and satisfactory site transportation, handling, stacking, storing, erecting, testing and commissioning of the equipment to the entire satisfaction of BHEL.
- 2.2.20 **“SINGULAR AND PLURAL ETC”** Words carrying singular number shall also include plural and vice versa, where the context be required. Words imparting the masculine gender shall be taken to include the feminine gender and words imparting persons shall include any company or association or body of individuals, whether incorporated or not.
- 2.2.21 **“HEADING”** The headings in these general conditions are solely for the purpose of facilitating reference and shall not be deemed to be part thereof or be taken into consideration in the interpretation or construction thereof or of the contract.
- 2.2.22 **“MONTH:** shall mean calendar month, unless specified otherwise in the tender.
- 2.2.23 **“WRITING”** shall include any manuscript typewritten or printed statement under the signature of BHEL.

2.2.24 **“TEMPORARY WORK”** shall mean all temporary works for every kind required in or for the execution, completion, maintenance of the work.

2.3 LAW GOVERNING THE CONTRACT AND COURT JURISDICTION

2.3.1 The Contract shall be governed by the Law for the time being in force in the Republic of India. The Civil Court having ordinary original Civil Jurisdiction at **Chennai**, Tamilnadu shall alone have exclusive jurisdiction in regard to all claims in respect of this contract. No other Civil Court have jurisdiction in case of any dispute, under this contract.

2.4 ISSUE OF NOTICE

2.4.1 The contractor shall furnish to the BHEL Engineer, the name, designation and address of his authorized agent and all complaints, notices, communications and reference shall be deemed to have been duly given to the Contractor if delivered to the Contractor or his authorized agent or left at or posted to the address either of the contractor or of his representative and shall be deemed to have been so given in the case of posting on the day on which they would have reached such address in the ordinary course of post or on which they were so delivered of /or left.

2.5 USE OF LAND

2.5.1 No land belonging to BHEL or their customer under temporary possession of BHEL shall be occupied by the Contractor without the written permission of BHEL.

2.6 SECURITY DEPOSIT:

2.6.1 Upon acceptance of tender and after receipt of Letter of Indent and before commencement of work, the successful tenderer must deposit the required amount of Security Deposit for satisfactory completion of work.

2.6.2 The total amount of Security Deposit shall be worked out based on the value of work as follows:

2.6.3 Upto Rs.10 lakhs .. 10 %

2.6.4 Above Rs.10 lakhs)
Upto Rs.50 lakhs) 1 lakh + 7.5% of the amount exceeding Rs.10 lakhs

2.6.5 Above Rs. 50 lakhs Rs 4. lakhs + 5% of the amount exceeding Rs.50 lakhs

2.6.6 The Security Deposit shall be deposited before start of work by the successful tenderer.

2.6.7 Security Deposit may be furnished in any one of the following forms:

- i) Cash (as permissible under the Income Tax Act)
- ii) Pay Order, Demand Draft in favour of BHEL.
- iii) Local cheques of scheduled banks, subject to realization.
- iv) Securities available from Post Offices such as National Savings Certificates, Kisan Vikas Patras, etc. (Certificates should be held in the name of contractor furnishing the security and duly pledged in favour of BHEL and discharged on the back).
- v) Bank Guarantee from Scheduled Banks / Public Financial Institutions as defined in the Companies' Act. The bank guarantee format shall be in the prescribed proforma as appended in **ANNEXURE-GCC-1** should be kept valid by proper renewal till contractual completion.
- vi) Fixed Deposit Receipt issued by Schedules Banks / Public Financial Institutions as defined in the Companies' Act. The FDR should be in the name of the Contractor, **A/c BHEL**, duly discharged on the back.
- vii) Security Deposit can also be recovered @ 10% from the Running Bills. However, in such cases, at least 50% of the Security Deposit should be deposited before start of work in any form as prescribed under the Clause 2.6.7 and the balance 50% shall be recovered from the running bills @ 10% from each running bill.
- viii) Under special circumstances, BHEL may consider the request of the contractor for release of cash portion of security deposit as recovered under Clause (vii) above, against submission of bank guarantee for equivalent amount, only after completion of 75% of the scope of work (certified by the engineer) or during the extended period of contract whichever is earlier.

(Note: Acceptance of Security Deposit against Sl.No. (iv) and (vi) above will be subject to hypothecation or endorsement on the documents in favour of BHEL. However, BHEL will not be liable or responsible in any manner for the collection of interest or renewal of the documents or in any other matter connected therewith).

- 2.6.8 If the value of the work done at any time exceeds / reduces from the awarded/accepted value, the Security Deposit shall be correspondingly enhanced / reduced and the Security Deposit shall be immediately deposited by the Contractor / adjusted against payments due to the contractor. The reduction in Security Deposit if required shall be worked out after completion of at least 75% of work. The reduction in value shall be certified by Site Engineer after ascertaining/freezing the BOQ/Drawings.
- 2.6.9 Regarding adjustment of Earnest Money Deposit towards part of Security Deposit, refer clause 1.4.4 of SECTION-I, GENERAL INSTRUCTIONS TO THE TENDERERS.
- 2.6.10 Failure to deposit the Security Deposit within the stipulated time, may lead to forfeiture of Earnest Money and Cancellation of the award of work.
- 2.6.11 If any part of Security Deposit of the Contractor is held in the form of approved securities, it shall be kept transferred in the name of Bharat Heavy Electricals Limited, Power Sector, in such a manner that the same can be realized fully without referring to the Contractor. BHEL shall not be responsible for any depreciation in the value of the Security while in BHEL's custody or for any loss of interest thereon.
- 2.6.12 BHEL reserves the right of forfeiture of Security Deposit in addition to the other claims and penalties in the event of the Contractor's failure to fulfil any of the contractual obligations or in the event of termination of contract as per terms and conditions of contract. BHEL reserves the right to set off the Security Deposit against any claims of any other contracts with BHEL.
- 2.6.13 Security Deposits shall not carry any Interest.

2.7 RETURN OF SECURITY DEPOSIT

- 2.7.1.1 Security Deposit shall be released to the contractor after deducting all expenses / other amounts due to BHEL under the contract / other contracts entered into with them on completion of the following:
- 2.7.1.1 Submission of final bill in the prescribed format duly signed by the contractor with 'No Objection Certificate' and Work Completion Certificate from BHEL Engineers and passing of the bills by BHEL.
- 2.7.1.2 Clearance Certificates from various Statutory Authorities viz. Labour Department, PF Authorities, Commercial Tax Department, etc.

2.8 EXECUTION OF CONTRACT AGREEMENT

- 2.8.1 The successful tenderers responsibility under this contract commences from the date of issue of the Letter of Intent by Bharat Heavy Electricals Limited. The tenderer shall submit an unqualified acceptance to the letter of Intent within the period stipulated therein.
- 2.8.2 The successful tenderer shall be required to execute an agreement in the prescribed form as per **ANNEXURE-GCC-2** with BHEL after the acceptance of his tender and in any case before submitting the first bill for payment. The expenses for execution of the contract including cost of stamp paper shall be borne by the said tenderer.

2.9 SUB-CONTRACTING

- 2.9.1 The successful tenderer should not sub-contract part or complete work detailed in the tender specification undertaken by him without prior written permission of BHEL. The tenderer is solely responsible to BHEL for the work awarded to him.

2.10 COMMENCEMENT OF WORK

- 2.10.1 The contractor shall commence the work within the time and the manner in which indicated in the Letter of Intent from BHEL and shall proceed with the same with due expedition without delay.
- 2.10.2 If the successful tenderer fails to start the work within the stipulated time, BHEL at its sole discretion will have the right to cancel the contract. His Earnest Money and security deposit if any, with BHEL will stand forfeited without any further reference to him without prejudice to any and all of BHEL's other rights and remedies in this regard.
- 2.10.3 All the works shall be carried out under the direction and to the satisfaction of BHEL.

2.11 PAYMENT TO CONTRACTORS

- 2.11.1 All payment due to the contractor shall be paid by **“Account Payee Cheques” / “E-payments”**. BHEL shall prefer e-payments mode rather than payment by cheque.
- 2.11.2 For progress running bill payment, the contractor shall present detailed measurement sheets, in triplicate, duly indicating all relevant details based on technical documents and connected drawings for work done during the month/period under various categories in line with terms of payment as per Letter of Intent. The basis of arriving at the quantities/

weights shall be relevant to documents and drawings released by BHEL. These measurement sheets shall be prepared jointly with BHEL Engineers and signed by both the parties duly supported by Customer protocol also.

- 2.11.3 These measurement sheets will be checked by BHEL Engineers and quantities and percentage eligible for payment under various groups shall be decided by BHEL Engineers. The abstract of quantities and percentage so arrived at based on the terms of payment shall be entered in measurement books and signed by both the parties.
- 2.11.4 Based on the above quantity, contractor shall work out the financial value and prepare the bills & certify in the prescribed proforma of BHEL. These will be entered in M book and signed by both the parties and paid for after duly effecting recoveries due.
- 2.11.5 All recoveries due from the contractor for the month/period shall be effected in full from his corresponding running bills unless specific approval from the competent authorities is obtained otherwise.
- 2.11.6 Measurement shall be restricted to that for which it is required to ascertain the financial liability of BHEL under this contract.
- 2.11.7 The measurement shall be taken jointly by persons duly authorized on the part of BHEL and by the contractor.
- 2.11.8 The contractor shall bear the expenditure involved, if any, in making the measurement. The contractor shall without extra charges, provide all the assistance with appliances and other things necessary for measurement.
- 2.11.9 If at any time due to any reason whatsoever, it becomes necessary to re-measure the work done in full or in part, the expenses towards such measurements shall be borne by the contractors.
- 2.11.10 Passing of measurement as per bills does not amount to acceptance of the completion of the work mentioned. Any left out work has to be completed by the contractor if pointed out at a later date by BHEL Engineers.
- 2.11.11 Final measurement bill shall be prepared in the final bill Proforma prescribed for the purpose based on the certificate issued by BHEL Engineer that entire work as stipulated in the tender specification has been completed in all respects to the entire satisfaction of BHEL. Contractor shall give unqualified "No Due" and "No Demand" certificates. All the tools and tackles loaned to him should be returned in good condition, satisfactory to BHEL. Quantities/Weight erected shall be prepared and

paid, within a reasonable time after completion of work. After payment of final bill, only guarantee obligation percentage shall remain unpaid which shall be released in accordance with Clause 2.28.1 hereof. The final bill quantities and financial value shall also be entered in Measurement Book and signed by both the parties to the contract.

2.12 AMOUNT DUE FROM CONTRACTORS

- 2.12.1 BHEL shall recover any money due from the contractor, from any amount payable to the contractor under this contract or any other contract or from the Security Deposit.
- 2.12.2 Whenever the contract has to be terminated for the reasons attributable to the contractor, BHEL shall claim compensation for the total losses including BHEL's supervision charges, overheads, penalty/LD suffered by BHEL for completion of works.
- 2.12.3 Recovery shall be effected from any amounts due to the contractor under this or any other contract or in any other form the moneys BHEL is forced to pay to anybody, due to contractor's failure to fulfill any of his obligations.

2.13 TIME OF COMPLETION

- 2.13.1 The time schedule as prescribed in the contract is the essence of the contract. The time for completion shall always be reckoned from the date of commencement of work as certified by the BHEL Engineers.
- 2.13.2 The entire work shall be completed by the contractor within the time schedule or within such extended time as may be allowed under Clause 2.14.1 hereof.

2.14 EXTENSION OF TIME FOR COMPLETION

- 2.14.1 Should the amount of extra or additional work of any kind or other special circumstances of any kind whatsoever which may occur be such as fairly to entitle the contractor to an extension. Provided that the engineer is not bound to take into account any extra or additional work or other special circumstances have arisen or as soon hereafter as is practicable delivered to the Engineer's representative full and detailed particulars of any claim to extension of time to which he may consider himself entitled in order that such claim may be investigated at the time. **The contractor shall have no other claim against BHEL in respect of revision in rates, delay and disorganization of work even if the extension of time is granted, except where such claim is expressly allowed in the Special Conditions of Contract.**

2.15 ENGAGEMENT OF LABOUR

- 2.15.1 As far as possible, unskilled worker shall be engaged from the local areas in which the work is being executed.
- 2.15.2 The contractor at all times during the continuance of this contract shall, in all his dealings with local labour for the time being employed on or in connection with the work, have due regard to all local festivals and religions and other customs.
- 2.15.3 The contractor shall furnish daily labour deployment report indicating the classification and number of workmen engaged by him. Besides the contractor also shall furnish progress reports on work every day as required by the Engineer.
- 2.15.4 The contractor will be directly responsible for payment of wages to his workmen. The Wages Sheet for all the payments given to the workers, duly signed by the contractor's representative should be furnished to BHEL site office for record purpose, without fail.
- 2.15.5 Also no idle labour charges will be admissible in the event of any stoppage caused in the work resulting in contractor's labour being rendered idle due to any cause at any time.
- 2.15.6 The contractor shall be responsible for provision of health and sanitary arrangements more particularly described in Contract Labour (Regulations & Abolition) Act, safety precautions etc., as may be required for safe and satisfactory execution of the contract.
- 2.15.7 The Contractor shall be responsible for proper accommodation including adequate medical facilities for the personnel employed by him.
- 2.15.8 The contractor shall be responsible for proper behavior and observance of all regulations by the staff employed by him.

2.16 COMPLIANCES WITH LABOUR LAWS & RULES

- 2.16.1 The contractor shall comply with all State and Central Laws, Statutory Rules, Regulation etc., relating to labour in respect of the following Acts and also as amended by the Government during the tenure of the contract and having in force or jurisdiction at site :

- (i) Payment of Wages Act, 1936
- (ii) Minimum Wages Act, 1948
- (iii) Workmen's Compensation Act, 1923
- (iv) Industrial Disputes Act, 1947
- (v) Employees Provident Fund Scheme, 1952
- (vi) Payment of Bonus Act, 1965
- (vii) Payment of Gratuity Act, 1972
- (viii) Contract Labour (Regulation & Abolition) Act, 1970

2.17 STRIKES & LOCKOUTS

- 2.17.1 The contractor will be fully responsible for all the dispute and other issues connected with his labour. In the event of the contractor's labour resorting to strike or the contractor resorting to lockout and if the strike or the lockout declared is not settled within a period of one month, BHEL shall have the right to get the erection work executed employing its own labour or through any other agencies or both and the cost so incurred by BHEL shall be deducted from the Contractor's bills.
- 2.17.2 For all purposes whatsoever the employees of the Contractor shall not be deemed to be in the employment of BHEL.

2.18 TAXES & DUTIES

- 2.18.1 The Contractor shall pay all taxes, VAT, licence fees, deposits, duties, royalty, commissions or other charges, other than such taxes specifically mentioned in the Special Conditions of Contract, which may be leviable on account of any of his operations in executing the contract. In case BHEL is forced to pay any of such taxes, BHEL shall have the right to recover the same from the contractor either from his bills or otherwise as deemed fit.
- 2.18.2 While BHEL would pay the inspection fees of the Boiler Inspectorate, all other arrangements for the visits periodically by Boiler Inspector to site Inspection Certificates etc., will have to be made by the Contractor. However, BHEL will not make any payment to Boiler Inspector in connection with contractor's welders' qualification/re-qualification tests etc.
- 2.18.3 The contractor may also refer Terms & Conditions relating to Taxes & Duties specified in the Special Conditions to the Tender.

2.19 TOOLS & PLANTS

- 2.19.1 All the tools / equipment/components of BHEL/ their client loaned with or without deposit to the contractor in connection with the contract shall remain the properties of BHEL /their client.
- 2.19.2 The contractor shall ensure that no damage is caused to any person/property of other parties working at site. If any such damage is caused, it is the responsibility of the contractor to make good the losses or compensate for the same.
- 2.19.3 The contractor shall use such tools and plants issued by BHEL either as free issue or chargeable for the purpose of execution of this contract and all such tools and plants / equipment / components shall be deemed to be in good conditions when received by the Contractor unless he notifies within 48 hours to the contrary. The contractor shall return them in good condition as and when required by BHEL / their client. In case of non-return, loss, damage, repairs etc., the cost thereof, as may be fixed by the Site Engineer will be recovered from the contractor.
- 2.19.4 It is not obligatory on the part of BHEL to supply any tools and tackles or other materials other than those specifically agreed in the special conditions of the tender. However depending upon the availability/possibility, BHEL's / customer's tools and plants may be made available to the Contractor on payment of the hire charges, as fixed subject to the conditions laid down by BHEL/Customer from time to time.

2.20 SUPPLEMENTARY / EXTRA WORK

- 2.20.1 In case the Contractor is required to undertake any work **outside the scope of this contract**, the rates payable shall be those mutually agreed upon.
- 2.20.2 In the cases of modification / rectification during the course of erection and commissioning, contractors shall be paid extra amount on manhour basis as specified in the Special Conditions of Tender.

2.21 QUANTITY VARIATION

- 2.21.1 BHEL shall restrict or increase the quantity and nature of work to suit site requirement since the tender specification is based on preliminary documents and quantities furnished therein are indicative and approximate and the rates quoted shall not be subject to revision unless otherwise specified in the Special Conditions of Contract.

2.22 ADVANCE PAYMENT

- 2.22.1 Normally no advance shall be paid to the contractor during the tenure of the contract.
- 2.22.2 In exceptional circumstances, interest bearing advance shall be paid by BHEL, if the conditions are specified in the Special Conditions of the Contract, equivalent to a maximum of 5% of the contract value against a matching bank guarantee.
- 2.22.3 The rate of interest applicable for the above advance shall be the prime lending rate of State Bank of India + 2% extra.
- 2.22.4 The bank guarantee for this purpose shall be submitted by the contractor as per the format attached herewith vide **ANNEXURE-GCC-3**.

2.23 PROGRESS OF WORK

- 2.23.1 The contractor is responsible for the uninterrupted work as per the BHEL engineers' planning / schedule.
- 2.23.2 While every endeavour will be made by BHEL, they cannot guarantee uninterrupted work due to conditions beyond their control. Contractor will not be entitled for any compensation/rate revision, or extra payment on this account.
- 2.23.3 Any delay in completion of works/or non achievement of periodical targets, due to reasons attributable to the contractor, the same will have to be compensated by the contractor either by increasing manpower and resources or by working extra hours and/or by working more than a shift. All these are to be carried out by the contractor at no extra cost.

2.24 POOR PROGRESS OF WORK

- 2.24.1 BHEL shall deploy the required number of fitters, welders, operators, technicians, etc. in the case of emergency / poor progress / deficiency in skill on the part of employees of contractor and to recover the expenditure on account of the same from the contractor/s bill along with the BHEL overheads as applicable .
- 2.24.2 BHEL shall get the work done through other agency at the risk and cost of the contractor in the event of Contractor's poor progress or inability to progress the work for completion as stipulated in the contract, poor quality of the work, persistent disregard to instruction of BHEL

Engineer, assignment, transfer, sub-letting of the contract without prior permission of BHEL, nonfulfillment of any contractual obligation etc, and to claim, recover compensation for such losses from the contractor including BHEL's supervision charges and overheads from Security Deposit/ other dues.

- 2.24.3 BHEL shall withdraw any portion of work and or to restrict/alter quantum of work as indicated in the contract during the progress of erection and get it done through other agency and / or by departmental labour to suit BHEL's commitment to its customer or in case decided to advance the date of completion due to other emergency reasons / BHEL's obligation to its customer.

2.25 CARE TO BE TAKEN BY THE CONTRACTOR

- 2.25.1 The contractor shall take all reasonable care to protect the materials and work till such time the Plant/equipment has been taken over by BHEL / their client.
- 2.25.2 Contractor shall keep the area of work clean and shall remove the debris etc. while executing the work every day. Upon completion of work, the contractor shall remove from the vicinity of work, all scrap, packing materials, rubbish, unused and other materials and deposit them in places specified by the Engineer. The contractor will also demolish all the hutments, sheds, offices, etc. constructed and used by him and shall clean the debris. In the event of his failure to do so, the same will be arranged to be done by the Engineer and the expenses shall be recovered from the contractor along with BHEL overheads asapplicable.
- 2.25.3. The contractor shall execute the work in the most substantial and workman-like manner in the stipulated time. Accuracy of work and timely execution shall be the essence of this contract. The contractor shall be responsible to ensure that the quality, assembly and workmanship conform to the dimensions and clearance given in the drawings and/or as per the instructions of the Engineer.

2.26 INSURANCE

- 2.26.1 BHEL/their customer shall arrange for insuring the materials/properties of BHEL/customer covering the risks during transit, storage, erection and commissioning.
- 2.26.2 It is the sole responsibility of the contractor to insure his materials, equipments, workmen, etc. against accidents and injury while at work and to pay compensation, if any, to workmen as per Workmen's compensation Act. The work will be carried out in a protected area and

all the rules and regulations of the client /BHEL in the area of project which are in force from time to time will have to be followed by the contractor.

2.26.3 If due to negligence and or non-observation of safety and other precautions by the contractors, any accident/injury occurs to the property / manpower belong to third party, the contractor shall have to pay necessary compensation and other expense, if so decided by the appropriate authorities.

2.26.4 If due to contractor's carelessness, negligence or non-observance of safety precautions, damage to BHEL's /Customer's property and personnel should occur and if BHEL is unable to recover in full, cost from the insurance Company, the same will be recovered from the contractor.

2.27 HEALTH, SAFETY & ENVIRONMENT (HSE)

2.27.1 All safety rules and codes applied by the client/BHEL at site shall be observed by the contractor without exception. The Contractor shall be responsible for the safety of the equipment/ material and works to be performed by him and shall maintain all lights, fencing guards, signs etc, or other protection necessary for the purpose. Contractor shall also take such additional precautions as may be indicated from time to time by the Engineer with a view to prevent pilferage, accidents fire hazards and due precautions shall be taken against fire hazards and Atmospheric conditions. Suitable number of clerical staff, watch and ward, store keepers, etc. to take care of equipment materials and construction tools and tackles, shall be posted at site by the contractor till the completion of the work under this contract.

2.27.2 The Contractor shall arrange for such safety devices as are necessary for such type of work and carry out the requisite site tests of handling equipment, lifting tools, tackles, etc., as per prescribed standards and practices.

2.27.3 It shall be the responsibility of the Contractor to provide security arrangement for the equipment/materials belonging to BHEL/CUSTOMER which are handed over to the contractor for erection/transportation till the same are taken over by BHEL, after erection/returned to BHEL stores

- 2.27.4 The Contractor shall ensure that all their staff and workers wear safety helmets and safety shoes. The contractor shall also ensure use of safety belt, protective goggles, gloves, etc. by the personnel as per job requirements. All these gadgets shall conform to relevant IS specifications or equivalent.
- 2.27.5 The contractor has to ensure the implementation of Health, Safety and Environment requirements (HSE) as per directions given by BHEL. The contractor has to assist in HSE audit by BHEL / Customer and submit Compliance Report. The contractor has to generate and submit HSE records / reports as per HSE plan and also appraise BHEL / Customer on HSE activities at site.(details are furnished in common conditions of contract)

2.28 GUARANTEE FOR WORKMANSHIP

- 2.28.1 Even though the work will be carried out under the supervision of BHEL Engineers the Contractor will be responsible for the quality of the workmanship and shall guarantee the work done for a period of twelve months from the date of completion of work as certified by the Engineer for good workmanship and shall rectify free of cost all defects due to faulty erection detected during the guarantee period .In the event of the Contractor failing to repair the defective works within the time specified by the Engineer, BHEL may proceed to undertake the repairs of such defective works at the Contractor's risk and cost, without prejudice to any other rights and recover the same from the last 5% money which will be due for payment after completion of guarantee period as per terms of contract.
- 2.28.2 BHEL shall also release the guarantee money along with the final bill if the contractor submits the bank guarantee equivalent to the last 5% guarantee money in the format as per **ANNEXURE-GCC-4** valid to cover the entire guarantee period as per the contract.

2.29 LIQUIDATED DAMAGES / PENALTY

- 2.29.1 If the works are delayed beyond the stipulated time for the reasons attributable to the contractor, LD/Penalty will be levied at the rate of 0.5 percent per week of delay or part thereof, subject to a ceiling of 10 percent of the contract value.

2.30 FORCE MAJEURE

- 2.30.1 The following shall amount to force majeure viz. Acts of God, Act of any Government, War, Sabotage, Riots, Civil commotion, Revolution, Flood, Fire , Cyclones, Earth quake and Epidemic and other similar causes over which the Contractor has no control.
- 2.30.2 If the Contractor suffers delay in the due execution of the contractual obligation due to delays caused by Force Majeure as defined above, the agreed time of completion of the job covered by this contract or the obligation of the contractor shall be extended by a period of time equal to the period of delay provided that on the occurrence of any such contingency the Contractor immediately reports to BHEL in writing the causes of delay and the Contractor shall not be eligible for any compensation.

2.31 TERMINATION OF THE CONTRACT

- 2.31.1 BHEL reserves the right to terminate the Contract after due notice and to recover the loss sustained in getting the balance work done through other agencies in addition to liquidated damages in the event of.
- 2.31.2 Termination of contract by BHEL shall be due to:
- 2.31.2.1 Contractor's continued poor progress.
 - 2.31.2.2 Withdrawal from or abandonment of the work by the contractor before completion of the work.
 - 2.31.2.3 Corrupt act of Contractor.
 - 2.31.2.4 Insolvency of the Contractor.
 - 2.31.2.5 Persistent disregard to the instructions of BHEL.
 - 2.31.2.6 Assignment transfer, subletting of the contract without BHEL's prior permission.
 - 2.31.2.7 Non-fulfillment of any contractual obligations.
- 2.31.3 BHEL shall terminate the Contract or to restrict the quantum of work and pay for portion of work executed, in case BHEL's contract with their customers are terminated for any reason.

2.32 CONSEQUENCES OF TERMINATION OF CONTRACT

- 2.32.1 Whenever BHEL exercises its authority to terminate the contract/withdraw a portion of work under Clause 2.31 hereof, they may complete the work by any means at the contractor's risk and cost provided that in the event of the cost of completion as certified by the Site Engineer which is final and conclusive being less than contract cost, the advantage shall accrue to BHEL, and that if the cost of completion exceeds the moneys due to the contractor under the contract, the Contractor shall either pay the excess amount ordered by BHEL or the same shall be recovered from the contractor by any other means. This will be in addition to the forfeiture of Security Deposit under Clause 2.6.12 and recovery of liquidated damages under Clauses 2.29.1 hereof.
- 2.32.2 In case BHEL completes the work under the provision of this condition, the cost of such completion to be taken into account in determining the excess cost to be charged to the contract, shall consist of actual cost incurred in completion of work such as materials purchased and / or labour provided by BHEL, amounts paid to other agencies, etc. with an addition of 30% overhead charges as may be decided by BHEL.

2.33 BREACH OF CONTRACT

- 2.33.1 Contractor shall not stop the work or abandon the site for whatsoever reason or dispute, excepting for force majeure conditions. All such problems /dispute shall be separately discussed and settled without affecting the progress of work. Such stoppage or abandonment shall be treated as breach of contract and dealt with accordingly.

2.34 BANNING OF BUSINESS DEALINGS

- 2.34.1 Banning of Business Dealings with the contractor shall be resorted to for serious lapses in Performance / misdemeanor such as abandoning the work without completing, resorting to unfair means (including false certification), not accepting the contract when awarded, etc.
- 2.34.2 The contractor shall be given a reasonable opportunity, to the extent possible, to put forth his views and defend himself.
- 2.34.3 Normally, banning of business dealing with the contractor shall be enforced initially for a period of three years, beyond which this may be renewed by BHEL depending upon the circumstances on a case to case basis.

2.35 DISPUTES

- 2.36.1 In the event of any dispute of any nature, the decision of BHEL shall be final and binding on the contractor.

2.36 ARBITRATION

- 2.36.1 All disputes between the parties to the contract arising out of or in relation to the contract, other than those for which the decision of the engineer or of any other person is by the contract expressed to be final and conclusive shall, after written notice by either party to the contract to other party be referred to sole arbitration of General Manager or his nominee. The arbitration shall be conducted in accordance with provisions of the Arbitration and Conciliation Act, 1996.
- 2.36.2 The parties to the contract understand and agree that it will have no objection that the General Manager or the person nominated as arbitrator had earlier in his official capacity dealt directly or indirectly with the matters to which the contract relates or that in the course of his official duties had expressed views on all or any of the matters in dispute or difference. The award of the arbitrator shall be final and binding on the parties to this contract.
- 2.36.3 In the event of the arbitrator neglecting or refusing to act or resigning or being unable to act for any reason or his award being set aside by the court for any reasons; it shall be lawful for the General Manager or his successor, as the case may be either to act himself as the Arbitrator or to appoint another arbitrator in the place of the outgoing arbitrator in the manner aforesaid.
- 2.36.4 The arbitrator may from time to time with the consent of both the parties to the contract enlarge the time for making the award.
- 2.36.5 Work under the contract shall be continued during the arbitration proceedings. The venue of the arbitration shall be a place from which the contract is issued or such other place as the arbitrator at his discretion may determine.

ANNEXURE-GCC-1

BANK GUARANTEE FOR SECURITY DEPOSIT (PROFORMA) *(Refer Clause 2.6.6 of General Conditions of Contract)*

In consideration of the Bharat Heavy Electricals Limited, having its registered office at BHEL House, Siri Fort, New Delhi – 110 049 the concerned division being Power Sector - Southern Region, located at 474, Anna Salai, Nandanam, Chennai – 600 035. Tamil Nadu (**hereinafter called BHEL**) having agreed to exempt

.....
(hereinafter called “**the said contractor(s)**” from the demand, under terms and conditions of **Letter of Indent** Ref.No.....
dated.....made between BHEL
and..... (Name of the
Contractor) for (**type of work**) hereinafter called
“**the said LOI**” of security deposit for the due fulfillment by said contractors of
the terms and conditions contained in the said LOI, or production of bank
guarantee for Rs.....
(Rupees
.....only).

1. We(**hereinafter**
(indicate the name of Bank)
referred to as “the Bank”) at the request of the said Contractor, do hereby
undertake to pay to BHEL an amount not exceeding Rs.....

against any loss or damage caused to or suffered or would be caused to or suffered by BHEL, by reasons of any breach by the said contractor of any of the terms or conditions contained in the said LOI..

2. We do hereby
(indicate the name of Bank)

undertake to pay the amounts due and payable under this guarantee without any demur, merely on a demand from BHEL stating that the amount claimed is due by way of loss / damage caused to BHEL or suffered by BHEL by reason of breach by the said contractor of any of the terms and conditions contained in the said LOI or by reason of the said contractor's failure to perform the said LOI. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs.....

3. Weundertake to pay to BHEL any money so
(indicate the name of the bank)

demand not withstanding any dispute or disputes raised by the said contractor in any suit or proceeding pending before any Court or Tribunal relating thereto our liability under these presents being absolute and unequivocal. The payment so made by under this guarantee shall be valid discharge of our liability for payment there under and the said contractor shall have no claim against us for making such payment.

4. We.....further agree that the guarantee
(indicate of the name of Bank)

herein contained shall remain in full force and effect during the period that would be taken for the performance of the said LOI and that it shall continue to be enforceable till all the dues of BHEL under or by virtue of the terms and conditions of the said LOI have been fully paid and its claim satisfied or discharged or till BHEL certifies that the terms and conditions of the said LOI have been fully and properly carried out by the said contractor and accordingly discharge this guarantee, unless a demand or claim under this guarantee is made on us in writing on or before We shall be discharged from all liability under this guarantee thereafter.

5. We.....further agree with BHEL that BHEL shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder, to vary any of the terms and conditions of the said LOI or to extend time of performance by the said contractor from time to time or to postpone at any time, any of the powers exercisable by the BHEL against the said Contractor and to forbear or enforce any of the terms and conditions relating to the said LOI and we shall not be relieved from our liability by reasons of any such variation, or extension being granted to the said Contractor or for any forbearance, act, or omission on the part of BHEL or any indulgence BHEL to the said contractor or by any such matter or thing whatsoever which under the law relating to sureties would but for this provisions, have effect of so relieving us.

6. This guarantee will not be discharged due to the change in the constitution of the Bank or the said Contractor.

7. We (indicate the name of bank) lastly undertake not to revoke this guarantee during its currency except with the previous consent of BHEL in writing.

8. The Bank hereby declares that it has power to issue this Guarantee under the Bank's Memorandum and Articles of Association and th undersigned has full power to do so under the Power of Attorney dated.....granted by proper authorities of the Bank.

9. The address of BHEL of services, correspondence in respect of matters relating to this guarantee shall be

ADDITIONAL GENERAL MANAGER (SCT)
BHARAT HEAVY ELECTRICAL LIMITED
POWER SECTOR, SOUTHERN REGION
690, ANNA SALAI, NANDANAM
CHENNAI – 600 035.

Address of the Bank in full

Telephone No.

Fax No.

Dated theday of20.....

(Name of bank and place)

DESIGNATION OF THE AUTHORISED
PERSON SIGNING THE GUARANTEE

Bank Seal:

ANNEXURE-GCC-2

BHARAT HEAVY ELECTRICALS LIMITED

(A Government of India Undertaking)
Power Sector – Southern Region, Chennai –600 035.

CONTRACT AGREEMENT

(Refer Clause 2.8.2 of General Conditions of Contract)

AGREEMENT NO: BHEL:PS:SR:SCT:

DATE:

Name of work

Name of the Contractor with full Address :

Amount of Tender Accepted :

Letter of Intent No :

Time allotted for completing the work :

(Date of completion) :

Contractor

(To be Signed by a Person holding
Valid Power of Attorney)

(Officer authorized to sign
the agreement)

CONTRACT AGREEMENT

AGREEMENT NO: BHEL:PS:SR:SCT

DATE :

This agreement made this day, thebetween the Bharat Heavy Electricals Limited, Power Sector-Southern Region, Chennai – 600 035 having its Registered Office at BHEL House, Siri Fort, New Delhi-110 049 (herein after called **the BHEL**) and M/s.....
..... (Name and Address of the Contractor)

(herein after called **the “CONTRACTOR”**)

2. WHEREAS the BHEL is desirous of executing the work of.....

.....more particularly described in the appendices including drawings and specifications attached herewith:

3. WHEREAS IN PURSUANCE of the said Contractor's Tender having been accepted, the BHEL has decided to give the above said work to the said Contractor.

4. WHEREAS the said Contractor has agreed to do the aforesaid work of the BHEL subject to the conditions herein contained in these presents, instructions to tenderers, general conditions and special conditions, schedules, appendices, Letter of intent and specifications (hereinafter referred as the said Contract schedule) at the accepted rates (hereinafter referred as the **SAID CONTRACT RATE**).

5. AND WHEREAS the said Contractor has furnished a Bank Guarantee for a sum of(Rupees.....only) bearing no.....dt.....from.....Bankvalid uptotowards initial 50% Security Deposit and has further agreed for balance 50% Security Deposit being recovered at 10% of value each running bill till the full Security Deposit is made up for the satisfactory completion and

performance of the work and whereas the validity of the said Guarantee has to be extended by the said Contractor, if so required before.....for the balance of contract period and in the event of his failure to do so the said contractor shall pay or accept recovery of this amount of Rs.....(Rupees.....only) from the bills forthwith in one installment and it has further been agreed that the failure to extend the validity of Bank Guarantee or failure to pay the aforesaid amount in the manner specified above shall constitute the breach of contract, and BHEL reserves the right to take any legal action deemed fit for recovering the said sum of Rs.....(Rupees.....only)

This amount of Rs..... (Rupees.....only) will be refunded and the Bank Guarantee will be returned to the said Contractor on satisfactory completion of the work as specified in the Contract documents.

6. NOW THESE PRESENTS WITNESS that in consideration of the said contract schedule and said Contract rate, as also of agreement of good and faithful service to be rendered and performed by the said Contractor in the execution of the said work, subject to the stipulation hereinafter expressed.

7. That the said Contractor will perform the aforesaid work subject to the conditions contained in these presents, instructions to tenderers, general and special conditions of contract and contract documents attached herewith including the said schedules, specifications, Letter of Intent, drawings attached and also such other drawings and instructions as may from time to time be given by the BHEL. And that the said contractor shall be deemed to have carefully examined the specifications and conditions of contract, appendices, schedules, Letter of Intent, drawings, etc as aforesaid and also to have satisfied himself as to the nature and character of the work to be executed.

8. That the said Contractor shall carry out and complete the executions of the said work to the entire satisfaction of the engineer within the agreed time schedule.

9. That the BHEL after proper scrutiny of the bills submitted by the said contractor will pay him during progress of the said work, at said contract and agreed terms of payment, a sum as determined by the BHEL in respect of the work executed by the said Contractor.

10. That the said contract shall come into force with retrospective effect from the date on which letter accepting the tender (Letter of Intent) has been issued to the said contractor.

11. That whenever under this contract or otherwise, any sum of money shall be recoverable from or payable by the said contractor, the same may be deducted in the manner as set out in the conditions of contract as aforesaid.

12. That all charges on account of Octroi, Entry Tax and VAT or other duties on material obtained for the works shall be borne by the said contractor.

13. That is agreed between the parties that the non-exercise of any powers conferred on the authorities of the BHEL will not in any manner constitute waiver of the conditions hereto contained in these presents and the liability of the said Contractor either of past or future compensation shall remain unaffected.

14. The documents hereto attached viz., shall also form part of this agreement.

15. In witness hereof the parties have respectively set their signature in the presence of :

WITNESSES:

(With full address)

1.

2.

Date :

Signature of the Contractor
(To be signed by a person
holding valid power of Attorney
of the company

WITNESSES:

For and on behalf of the
BHARAT HEVY ELECTRICALS LTD.

1.

2.

ANNEXURE-GCC-3

PROFORMA BANK GUARANTEE FOR ADVANCE PAYMENT

(Refer Clause 2.22.4 of General Conditions of Contract)

1) This Deed of Guarantee made thisday of..... between**(Bank)**

hereinafter called “ **the Guarantor**” (which expression shall unless repugnant to the context or meaning thereof be deemed to include its successors and assigns) of the ONE PART and **M/s. Bharat Heavy Electricals Limited**, Power Sector- Southern Region, 690, Anna Salai, Chennai-600 035 (A Government of India Undertaking), having its Registered Office at ‘BHEL HOUSE’ Siri Fort, New Delhi – 110 049 hereinafter called “**The Company**” (which expression shall unless repugnant to the context or meaning thereof be deemed to include its successors) of the OTHER PART:

2) WHEREAS M/s.....

(full Name and Address of the Contractor)

(herein after called **the Contractor**) has entered into a Contract vide LOI Ref. No.....dated.....

(hereinafter called “**the Contract**”) with the company for

(Name of the work)

3) AND WHEREAS the Contract inter alia provides that the Company will pay to the said contractor advance of Rs.....(Rupees.....only) on certain terms and conditions specified therein subject to the contractor furnishing a bank guarantee for Rs.....(Rupeesonly) in favour of the company.

4) AND WHEREAS the said Contractor has approached the Guarantor and in consideration of the arrangement arrived at between the said Contractor and the Guarantor, the Guarantor has agreed to give Guarantee as hereinafter mentioned in favour of the Company.

5) In consideration of the Company having agreed to advance a sum of Rs.....(Rupees.....only) to the said Contractor, the Guarantor do hereby guarantee the due recovery by the Company of the said advance with interest thereon as provided according to the terms and conditions of the Contract. If the said Contractor fails to utilize the said advance for the purpose of the contract and/or the said advance together with interest thereon as aforesaid is not fully recovered by the Company, the Guarantor do hereby unconditionally and irrevocably undertake to pay to the Company without demur and merely on a demand to the extent of the said sum of Rs.....(Rupees.....only). Any claim made by the company for the loss or damage caused to or suffered by the Company by reason of the Company not being able to recover in full the said sum of Rs.....with/without interest as aforesaid.

6) The decision of the Company whether the said Contractor has failed to utilize the said advance or any part thereof for the purpose of the contract and or as to the extent of loss or damage caused to suffered by the company by reason of the Company not being able to recover in full the sum of Rs.....with/without interest shall be final and binding on the Guarantor, irrespective of the fact whether the said Contractor admits or denies the default or questions the Correctness of any demand made by the Company in any court, Tribunal or Arbitration Proceedings or before any other Authority.

7) The Company shall have the fullest liberty without affecting in any way the liability of the Guarantor under this Guarantee, from time to time to vary any of the terms and conditions of the Contract or the advance or to extend time of performance by the said Contractor or to postpone for any time and from time to time any of the powers exercisable by it against the said contractor and either to enforce or forbear from enforcing any of the terms and conditions governing the said contract the advance or securities available to the Company and the Guarantor shall not be released from its liability under these presents by any exercise by the Company of the liberty with reference to the matters aforesaid or by reason of time being given to the said Contractor or any other forbearance act or omission

on the part of the Company or any indulgence by the company to the said contractor/ supplier or of the other matter or thing whatsoever which under the law relating to sureties, would but for this provision have the effect of so releasing the Guarantor from its liability under this Guarantee.

8) The guarantor further agree that the Guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the contract and till the said advance with/without interest has been fully recovered and its claims satisfied or discharged and till..... certifies that the said advance with interest has been fully recovered from the said contractor and accordingly discharges this Guarantee subject.

9) The Guarantor undertake not to revoke this Guarantee during the period it is in force except with the previous consent of the Company in writing and agree that any liquidation or winding up or insolvency or any change in the constitution of the said Contractor or the Guarantor shall not discharge the Guarantor's liability hereunder.

10) It shall not be necessary for the Company to proceed against the said Contractor before proceeding against the Guarantor and the Guarantee herein contained shall be enforceable against them notwithstanding any security, which the company may have obtained or obtain from the said Contractor shall, at the time when proceedings are taken against the guarantor hereunder be outstanding or unrealized.

11) The Guarantor hereby declares that it has power to execute this guarantee under its Memorandum and Articles of Association and the executant has full powers to do so on its behalf under the power of Attorney dated granted to him by the proper authorities of the Guarantor.

12) "Weundertake to pay to BHEL any money
(indicate the name of Bank)

so demanded notwithstanding any dispute or disputes raised by the said contractor in any suit or proceedings pending before any court or Tribunal relating thereto our liability under these presents being absolute and unequivocal. The payment so made by us under this guarantee shall be a valid discharge of our liability for payment thereunder and the said contractor shall have no claim against us for making such payment".

13) Our liability under this bank guarantee shall not exceed Rs.....
(Rupees.....only) and this bank guarantee
shall be valid upto

Dated theday of20.....

(Name of bank and place)

DESIGNATION OF THE AUTHORISED
PERSON SIGNING THE GUARANTEE

Bank Seal:

BANK GUARANTEE PROFORMA FOR RELEASE OF LAST 5% GUARANTEE MONEY.

(Refer Clause 2.28.4 of General Conditions of Contract)

1. This deed of guarantee made thisday of20
by M/s..... (hereinafter called the Bank)
in favour of Bharat Heavy Electricals Limited, Power Sector – Southern Region,
690, Anna Salai, Chennai – 600 035 having its Registered Office at BHEL House,
Siri Fort, New Delhi – 110 049 (hereinafter called the Principal)

2. Whereas M/s.....(Name and
Address of Contractor) (hereinafter called the Contractor) have entered into a
contract vide LOI Ref. No.....dated.....)
for..... (Name of work) with the Principal
(hereinafter called the said Agreement).

3. And whereas the said agreement provides that the Principal shall pay a sum
of Rs.....(Rupees.....only)
towards 5 percent of contract value towards guarantee period of twelve months in
the form and manner therein specified and the contractor have approached the
Bank and their request and in consideration of the agreement arrived at between
the said contractor and the Bank, the Bank has agreed to give such guarantee as
hereinafter mentioned to the Principal.

4. Now, therefore these present witness that we
.....(Name of the Bank) by the hand of Shri
.....its, lawfully and duly constituted attorney, do
hereby undertake to pay without demur to the aforesaid company a sum of
Rs.....(Rupees.....
.....only) on demand being made by the said Principal
and to keep the said Principal indemnified by virtue of this guarantee against any
loss or damage caused to or suffered by the said Principal by reason of any parts
that may develop defects, fails or show signs of failure in the equipment arising
from faulty workmanship thereby impairing the serviceableness under the proper
use as per instructions provided by the contractor for a period of 12 months from
the date of receipt of payment and also for breach of the terms and conditions of

contract. We therefore undertake to pay the said amount in a lump sum on demand or such part thereof as the Principal may demand from time to time, irrespective of the fact whether the said contractor admits or denies in any Court, Tribunal or Arbitration proceedings or before any authority.

5. The aforesaid Guarantee will remain in force and we shall be liable under the same irrespective of any concession of time granted by the said Principal to the Contractor in or fulfilling the said agreement between them and the guarantee will remain in force till completion of performance guarantee period as specified in the said agreement. Further, we shall not be released from this guarantee by any forbearance, or the exercise or non-exercise of any of the power of rights under the said Agreement by the said Principal against the said contractor irrespective of whether notice of such forbearance or enforcement or non-enforcement of any powers or rights, modification or changes made in the said agreement or concession shown to the said contractor by the Principal is given to us or not.

6. The guarantee herein contained shall not be detrimental or affected by the liquidation or winding up or insolvency or changes in the composition of firm/company of the said contractor and shall in all respects and for all purposes be binding and operative until the payment of all moneys due or that may hereinafter become due to the said Principal is made to the Principal irrespective of any liability or obligations of the said Agreement.

7. We, the said Bank, further agree that the guarantee herein contained shall remain in force and effect during the period that would be taken for the performance guarantee of the said agreement and that it shall continue to be enforceable till all the dues of the Principal under or by virtue of the said agreement have been fully paid and its claim satisfied and discharged or till the Principal certified that the terms and conditions of the said agreement have been fully and properly carried out by the said contractor and accordingly the bank shall discharge this guarantee. However the Principal shall have the right under this guarantee till completion of twelve months from the date of commencement of performance guarantee as specified in the said agreement. Any claim or dispute arising under the terms of these documents shall only be enforced or settled in the Courts at Chennai only.

8. The Bank hereby declares that it has power to issue this Guarantee under the Bank's Memorandum and Articles of Association and the undersigned has full power to do so under the Power of Attorney datedgranted by proper authorities of the Bank.

9. The guarantee is valid up to and unless a demand is made under this guarantee within six months fromall the rights of the Principal under the guarantee shall be forfeited and we the (Bank) shall be released and discharged from all liability thereunder.

Dated theday of20.....

(Name of bank and place)

DESIGNATION OF THE AUTHORISED
PERSON SIGNING THE GUARANTEE

Bank Seal: