

GENERAL CONDITIONS OF CONTRACT



PROJECT ENGINEERING & SYSTEMS DIVISION
RAMACHANDRAPURAM, HYDERABAD



BHARAT HEAVY ELECTRICALS LIMITED
PROJECT ENGINEERING & SYSTEMS DIVISION (PE&SD)
RAMACHANDRAPURAM, HYDERABAD

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LIST OF ABBREVIATIONS

| | |
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| AWB | Airway Bill |
| AMC | Annual Maintenance Contract |
| BG | Bank Guarantee |
| BL | Bill of Lading |
| BOQ/ BOM | Bill of Quantity/ Bill of Material |
| CQIR | Corporate Quality Inspection Report |
| CIF | Cost, Insurance and Freight |
| C&F | Cost & Freight |
| CPBG | Contract Performance Bank Guarantee |
| COO | Country of Origin |
| CQ | Corporate Quality |
| CAN | Cargo Arrival Notice |
| EMD | Earnest Money Deposit |
| E&C | Erection and Commissioning |
| FOB | Free on Board |
| FOR | Free on Rail/Road |
| FCL | Full container load |
| FTL | Full Truck Load |
| GCC | General Conditions of Contract |
| GR | Goods Receipt |
| GST | Goods and Service Tax |
| H1 Bidder | Bidder quoting highest landed cost to BHEL |
| HSN | Harmonised System Nomenclature |
| HSE | Health Safety & Environment Guidelines |
| HQ | Head Quarters |
| INR | Indian Rupee (<i>also abbreviated as Rs.</i>) |
| IP | Integrity Pact |
| IEC | Independent Expert Committee |
| IEM | Independent External Monitor |
| L1 Bidder | Bidder quoting lowest landed cost to BHEL |
| LC | Letter of Credit |
| LD | Liquidated Damages |

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|------------------|--|
| LoI | Letter of Intent |
| LoA | Letter of Award |
| LR | Lorry Receipt |
| MCE | Marine Cum Erection Insurance |
| MDCC | Material Dispatch Clearance Certificate |
| MRC | Material Receipt Certificate |
| MSMED Act | Micro, Small, and Medium Enterprises Development Act |
| NIT | Notice Inviting Tender |
| O&M | Operation & Maintenance |
| PAN | Permanent Account Number |
| PBG | Performance Bank Guarantee |
| PO | Purchase Order |
| PQR | Pre-Qualification Requirement |
| PTR | Proven Track Record |
| PE&SD | Project Engineering & System Division |
| P&ID | Piping & Instrumentation Diagram |
| PTL | Part Truck Load |
| PVC | Price variation Clause |
| QA | Quality Assurance |
| QS | Quality Surveillance |
| RA | Reverse Auction |
| RR | Railway Receipt |
| RBI | Reserve Bank of India |
| RFQ | Request for Quotation |
| SAC | Service Accounting Code |
| SCC | Special Conditions of Contract |
| SCE | Storage cum Erection Insurance |
| TPIA | BHEL's Third Party Inspection Agency |
| T&P | Tools and Plant |
| TReDS | Trade Receivables e-Discounting System |
| USD | United States Dollar |

DEFINITIONS

The **Notice Inviting Tender documents** (also referred as **NIT Documents** or **NIT**) comprise of the following:

1. NIT Cover Letter
2. Volume – 1A: General Conditions of Contract (GCC)
3. Volume – 1B: Special Conditions of Contract (SCC)
4. Volume – 2A: Technical Specification including all its Annexures
5. Volume – 2B: Price Bid Format
6. Volume – 2C: Quality Assurance Plan (QAP)

The NIT documents also include the annexures to any of the volumes mentioned above. Any exclusion from or addition to the above set shall be duly indicated in the NIT Cover Letter/ SCC.

Throughout the NIT documents the following words shall have the meanings assigned to them herein, unless the subject matter or the context requires otherwise.

1. **Purchaser** shall mean M/s **Bharat Heavy Electricals Limited** (A Govt. of India Undertaking) incorporated under the Companies Act 1956, having its registered office at BHEL House, Siri Fort, New Delhi-110049, India and acting through its **Projects Engineering & Systems Division** (PE&SD), PE&SD Building, Ramachandrapuram, Hyderabad – 502032 (Telangana) which expression shall include its successors and assigns. It may also be referred to as **BHEL/ Vendee/ Buyer**.
2. **Tender** shall mean offer submitted in response to Notice Inviting Tender (NIT)/ Request for Quotation (RFQ).
3. **Owner** shall mean the **Customer** or **Client** for whose project the enquiry is issued by the Purchaser and shall include the Owner's successors and assigns as well as authorised officer(s)/ representative(s).
4. **Consultant** shall mean the agency appointed by Owner or Purchaser to provide consultancy services for the project and shall include the Consultant's successors and assigns as well as authorized officer(s)/ representative(s).
5. **Bidder** shall mean the Firm/ Company/ Organization which quotes against the Tender Enquiry issued by Purchaser. It may also be referred as **Vendor**.
6. **Order/ Contract** shall mean and include the Purchase Order/ Framework Agreement along with tender/ offer submitted by the Seller, letter of intent/ acceptance/ award of the Purchaser, the bidding conditions, the General Conditions of Contract and Special Conditions of Contract for Purchase, Specifications, Inspection/ Quality Plan, Schedule of Prices and Quantities, Drawings, form of tender, covering letters, if any enclosed or to be provided by the Buyer or his authorized nominee, Integrity Pact (if applicable), the samples or patterns if any to be provided under the provisions of the Contract, and subsequent amendments mutually agreed upon. Any conditions or terms stipulated by the bidder in the tender/offer or subsequent letters shall not form part of the Contract unless specifically accepted in writing by BHEL.
7. **Seller/ Contractor** shall mean the person/ Firm/ Company/ Organization with whom the Order/ Contract is made and shall be deemed to include its successors, representatives, heirs, executors, administrators and permitted assigns, as the case may be. It may also be referred as Supplier or Vendor.
8. **Sub-Contractor** shall mean the person/ firm/ company/ organisation to whom any part of the work has been sub-contracted by Seller/ Contractor, with the written consent of the Purchaser, and shall include sub-contractor's heirs, executors, administrators, representatives and assigns.
9. **Engineer** shall mean the authorized officer of Purchaser to act as the engineer on its behalf for the purpose of the Order/ Contract.
10. **Inspector** shall mean any firm or person as may be duly appointed and authorised in writing by BHEL/ Purchaser from time to time to inspect plant and equipment, works and services under the Contract.
11. **Work/ Works/ Goods** shall mean plants, equipment, or materials to be supplied and/ or such other works to be done/ provided by the contractor under the Contract.
12. **Site** shall mean and include the land and place on which the project and its related facilities are to be constructed and any adjacent land which may be allocated or used by Owner or Seller/ Contractor in performance of the Order/ Contract.
13. **Tests on completion** shall mean such tests as prescribed in specifications and/ or tests mutually agreed upon by Purchaser and Seller/ Contractor, to be performed by Seller/ Contractor after erection of equipment to establish its satisfactory operation as per specifications.

14. **Commissioning** shall mean successful completion of Trial Operation and readiness of the contracted/ ordered plant and/or materials for commercial use. This will include all consumables and inputs required for pre-commissioning.
15. **Initial Operation** or **Trial Operation** or **Reliability Run** shall mean continuous integrated operation of the contracted/ ordered plant and/or materials under varying operating conditions as proof of satisfactory operation for a specified period.
16. **Inspection Agency (IA)** shall mean person(s) authorized by Purchaser / Owner to inspect the stores as per Order/ Contract at Contractor's/ Sub-Contractor's works.
17. **Month** shall mean calendar month and week shall mean 7 (seven) days.
18. **Consignee** shall mean the official(s)/ person(s) to whom the stores are required to be delivered in the manner indicated in the Order/ Contract.
19. **Plant/ Equipment/ Stores** shall mean the goods, machinery, components, parts, spares, civil works, structural works, architectural works, and things of all kinds required to be supplied by Seller/ Contractor as per Order/ Contract.
20. **Purchase Officer** shall mean the official who signs the Order/ Contract on behalf of Purchaser.
21. **Site Engineer** shall mean officer authorised by owner/purchaser to receive and verify the in-coming stores, and issue Material Receipt Certificate (MRC)/ Stores Receipt Voucher (SRV).
22. **Site Inspection Agency (Site IA)** shall mean person(s) authorized by Purchaser/ Owner to inspect the stores/ works included in Order/ Contract at the Project Site.
23. **Executive Director/ General Manager** shall mean the officer in administrative charge of BHEL - PE&SD, Hyderabad.
24. **Consulting Engineer** shall mean any firm or person as may be duly appointed and authorised in writing by BHEL/Purchaser from time to time to review plant and equipment, works and services under the Contract.
25. **Review Consultant** shall mean any firm or person as may be duly appointed and authorised in writing by BHEL/Purchaser from time to time for final review of the plant and equipment, works and services under the Contract.
26. **Acceptance of Tender** shall mean e-mail / Tele-fax Letter of Intent or any notification communicating to the Contractor the acceptance by BHEL of his tender.
27. **Contract Price** shall mean the agreed sum of money stated in the Contract to be paid to the Contractor for the successful fulfilment of the Works in accordance with the terms of the Contract Documents.
28. **Test** shall mean such tests as are prescribed in the specifications and/or other tests as mutually agreed upon by BHEL/ Purchaser and the Contractor, whether performed or made by the Engineer, Contractor or any Agency acting under the direction of the Engineer.
29. **Tests on Completion/ Acceptance Test/ Performance Guarantee Test** shall mean such tests as are prescribed in the specifications and/or other tests as mutually agreed upon by BHEL/ Purchaser and the Contractor to be carried out by the Contractor on erection of the plant / equipment / material to prove satisfactory performance as per Specification.
30. **Constructional Plant** means all appliances or things of whatsoever nature required in or about the execution, completion or maintenance of the works or any 'temporary work' by the contractor at his own cost and risk (as hereinafter defined) but does not include materials or other things intended to form or forming part of "work".
31. **Temporary Work** shall mean all temporary jobs of every kind required in or about the execution, completion or maintenance of the work by the contractor at their cost and risk.
32. **Completion Time** shall mean the period by date/ month specified in the acceptance of Letter of Intent/ Purchase Order for supply and handing over of the intended scope of work, which are found acceptable by the engineer being of required standard and conforming to the specifications of the contract. The time and date of completion of the work as stipulated in the Contract documents shall be deemed to be the essence of the Contract.
33. **Consignee** shall mean the authorised representative or officer of the Purchaser / BHEL to whom the plant, equipment and materials are required to be delivered in the manner indicated in the Contract Documents.

34. **Specification or Technical Specifications** shall mean all Specifications including technical specifications of the Works and the Tender Drawings and schedules attached thereto and any modification made thereof.
35. **Drawings** shall mean drawings referred to in the Contract documents including modifications if any and such other drawings as may be from time to time furnished by the Contractor and approved by BHEL / purchaser.
36. **Acceptance Test/ Performance Guarantee Test** shall mean such test as are required to determine and demonstrate guaranteed capacity, efficiency and operating characteristics of the Plant as stipulated in the contract Documents.
37. **Initial Operation/ Reliability Run/ Trial Run** shall mean the first continuous operation of the plant by the Contractor covered under the Contract with sub-systems under varying loads to demonstrate satisfactory operation for a specified period which shall not be less than fifteen (15) days.
38. **Commercial Operation** shall mean the conditions of operation in which all the equipment covered under the Contract are officially declared by BHEL/ purchaser, to be available for continuous operation at different loads and including rated capacity.
39. **Service** shall mean furnishing of labour and services as per specifications and supervision of complete erection, testing and putting equipment and materials to be supplied into satisfactory operation, supervision of inland transportation, loading and unloading and storage at the site as defined in the Contract.
40. **Warranty Period** shall mean the period during which the Contractor shall remain liable for repair or replacement of any defective part of the plant supplied, works done and services rendered under the Contract.
41. **Code** shall mean the applicable International and Indian standards as on the date of letter of intent and any subsequent modification thereof.
42. **Month** shall mean calendar month. "Day" or "Days" unless otherwise expressly defined shall mean calendar day or days of twenty-four (24) hours each. A week shall mean continuous period of seven (7) days.
43. **Letter of Intent/ Purchaser Order** shall mean BHEL's letter or notification conveying their acceptance of the Tender subject to such conditions as may have been stated therein.
44. **Writing** shall include any manuscript typed or handwritten or printed statement, including Telex, Cable, and facsimile transmission under or over signature or seal as the case may be.
45. **Approved/ Approval** shall mean as approved by or approval of competent authority of the Purchaser/ Owner.
46. **Tonne/ Ton** shall mean 1000-kilogram mass. "Gallon" shall mean Imperial gallon, unless otherwise mentioned specifically.
47. **Final Acceptances** mean the Purchaser's and/or Owner's acceptance of the work plant completed in every respect as per terms of the Contract on expiry of the Warranty/ Guarantee/ maintenance period.

GENERAL

48. The words incorporating singular shall include plural and vice-versa, the words incorporating masculine gender shall include feminine gender and vice-versa, and the words incorporating persons shall include bodies, corporate, limited liability companies, partnership and other legal entities.
49. Words incorporating "Persons" shall include firms, companies, corporations and other bodies whether incorporated or not.
50. 'Parties to the Contract' shall mean the Seller and the Buyer as named in the main body of the Purchase Order.
51. Wherever in this document term 'time' and 'date' has been referred, it implies Indian Standard Time and date.
52. Terms and conditions not herein defined shall have the same meaning as are assigned to them in the latest edition of Indian Sale of Goods Act/Indian Contracts Act as applicable.
53. The terms like *Tenderer/ Bidder/ Vendor/ Seller/ Contractor/ Supplier* used in the NIT documents can be used interchangeably. In the same way the terms like *Purchaser/ Buyer/ BHEL* can be used in the NIT documents interchangeably.

INSTRUCTION TO BIDDERS

| SL. NO. | DESCRIPTION |
|----------------------|--|
| 1.0 | General Instructions |
| 2.0 | Tendering Through Enterprise Procurement System |
| 3.0 | Tendering Through Conventional Procurement System |
| 4.0 | Discount and Price Impact |
| 5.0 | Authority for Tender Signing |
| 6.0 | Clarifications Required by Bidders |
| 7.0 | Deviations from NIT |
| 8.0 | Validity of Offer |
| 9.0 | Price Discrepancy |
| 10.0 | Language & Corrections |
| 11.0 | Bidder to Inform Himself Fully |
| 12.0 | Reverse Auction |
| 13.0 | Rejection of Tender and other Conditions |
| 14.0 | Evaluation Criteria |
| 15.0 | Foreign Suppliers & Indian Agents of Foreign Suppliers |
| 16.0 | Ethics in Business Dealings |
| 17.0 | BHEL Fraud Prevention Policy |
| 18.0 | Integrity Commitment |
| 19.0 | Tendering Cost |
| 20.0 | Benefits Earmarked for Purchase From MSE |
| 21.0 | Public Procurement (Preference to Make in India) |
| 22.0 | Startups |
| 23.0 | Supplier Registration With BHEL |
| 24.0 | RXIL (TReDS) Platform |
| 25.0 | Restriction on Bidders from Countries Sharing Land Border with India |
| 26.0 | Initial Advance |
| 27.0 | Declaration for Non-Formation of Cartel |

| 1.0 | GENERAL INSTRUCTIONS |
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| 1.0.1 | Tenderers are advised to study all the NIT documents carefully. Any submission of tender by the tenderer shall be deemed to have been done after careful study and examination of the NIT documents and with full understanding of the implications thereof. The specifications and terms & conditions shall be deemed to have been accepted unless otherwise specifically commented upon by the tenderer in his offer. Non-compliance with any of the requirements and instructions in the Tender Enquiry may result in rejection of the tender. |
| 1.0.2 | HEADINGS: The headings in NIT Documents are solely for 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. |
| 1.0.3 | The general terms of business or sale of the bidder shall not apply to the Buyer or the Contract unless specifically agreed to otherwise in the Contract. Any other terms and conditions of the bidders attached/ referred in the bid of the Bidder against the tender enquiry will be treated as rejected by the Buyer unless specifically agreed to in the Contract. Any deviations from or additions to these 'General Conditions of Contract' require Buyer's express written consent. |
| 1.0.4 | COMPETENCE AND GUARANTEES: Contractor shall have sound technical and financial capabilities and possess recognized experience in executing jobs of similar kind and magnitude. The contractor shall properly fill in the various schedules and proforma prescribed in the NIT documents. Non submission of the information in the prescribed schedules and proforma and within the time prescribed may lead to rejection of the bid. |
| 1.0.5 | NO RESPONSE: Non-Response from vendor against the enquiry will be deemed as vendor is not interested to quote for the Material / equipment under consideration. Any changes to NIT conditions during the processing of the enquiry will not be intimated to such vendors. |
| 1.0.6 | REGRET : If any vendor regrets to quote against the enquiry giving specific reason for the regret, then subsequent changes to NIT conditions, if any, which impact the reason for regret, will be intimated to such vendors. |
| 1.0.7 | LATE OFFERS: Tenders received after the Due Date and Time of submission shall be rejected. |
| 1.0.8 | UNSOLICITED TENDERS: Unsolicited tenders shall not be entertained. |
| 1.0.9 | Wherever references are being made for any particular web links, bidder to properly appraise himself about these web links before submission of the bid. |
| 2.0 | TENDERING THROUGH ENTERPRISE PROCUREMENT SYSTEM |
| 2.0.1 | Bidders shall participate in BHEL's enquiries through its online Enterprise Procurement System (EPS) only, unless otherwise specified in NIT or its accompanying covering letter/e-mail. |
| 2.0.2 | Bidders shall have to visit BHEL E-Procurement web site and have to upload their quotation on BHEL e-bid portal in line with NIT requirement by due date and time |
| 2.0.3 | It is obligatory on part of the Bidder to familiarize himself with all terms and guidelines for participating in the online tendering event, details of which are available at EPS homepage. |
| 2.0.4 | The bidder shall be responsible for arranging all resources required for participating in online tendering event, which include a PC with internet connectivity and a valid Digital Signature Certificate (DSC). Details of minimum resources required are available at EPS homepage. |
| 2.0.5 | It shall be mandatory for the Bidder to submit the "Proforma Declaration of Acceptance of BHEL's Techno-Commercial Terms" as mentioned in Annexure-1 along with their offer (Part-1 Offer – in case of two-part Bids). Bids received without this declaration shall be liable for rejection. |
| 2.1 | MULTI – PART BIDS |
| 2.1.1 | <p>Tenders shall be submitted in Two parts (unless otherwise specified in NIT) on or before the Due Date and time indicated in the NIT/ RFQ and subsequent intimations on extensions, if any.</p> <ul style="list-style-type: none"> PART – I (Techno-Commercial Bid): This part shall comprise of Declaration of Acceptance of Techno-Commercial Terms, Technical Offer, Unpriced copy of Price Bid, PQR documents (if applicable), EMD (if applicable), Integrity Pact (if applicable), and any other documents as specified in NIT. PART – II (Price Bid): Prices are to be quoted in the Price Bid Form available in EPS. Attachments containing prices submitted along with tender shall not be considered for evaluation, while the same may be considered for award, if found lower. The price should be quoted for the unit of measurement indicated in the e-tender document. Any deviation from the prescribed Price Bid Format will make the bid liable to be invalid. <p><i>It is the responsibility of Bidder to go through the NIT documents to ensure furnishing all required documents in addition to above, if any.</i></p> |
| 2.1.2 | Offers are liable to be rejected for changes made by bidders in the Price Schedule, except those specified in the unpriced bid and accepted by Purchaser. |
| 2.1.3 | The evaluation currency for this tender shall be INR. |
| 2.1.4 | Documents submitted by the bidders may be verified for authenticity by BHEL. |
| 2.2 | DO NOTS |

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| 2.2.1 | For enquiries published through EPS mode, Bidders shall NOT submit their offer in any mode other than through EPS, else their offer shall not be considered. |
| 2.2.2 | Uploading of the price bid in prequalification bid or technical bid may result in rejection of the bid. |
| 2.3 | OPENING OF BIDS |
| 2.3.1 | The bid submission end-time along with time remaining for submitting bids shall be continuously displayed on EPS portal against each enquiry. The EPS portal will automatically disable links to upload bids once the bid submission time is over. Request for extension of bid submission time shall generally not be entertained. The bidder shall be responsible for submission of bids in due time. |
| 2.3.2 | The Part-1 Bids shall be opened after the time for submission of bids has elapsed. |
| 2.3.3 | Each of the Part-1 bids shall be scrutinized for compliance with BHEL's Terms. Bids not meeting BHEL's Techno-commercial terms/ Pre-Qualification Criteria shall generally be rejected. |
| 2.3.4 | Incomplete Bids shall be liable for rejection. It is bidder's responsibility to ensure that all documents required as per NIT are provided with the bid. |
| 2.3.5 | Part-2 Bids shall be opened for techno-commercially qualified bidders only. Such bidders shall receive automated notification from the EPS portal intimating them about scheduled date and time for Part-2 Bid opening. |
| 2.3.6 | No correspondence shall be entertained from the Bidders after opening of Part-II (Price bid), except clarifications (if any) asked by BHEL in writing. |
| 2.3.7 | Purchaser may negotiate the prices with L1 bidder after price bid opening. |
| 3.0 | TENDERING THROUGH CONVENTIONAL PROCUREMENT SYSTEM |
| 3.0.1 | In exceptional circumstances , BHEL shall float enquiries outside its Enterprise Procurement System. Such enquiries shall henceforth be referred as non-EPS/ Conventional Enquiries. The same shall be clearly indicated in the NIT or its accompanying covering letter. Bidders are supposed to follow the instructions listed below for participating in Conventional Enquiries. |
| 3.1 | SUBMISSION |
| 3.1.1 | <p>Tenders shall be submitted in Two parts (unless otherwise specified in NIT) on or before the Due Date and time indicated in the NIT/ RFQ and subsequent intimations on extensions, if any.</p> <ul style="list-style-type: none"> PART – I: Techno-Commercial Bid: This part shall comprise of Declaration of Acceptance of Techno-Commercial Terms, Technical Offer, Unpriced copy of Price Bid, PQR documents (if applicable), EMD (if applicable), Integrity Pact (if applicable), and other documents as specified in NIT. PART – II: Price Bid: Prices are to be quoted in the Price Bid Form. Attachments containing prices submitted along with tender shall not be considered for evaluation, while the same may be considered for award, if found lower. The price should be quoted for the unit of measurement indicated in the e-tender document. <p><i>Name of bidder's dealing person with Contact No(s), Email ID and Address of correspondence shall be provided in the bid. Documents submitted by the bidders may be verified for authenticity by BHEL.</i></p> |
| 3.1.2 | <p>Tenders shall be addressed to BHEL officials by name & designation as given in NIT and sent to the following address:</p> <p>Vendor Complex, Bharat Heavy Electricals Ltd. Project Engineering & Systems Division Ramachandrapuram, Hyderabad - 502032 Telangana, India</p> |
| 3.1.3 | Tenders can either be deposited in vendor complex in person or sent by Courier/ Registered or Speed Post to the above-mentioned address. It shall be bidders' responsibility to ensure that tenders are delivered in time. |
| 3.1.4 | Bidder can also submit offer through email. The offer is to be submitted in two parts. Technical offer is to be submitted to mail ID technicalbid_hyd@bhel.in , and price bid is to be submitted to mail ID pricebid_hyd@bhel.in . <i>Interchanging the information in the mails may lead to rejection of the offer.</i> |
| 3.1.5 | Supplier shall have no claim on e-mail offers sent to any other e-mail ID. In case of e-mail offers, the mail subject should contain Enquiry No. Due date and Supplier name. Supplier address including contact details shall be mentioned in the content of the mail. Without these details offer is liable for rejection. |
| 3.1.6 | It shall be mandatory for the Bidder to submit the "Proforma Declaration of Acceptance of BHEL's Techno-Commercial Terms" as mentioned in Annexure-1 along with their offer (Part-1 Offer – in case of two-part Bids). Bids received without this declaration shall be liable for rejection. |
| 3.2 | MARKING ON ENVELOPES (IN CASE BIDS ARE NOT SUBMITTED THROUGH EMAIL) |
| 3.2.1 | <p>Envelopes shall be addressed to the official inviting tender with the following markings:</p> <p>PART-I BID: 1. Tender Enquiry No. and Item Description; 2. Due Date for Opening; 3. "Techno-Commercial Bid".</p> <p>PART-II BID: 1. Tender Enquiry No and Item Description; 2. Due Date for Opening; 3. "Price Bid".</p> |
| 3.2.2 | Both Parts - I & II shall be submitted in separate sealed covers duly superscribed as indicated above and shall be enclosed further in a main cover duly sealed and superscribed as: "TENDER FOR _____" |

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|------------|--|
| | AGAINST TENDER ENQUIRY NO. _____ DUE ON _____ CONTAINING PART-I & PART-II BIDS" |
| 3.2.3 | Envelope not marked with tender enquiry number is liable to be ignored and may not be opened. |
| 3.3 | OPENING OF BIDS |
| 3.3.1 | PART-I (Techno-Commercial Bid) may be opened on Due Date and time specified in the NIT/ RFQ, or extension thereof, in presence of Bidders who may like to attend. Incomplete offers are liable to be rejected. Purchaser reserves the right to open both Part-I and Part-II together. |
| 3.3.2 | After technical & commercial evaluation of the offers received and clarifications obtained (if required), Part-II (Revised Price Bid/ Original Price Bid along with Price Impact and Discount, if any) shall be opened, for which the date and time shall be intimated to technically and commercially acceptable bidders in case of public opening. BHEL may opt to finalize the prices through Reverse Auction amongst technically and commercially acceptable bidders. BHEL reserves the right to open the earlier price bids, if any, submitted by the bidder(s), if required. |
| 3.3.3 | No correspondence shall be entertained from the Bidders after opening of Part-II (Price bid), except clarifications (if any) asked by BHEL in writing. |
| 3.3.4 | Only one representative of the bidder will be permitted to be present for tender opening. The representative to be present for tender opening should have proper authentication/ Photo Identity Proof which needs to be produced on demand by BHEL. Carrying of mobile phone/ camera or any such photo/ voice recording device by bidders' representatives in the tender opening room/ building/ designated area is banned. If any bidders' representative does not follow the instructions, he will not be permitted to attend the tender opening. |
| 3.3.5 | Purchaser may negotiate the prices with L1 bidder after price bid opening. |
| 4.0 | DISCOUNT AND PRICE IMPACT |
| 4.1 | DISCOUNT |
| 4.1.1 | Any discount/ revised offer submitted by a bidder on his own shall be accepted provided it is received on or before the due date and time of offer submission. The discount shall be applied on pro-rata basis to all items unless specified otherwise by the bidder. Unsolicited discounts/revised offers given after due date and time of offer submission shall not be accepted. |
| 4.1.2 | Discount offered by any bidder in the original price bid, against the present Tender Enquiry, which is also indicated to be applicable to any other Enquiry, shall be considered against the present Tender Enquiry only. |
| 4.1.3 | In case only percentage discount is indicated, the same shall be applicable to optional prices also. Discount offered shall be valid for full duration of offer validity. Any conditional discount shall not be considered for evaluation. |
| 4.2 | PRICE IMPACT |
| 4.2.1 | In case there is no change in the technical scope and/or specifications and/or commercial terms & conditions, the bidder/s shall not be allowed to change his/their price bids after the due date, within the validity period of offer. |
| 4.2.2 | In case of changes in scope and/or technical specification and/or commercial terms & conditions, having price implications, techno-commercially acceptable bidders shall be asked by BHEL (after freezing the scope, technical specifications and commercial terms & conditions) to submit the impact of such changes on their price bid. A cut-off date and time shall be given to all the techno-commercially acceptable bidders to submit the impact on their price bids. |
| 4.2.3 | If the bidder submits impact opposite of the asked for (positive or negative), the impact will be considered as ZERO for evaluation as well as ordering. If BHEL does not specify the type of impact (positive or negative), bidders shall be free to quote the impact in positive or negative. |
| 4.2.4 | (FOR CONVENTIONAL MODE ONLY) In the event of any bidder, after finalizing the technical specification & scope of supply, opting to revise and submit their latest price bid instead of submitting impact on their price bid asked by BHEL, then their original price (i.e. the previous bid) shall also be opened. |
| 4.2.5 | (FOR CONVENTIONAL MODE ONLY) Price Impact/ Discount/ Revised Price Bid shall be duly super scribed as: "Price Impact / Discount/ Revised Price Bid (Part-II) (delete whichever is not applicable), Revision No. ____ against Tender Enquiry No. _____ dated ____" |
| 5.0 | AUTHORITY FOR THE TENDER SIGNING |
| 5.0.1 | A person signing the tender or any other document in respect of Order/ Contract on behalf of the Bidder, without disclosing his authority to do so shall be deemed to warrant that he has the authority to bind the Bidder. |
| 5.0.2 | Bidder must submit authorization letter or power of attorney for submission and signing of tender when asked by BHEL. If it is discovered at any time that the person so signing had no authority to do so, the Purchaser may, without prejudice to any other right or remedy, cancel the Order/ Contract and make or authorize the purchase of the stores at the risk and cost of such Bidder and hold such Bidder liable to Purchaser for all costs and damages arising from cancellation of the Order/ Contract including any loss which Purchaser may sustain on account of such purchase. |
| 6.0 | CLARIFICATIONS REQUIRED BY BIDDERS |

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| 6.0.1 | Technical and commercial clarifications required before submission of the tender should be addressed to the official(s) inviting the tender. |
| 6.0.2 | The bidder shall have no claim for extension of bid submission due date, whether or not BHEL chooses to reply to any technical or commercial clarification sought by the bidder. |
| 7.0 | DEVIATIONS FROM NIT |
| 7.0.1 | Deviations (Commercial as well as Technical) from NIT are generally not acceptable. <i>Non-compliance with any of the requirements and instructions in the NIT may result in rejection of the tender.</i> |
| 7.0.2 | In case of deviations from NIT, bidder to clearly spell out the deviations in Annexure-2 only. Any comments/clarifications/deviations etc. not mentioned in deviation sheet and written elsewhere in the offer shall not be taken cognizance of. All terms & conditions of the tender shall be deemed to be accepted by the bidder except those specifically mentioned by the bidder under Annexure-2 . |
| 7.1 | LOADING FOR COMMERCIAL DEVIATIONS |
| 7.1.1 | No deviations in GCC terms and conditions are generally acceptable, and bids with deviations are liable to be rejected. However, in exceptional circumstances, BHEL may accept deviations with Loading for deviations cases mentioned in Annexure-7 . |
| 8.0 | VALIDITY OF OFFER |
| 8.0.1 | Bidder's offer shall be submitted with the following validity periods for placement of Purchase Order: |
| 8.0.2 | Original offer shall be valid for 90 days from Part-I opening. |
| 8.0.3 | If revised price bid/ price impact is asked by BHEL, the validity of the offer shall be 60 days from the date of revised price bid/ price impact or 90 days from Part-I opening, whichever is later. |
| 8.0.4 | In case where Reverse Auction (RA) is conducted, the validity of the offer shall be 60 days from the date of RA completion or 90 days from Part-I opening, whichever is later. |
| 8.0.5 | In case of negotiation, the validity of the offer shall be 60 days from the date of receipt of revised price/negotiated final price or 90 days from Part-I opening, whichever is later. |
| 8.0.6 | Prices of Recommended Spares, O&M Spares and Mandatory Spares (wherever these are Optional items) shall be valid till 2 years from the date of PO (for placement of order). |
| 8.0.7 | Unit prices for scope addition/ deletion shall be valid till execution of PO (for amendment of PO). |
| 8.0.8 | The prices for supervision of erection and commissioning shall be remain valid for the guarantee period of the main equipment/system/package |
| 8.0.9 | Offers with shorter validity than above are liable to be rejected. |
| 9.0 | PRICE DISCREPANCY |
| 9.0.1 | <p>Following shall be considered for evaluation and ordering for non-conformities/ errors/ discrepancies in price bid:</p> <ol style="list-style-type: none"> Bidders should quote total price in "figures" with corresponding words in price bid format If in the price structure quoted for the required goods/ services/ works, there is discrepancy between the unit price and the total price (which is obtained by multiplying the unit price by the quantity), the unit price shall prevail and the total price corrected accordingly, unless in the opinion of the Purchaser there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price corrected accordingly. If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail, and the total shall be corrected. If there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above. If there is such discrepancy in an offer, the same shall be conveyed to the bidder with target date up to which the bidder has to send his acceptance on the above lines and if the bidder does not agree to the decision of the Purchaser, the bid is liable to be ignored and treated as withdrawal of offer after price opening. Taxes and duties if not specified clearly as extra shall be considered as included in the basic price and, therefore, shall not be reimbursed. |
| 10.0 | LANGUAGE & CORRECTIONS |
| 10.0.1 | All documentations and correspondence regarding the contract shall be in English language. |
| 10.0.2 | Bidder shall quote the rates in English language and international numerals only. Total Price shall be entered in figures as well as in words. For the purpose of tender, metric system of units shall be used. |
| 10.0.3 | All entries in the tender shall either be typed or written legibly in ink. Bid submitted with illegible documents shall be treated as incomplete, making the bid liable for rejection. |
| 10.0.4 | Bid should be free from correction, overwriting, using corrective fluid, etc. Any interlineation, cutting, erasure or overwriting shall be valid only if they are attested under full signature(s) of person(s) signing the bid else bid shall be liable for rejection. All overwriting/ cutting, etc. will be numbered by bid opening officials and announced during bid opening. |
| 11.0 | BIDDER TO INFORM HIMSELF FULLY |

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| 11.0.1 | Bidder shall closely peruse all clauses, specifications & drawings etc. indicated in NIT documents before quoting. In case of any doubt about meaning of any portion of tender specifications or discrepancies or omissions in drawings/ tender document or clarifications regarding scope of work etc., Bidder shall contact the official(s) inviting the tender for clarifications, before submitting the offer. |
| 11.0.2 | Bidder shall make independent enquiries as to conditions and circumstances affecting cost estimates, and possibility of executing supplies/ works as described. Bidder shall be deemed to have inspected and examined the site and its surroundings and to have satisfied himself as to the form and nature of the site, the quantities and materials necessary for completion of the work and means of transport and access to the site, the accommodation required, general labour position at site and to have quoted prices taking into consideration the risks, contingencies and other circumstances which may influence or affect execution of the Order/ Contract. |
| 11.0.3 | It is the responsibility of Bidder to keep himself informed about all taxes & duties applicable on materials/ services as prevailing at the time of tendering. If the rates assumed by Bidder are less than the tariff rates prevailing at the time of tendering, the Bidder will be himself responsible for such under quotations. |
| 11.0.4 | Bidder should possess the knowledge of statutory, obligatory and mandatory requirements of various statutory authorities and should acquire full knowledge & information about site conditions before submission of the bid. |
| 12.0 | REVERSE AUCTION |
| 12.0.1 | BHEL reserves the right to go for Reverse Auction (RA) (Guidelines as available on www.bhel.com) after techno-commercial evaluation. The intent to go for RA will however, be specified in the NIT (refer SCC). |
| 12.0.2 | Bidders to give their acceptance with the offer for participation in RA. Non-acceptance to participate in RA may result in non-consideration of their bids, in case BHEL decides to go for RA. |
| 12.0.3 | Those bidders who have given their acceptance to participate in Reverse Auction will have to necessarily submit ' Process Compliance Form ' (to the designated service provider). Non-submission of 'Process compliance form' will be considered as tampering of the tender process and will invite action by BHEL as per extant guidelines for suspension of business dealings with suppliers/ contractors (as available on www.bhel.com). |
| 12.0.4 | The price bids (as submitted along with offer) of all techno-commercially qualified bidders shall be opened and same shall be considered as initial bid of bidders in RA. The RA start price and the decrement value shall be displayed during the dynamic bidding |
| 12.0.5 | The highest (H1) Bidder shall not be allowed to participate in the RA process if there are more than four techno-commercially qualified bidders. However, if the H1 bidder happens to be MSE or qualifying PPP-MII, Order 2017, he shall still be allowed to participate in the RA process. |
| 12.0.6 | In case of multiple H1s, all H1 bidders (excluding MSEs and bidders qualifying PPP-MII Order 2017) shall be removed. |
| 12.0.7 | If there are only three qualified bidders, there shall be no H1 removal. |
| 12.0.8 | Order shall be awarded to the lowest (L1) Bidder at the final L1 price after RA, unless otherwise specified in the NIT. |
| 13.0 | REJECTION OF TENDER AND OTHER CONDITIONS |
| 13.0.1 | Acceptance of tender will rest with Purchaser and does not bind him to accept the lowest of any tender and reserves to itself full rights for the following without assigning any reasons whatsoever: <ul style="list-style-type: none"> a. To reject any or all the tenders. b. To split the work amongst two or more Bidders. c. To award the work in part. d. To increase or decrease the quantities. e. To reject any commercial or technical deviation given in offer. |
| 13.0.2 | Standard pre-printed conditions of tenderer/bidder attached to offer will not be accepted and shall not be considered. |
| 13.0.3 | Purchaser will not be bound by any power of attorney granted by Bidder or by changes in composition of the firm made subsequent to award of Order/ Contract. Purchaser may, however, recognize such power of attorney and changes after obtaining proper legal advice, the cost of which will be chargeable to the Seller/ Contractor concerned. |
| 13.0.4 | Conditional bids, incomplete bids, bids containing absurd or unworkable rates and amounts, defective bids and bids not in accordance with tender conditions/specifications, are liable to be rejected. If the Bidder does not withdraw its deviation(s) and the deviation(s) is/are not acceptable to BHEL, the bid will be liable to be rejected. |
| 13.0.5 | If Bidder deliberately gives wrong information, Purchaser reserves the right to reject such an offer at any stage or cancel the Order/ Contract, if awarded, and forfeit the security deposit and bank guarantee. |
| 13.0.6 | The offers of the bidders who are under suspension by BHEL and also the offers of the bidders, who engage the services of the suspended firms, shall be rejected. The list of suspended firms is available on BHEL web site www.bhel.com |
| 14.0 | EVALUATION CRITERIA |
| 14.1 | TENDER EVALUATION |

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| 14.1.1 | <p>Techno-commercial evaluation shall be carried out on the basis of technical specifications, commercial terms and conditions and PQR (if applicable) specified in the tender documents and changes/clarifications thereof, if any. Bidders (other than cases of single part bids) shall be given an opportunity to withdraw the deviations/ furnish clarifications/ documents by appropriate cut-off date by authorized purchase executive.</p> <p>If the bidder does not withdraw its deviation(s) and the deviation(s) is/are acceptable to BHEL, loading of offers shall be done as per the loading criteria mentioned in this document/NIT.</p> <p>If no loading criteria is defined for any deviation, BHEL at its discretion, may derive the same and communicate it to the Bidder. If the Bidder does not withdraw its deviation(s) and the deviation(s) is/are not acceptable to BHEL, the bid will be liable to be rejected.</p> <p>In case of changes in scope and/or technical specification and/or commercial terms & conditions, having price implications, techno-commercially acceptable bidders shall be asked to submit the impact. For evaluation both original price offer and impact shall be considered.</p> |
| 14.1.2 | <p>If the bidder does not withdraw its deviation(s) and the deviation(s) is/are acceptable to BHEL, loading of offers shall be done as per the loading criteria mentioned in this document/NIT.</p> <p>If no loading criteria is defined for any deviation it will be derived and communicated to the Bidder. If the Bidder does not withdraw its deviation(s) and the deviation(s) is/are not acceptable to BHEL, the bid will be liable to be rejected</p> |
| 14.2 | COST EVALUATION |
| 14.2.1 | <p>Evaluation of prices shall be done item-wise unless otherwise specified in the SCC/Price Bid Format. Evaluation shall be on the basis of delivered cost, i.e. “total cost to BHEL” w.r.t the finalized technical scope and commercial conditions (after considering incidence of applicable taxes and duties and loading if any, and all available financial advantages, including those available from Owner, taxation authorities etc.).</p> |
| 14.2.2 | <p>For evaluation of offers in other than in Indian currency, exchange rate (TT selling rate of State Bank of India) as on date of tender opening (Part-I bid in case of two-part bid) shall be considered. If the relevant day happens to be a bank holiday, then the forex rate as on the previous bank (SBI) working day shall be taken.</p> |
| 14.2.3 | <p>In case of foreign bidders, the quoted C&F price shall be loaded by following factors to arrive at total FOR Site price:</p> <ol style="list-style-type: none"> Evaluation loading for quoted prices on FOB basis - Marine freight @3% of FOB value for dispatches from Europe/ Asia/ Australia/ African continent and 5% of FOB value for dispatches from USA/ American continent. For insurance @ 0.1% of FOB value. Basic Custom Duty or any other levy for which input credit is not available to Purchaser – as prevailing on date of price bid opening. Port handling/ clearing charges – @ 1% of C&F value. Inland freight – @ 1% of C&F value. |
| 14.2.4 | The evaluation currency for this tender shall be INR. |
| 15.0 | FOREIGN SUPPLIERS & INDIAN AGENTS OF FOREIGN SUPPLIERS |
| 15.0.1 | <p>Please refer our website www.bhel.com for details. [http://www.bhel.com/vendor_registration/pdf/SEARP-2016_abridged_for_web.pdf]</p> |
| 16.0 | ETHICS IN BUSINESS DEALINGS |
| 16.0.1 | <p>In order to protect its commercial interests, BHEL may take action against suppliers/ contractors by way of suspension of business dealings with them, who either fail to perform or are in default without any reasonable cause, cause loss of business/ money/ reputation, indulge in malpractices, cheating, bribery, fraud or any other misconduct or formation of cartels so as to influence the bidding process or influence the price as per extant policy of the company (relevant information available under www.bhel.com).</p> |
| 17.0 | BHEL FRAUD PREVENTION POLICY |
| 17.0.1 | <p>The Bidder along with its associate/ collaborators/ sub-contractors/ sub-Bidders/consultants/ service providers shall strictly adhere to BHEL Fraud Prevention Policy displayed on BHEL website http://www.bhel.com and shall immediately bring to the notice of BHEL Management about any fraud or suspected fraud as soon as it comes to their notice.</p> |
| 18.0 | INTEGRITY COMMITMENT |
| 18.0.1 | Integrity commitment, performance of the contract and punitive action thereof: |
| 18.0.2 | <p>Commitment by BHEL: BHEL commits to take all measures necessary to prevent corruption in connection with the tender process and execution of the contract. BHEL will during the tender process treat all Bidder(s) in a transparent and fair manner, and with equity.</p> |
| 18.0.3 | <p>Commitment by Bidder/ Supplier/ Contractor: The bidder/ supplier/ contractor commit to take all measures to prevent corruption and will not directly or indirectly influence any decision or benefit which he is not legally entitled to nor will act or omit in any manner which tantamount to an offence punishable under any provision of the Indian Penal Code, 1860 or any other law in force in India.</p> |
| 18.0.4 | <p>The bidder/ supplier/ contractor will, when presenting his bid, disclose any and all payments he has made, and is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract and shall adhere to relevant guidelines issued from time to time by Govt. of India/ BHEL.</p> |

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| 18.0.5 | The bidder/ supplier/ contractor will perform/ execute the contract as per the contract terms & conditions and will not default without any reasonable cause, which causes loss of business/ money/ reputation, to BHEL. |
| 18.0.6 | If any bidder/ supplier/ contractor during pre-tendering/ tendering/ post tendering/ award/ execution/ post-execution stage indulges in mal-practices, cheating, bribery, fraud or and other misconduct or formation of cartel so as to influence the bidding process or influence the price or acts or omits in any manner which tantamount to an offence punishable under any provision of the Indian Penal Code, 1860 or any other law in force in India, then, action may be taken against such bidder/ supplier/ contractor as per extant guidelines of the company available on www.bhel.com and/or under applicable legal provisions. |
| 18.1 | INTEGRITY PACT |
| 18.1.1 | IP is a tool to ensure that activities and transactions between the Company and its Bidders/ Contractors are handled in a fair, transparent and corruption free manner. |
| 18.1.2 | Integrity Pact (IP) will be applicable for all tenders/ contracts valuing more than a specific value as specified in SCC/NIT. Wherever applicable, Integrity Pact document shall be issued as part of the NIT and shall be returned by bidders along with their techno commercial bids, duly signed by authorized signatories. Only those bidders who enter into Integrity Pact with BHEL would be qualified to participate in the bidding process. |
| 18.1.3 | Bidders shall have to enter into Integrity Pact with BHEL if specified in SCC/NIT, failing which bidder's offer will be rejected. |
| 18.1.4 | A panel of Independent External Monitors (IEMs) have been appointed by BHEL with the approval of CVC. The names of the IEMs in panel are mentioned in NIT. In case of any complaint arising out of the tendering process, the matter may be referred to the any of the IEMs mentioned in the NIT. All correspondence with the IEMs shall be done through email only |
| 18.1.5 | No routine correspondence shall be addressed to the IEM (phone/ post/ email) regarding the clarifications, time extensions or any other administrative queries, etc. on the tender issued. All such clarification/ issues shall be addressed directly to the tender issuing (procurement) department officials whose contact details are provide in NIT |
| 19.0 | TENDERING COST |
| 19.0.1 | Bidder shall bear all costs associated with the preparation and submission of its bid. BHEL, shall in no case, be responsible of liable for these costs, regardless of the conduct or the outcome of the bidding process. |
| 20.0 | BENEFITS EARMARKED FOR PURCHASE FROM MICRO & SMALL ENTERPRISES (MSES) – INDIGENOUS PURCHASE |
| 20.0.1 | All Micro and Small Enterprises (MSEs) as defined in MSE Procurement Policy are exempt from Paying earnest money deposit. Udyam registered bidders shall submit Udyam Certificate along with bid documents. Date to be reckoned for determining the deemed validity will be the last date of Technical bid submission. Non- submission of such document will lead to consideration of their bid, at par with other bidders and MSE status of such bidders shall be shifted to Non-MSE Category till the supplier submits these documents. (Only documents submitted before opening of Price Bid shall be accepted.) |
| 20.0.2 | In case of divisible tender , if MSEs quoting price within price band of L1+15% shall also be allowed to supply a portion of requirement by bringing down their price to L1 price in a situation where L1 price is from someone other than a MSE and such MSE shall be allowed to supply up to 25% of total tendered value. In case of more than one such MSE, the supply shall be shared proportionately. Out of these 25% minimum 3% shall be earmarked for MSEs owned by women and 6.25% for MSEs owned by SC/STs who submit the bid along with relevant documents. This is applicable in case of item-level evaluation tenders and divisible tenders only. |
| 20.0.3 | In case of an upward change in terms of investment in plant and machinery or equipment or turnover or both, and consequent re-classification, an enterprise will maintain its prevailing status till expiry of one year from the close of the year of registration. In case of reverse-graduation of an enterprise, whether as a result of re-classification or due to actual changes in investment in plant and machinery or equipment or turnover or both, and whether the enterprise is registered under the Act or not, the enterprise will continue in its present category till the closure of the financial year and it will be given the benefit of the changed status only with effect from 1st April of the financial year following the year in which such change took place. |
| 20.0.4 | MSE suppliers can avail the intended benefits only if they submit along with the offer, attested copies of Udyam Certificate . Date to be reckoned for determining the deemed validity will be the date of bid opening (Part-1 in case of two-part bid). Non submission of such documents will lead to consideration of their bids at par with other bidders. No benefit shall be applicable for the enquiry if any deficiency in the above required documents are not submitted before the price bid opening. If the tender is to be submitted through e-procurement portal, then the above required documents are to be uploaded on the portal. This provision for MSE will apply subject to the condition that the participating MSE meets the tender requirements. |
| 20.0.5 | In case of any change in the MSE status of the bidder, it shall be the responsibility of the bidder to notify the change as a part of the bid document. If at a later date it comes to the knowledge of BHEL, that the change in the status has not been intimated by the bidder and the order is obtained under the premise of an MSE |

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| | then BHEL may cancel the pending order against this tender and take necessary steps for suspension of the business dealing with the bidder as per the procurement policy of BHEL. |
| 20.0.6 | In case if the items fall under category of reserved items as defined in "Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012" and if any of the MSE bidder(s) is techno-commercially qualified then the price bids of only MSE bidders shall be opened. If no MSE bidder is techno-commercially qualified, then price bids of all techno-commercially qualified bidders shall be opened. |
| 20.0.7 | In the event of any change as notified by Govt. of India in "Public Procurement Policy for Micro and Small Enterprises (MSEs) Order 2012", same will supersede. |
| 21.0 | PUBLIC PROCUREMENT (PREFERENCE TO MAKE IN INDIA) |
| 21.1 | MAKE IN INDIA |
| 21.1.1 | For this procurement, the local content to categorize a supplier as a Class-I local supplier/ class-II local supplier/ Non-Local supplier and purchase preference to Class-I local supplier, is as defined in Public Procurement (Preference to Make in India), Order 2017 dated 04.06.2020 issued by Department of Industrial Policy & Promotion (DPIIT). In case of subsequent orders issued by the nodal ministry, changing the definition of local content for the items of the NIT, the same shall be applicable even if issued after issue of this NIT but before opening of Part-II bids against this NIT. |
| 21.1.2 | In the event of any Nodal Ministry prescribing higher or lower percentage of Purchase preference and / or local content in respect of this procurement, same shall be applicable. All Govt. notifications and Nodal Ministries/Departments notifications are published and updated on DPIIT website (https://dipp.gov.in/public-procurements) are to be referred. |
| 21.1.3 | Verification of Local content: The bidder along with offer will be required to indicate percentage of local content and certify that the item offered meets the local content requirement for 'Class-I local supplier'/'Class-II local supplier as the case may be. The bidders to furnish self-certification or a certificate from the statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of supplier other than companies) giving the percentage of local content and shall give details of the locations(s) at which the local value addition is made. The bidder will be required to provide a certificate giving the percentage of local content in the proforma provided at Annexure-3 . |
| 21.2 | DEFINITIONS |
| 21.2.1 | Local Content: Amt. of value added in India which shall, unless otherwise prescribed by the Nodal Ministry, be the total value of the item procured(excluding net domestic indirect taxes) minus the value of imported content in the item(including all customs duties) as a proportion of the total value, in percent. |
| 21.2.2 | Class-1 local Supplier: Supplier or service provider whose goods, services or works offered for procurement, has local content equal to or more than 50%, as defined under Revised Public Procurement(Preference to Make in India)Order 2017 of DPIIT dated 04.06.2020. |
| 21.2.3 | Class-2 local Supplier: Supplier or Service provider, whose goods, services or works offered for procurement, has local content more than 20% but less than 50%, as defined under Revised Public Procurement (Preference to Make in India) Order 2017 of DPIIT dated 04.06.2020. |
| 21.2.4 | Non-local Supplier: Supplier or Service provider whose goods, services or works offered for procurement, has local content <=20%, as defined under Revised Public Procurement (Preference to Make in India) Order 2017 of DPIIT dated 04.06.2020. |
| 21.3 | PURCHASE PREFERENCE |
| 21.3.1 | The purchase preference and procurement methodology shall be as per the Public Procurement (Preference to Make in India) notifications of Department of Industrial Policy & Promotion (DIPP) issued from time to time. Bidder's to refer the NIT/SCC for Divisibility or non-divisible contract information. |
| 21.4 | MARGIN OF PURCHASE PREFERENCE |
| 21.4.1 | Margin of purchase preference means the maximum extent to which the price quoted by a " Class-1 local Supplier " may be above the L1 bidder's price. The margin of purchase preference shall be 20%. |
| 22.0 | STARTUPS |
| 22.0.1 | For Startups Medium Enterprises, Condition of prior turnover and prior experience in Public Procurement may be relaxed subject to meeting of Quality and Technical Specifications. Startups are exempt from paying earnest money deposit. Bidders to submit necessary documentary proof to avail the applicable benefits. |
| 23.0 | SUPPLIER REGISTRATION WITH BHEL (APPLICABLE FOR UN-REGISTERED VENDORS) |
| 23.0.1 | In case of Limited Tender, bidder has to get registered with PE&SD, BHEL, Hyderabad for the category of item enquired, in case he is not registered as on date. Otherwise his offer is liable for rejection. |
| 23.0.2 | In case of Open Tender / Limited Tender where BHEL's customer approval is required at the final stage of order placement, bidder has provide all required documentation like credential. Bidder's offer will be evaluated for price, only on final approval by BHEL's customer. |
| 23.0.3 | In case of Limited Tender, Techno-commercial (Part-I) offer will be considered subject to their permanent supplier registration for this material category with BHEL before opening of price bid. Non-Compliance to above requirement will lead to rejection of bidder's offer & same will not be considered for evaluation. |

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| 23.1 | PROCEDURE FOR GETTING REGISTERED |
| 23.1.1 | Apply online. Kindly use the following links to enter into supplier registration portal. a) http://supplier.bhel.in/ (or) b) https://suppliers.bheltry.co.in/ |
| 23.1.2 | Please note that Bidder's application will be evaluated with respect to technical, quality, organizational, and financial data. |
| 23.1.3 | In case of any difficulty, please feel free to contact the following. Sr. Officer/ Manager, Supplier Development Cell Project Engineering & Systems Division, BHEL, Ramachandrapuram, Hyderabad – 502032, Telangana, India (Phone number and Contact Details are available in SCC.) |
| 24.0 | RXIL (TReDS) PLATFORM |
| 24.0.1 | PE&SD is registered with RXIL (TReDS) platform. MSE bidders are requested to get registered with RXIL (TReDS) platform to avail the facility as per the GOI guidelines. |
| 25.0 | RESTRICTION ON BIDDERS FROM COUNTRIES SHARING LAND BORDER WITH INDIA |
| 25.0.1 | Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority. |
| 25.0.2 | "Bidder" (including the term 'tenderer', 'consultant' or 'service provider' in certain contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by such person, participating in a procurement process. |
| 25.0.3 | "Bidder from a country which shares a land border with India" for the purpose of this clause (Cl. 26.0) means: a. An entity incorporated, established or registered in such a country; or b. A subsidiary of an entity incorporated, established or registered in such a country; or c. An entity substantially controlled through entities incorporated, established or registered in such a country; or d. An entity whose <i>beneficial owner</i> is situated in such a country; or e. An Indian (or other) agent of such an entity; or f. A natural person who is a citizen of such a country; or g. A consortium or joint venture where any member of the consortium or joint venture falls under any of the above. |
| 25.0.4 | The <i>beneficial owner</i> for the purpose of (Cl. 26.0.3(d)) above will be as under: 1. In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has a controlling ownership interest or who exercises control through other means. <i>Explanation:</i> a. "Controlling ownership interest" means ownership of or entitlement to more than twenty-five per cent. of shares or capital or profits of the company; b. "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders' agreements or voting agreements; 2. In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership; 3. In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals; 4. Where no natural person is identified under (1) or (2) or (3) above, the beneficial owner is the relevant natural person who holds the position of senior managing official; 5. In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership. |
| 25.0.5 | An Agent is a person employed to do any act for another, or to represent another in dealings with third person. |
| 25.1 | DEFINITION OF COMPETENT AUTHORITY AND PROCEDURE FOR REGISTRATION |
| 25.1.1 | A. The Competent Authority for the purpose of registration under this Order shall be the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade (DPIIT)*. B. The Registration Committee shall have the following members*: i. An officer, not below the rank of Joint Secretary, designated for this purpose by DPIIT, who shall be the Chairman; |

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| | <p>ii. Officers (ordinarily not below the rank of Joint Secretary) representing the Ministry of Home Affairs, Ministry of External Affairs, and of those Departments whose sectors are covered by applications under consideration;</p> <p>iii. Any other officer whose presence is deemed necessary by the Chairman of the Committee.</p> <p>C. DPIIT shall lay down the method of application, format etc. for such bidders as stated in para 1 of this Order.</p> <p>D. On receipt of an application seeking registration from a bidder from a country covered by para 1 of this Order, the Competent Authority shall first seek political and security clearances from the Ministry of External Affairs and Ministry of Home Affairs, as per guidelines issued from time to time. Registration shall not be given unless political and security clearance have both been received.</p> <p>E. The Ministry of External Affairs and Ministry of Home Affairs may issue guidelines for internal use regarding the procedure for scrutiny of such applications by them.</p> <p>F. The decision of the Competent Authority, to register such bidder may be for all kinds of tenders or for a specified type(s) of goods or services, and may be for a specified or unspecified duration of time, as deemed fit. The decision of the Competent Authority shall be final.</p> <p>G. Registration shall not be granted unless the representatives of the Ministries of Home Affairs and External Affairs on the Committee concur*.</p> <p>H. Registration granted by the Competent Authority of the Government of India shall be valid not only for procurement by Central Government and its agencies/ Public enterprises etc. but also for procurement by State Governments and their agencies/ public enterprises etc. No fresh registration at the State level shall be required.</p> <p>I. The Competent Authority is empowered to cancel the registration already granted if it determines that there is sufficient cause. Such cancellation by itself, however, will not affect the execution of contracts already awarded. Pending cancellation, it may also suspend the registration of a bidder, and the bidder shall not be eligible to bid in any further tenders during the period of suspension.</p> <p>J. For national security reasons, the Competent Authority shall not be required to give reasons for rejection I cancellation of registration of a bidder.</p> <p>K. In transitional cases falling under para 3 of this Order, where it is felt that it will not be practicable to exclude bidders from a country which shares a land border with India, a reference seeking permission to consider such bidders shall be made by the procuring entity to the Competent Authority, giving full information and detailed reasons. The Competent Authority shall decide whether such bidders may be considered, and if so shall follow the procedure laid down in the above paras.</p> <p>L. Periodic reports on the acceptance! refusal of registration during the preceding period may be required to be sent to the Cabinet Secretariat. Details will be issued separately in due course by DPIIT.</p> <p>[* NOTE:</p> <p>i. In respect of application of this Order to procurement by! under State Governments, all functions assigned to DPIIT shall be carried out by the State Government concerned through a specific department or authority designated by it. The composition of the Registration Committee shall be as decided by the State Government and paragraph G above shall not apply. However, the requirement of political and security clearance as per para D shall remain and no registration shall be granted without such clearance.</p> <p>ii. Registration granted by State Governments shall be valid only for procurement by the State Government and its agencies! public enterprises etc. and shall not be valid for procurement in other states or by the Government of India and their agencies/ public enterprises etc.]</p> |
| 25.2 | VALIDITY OF REGISTRATION |
| 25.2.1 | In respect of tenders, registration should be valid at the time of submission of bids and at the time of acceptance of bids. In respect of supply otherwise than by tender, registration should be valid at the time of placement of order. If the bidder was validly registered at the time of acceptance / placement of order, registration shall not be a relevant consideration during contract execution. |
| 25.3 | MANDATORY CERTIFICATE REGARDING COMPLIANCE |
| 25.3.1 | Bidders must submit a certificate duly signed and stamped along with their offer regarding their compliance with the requirement mentioned under Clause 26.0. The format of Certificate is available at Annexure-5 . |
| 25.3.2 | If such certificate given by a bidder whose bid is accepted is found to be false, this would be a ground for immediate termination and further legal action in accordance with law. |
| 26.0 | INITIAL ADVANCE |
| 26.0.1 | Initial advance is not applicable and will not be considered for this bid/ contract. |
| 27.0 | DECLARATION FOR NON-FORMATION OF CARTEL |
| 27.0.1 | The Bidder declares that they will not enter into any illegal or undisclosed agreement or understanding, whether formal or informal with other Bidder(s). This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process. In case, the Bidder is found having indulged in above activities, suitable action shall be taken by BHEL as per extant policies/ guidelines. |
| 27.0.2 | Declaration to submitted by the Bidder along with his offer as per Annexure-4 . |

GENERAL COMMERCIAL TERMS & CONDITIONS

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PART-1: INTRODUCTION

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| 1.0 | CONTRACT |
| 1.0.1 | Contract between Purchaser and Seller/ Contractor is merely a contract and shall not be treated as partnership between the parties to the contract. |
| 1.0.2 | The general terms of business or sale of the bidder shall not apply to Buyer and any other terms and conditions of the bidders attached/ referred against the tender enquiry will be treated as null and void <i>ab initio</i> . |
| 1.0.3 | Any deviations from or additions to these 'General Conditions of Contract for Purchase' require Buyer's express written consent. Acceptance, receipt of shipments or services or effecting payment shall not mean that the general terms of business or sale of the Seller have been accepted. |
| 1.0.4 | Purchase orders/ Contracts, agreements and amendments thereto shall be binding if made or confirmed by the Buyer in writing. |
| 1.0.5 | Only the Purchasing department of the Buyer is authorized to issue the Purchase Order or any amendment thereof. |
| 1.1 | SCOPE OF CONTRACT |
| 1.1.1 | The scope of work, if not otherwise mentioned in the contract, shall be on the basis of a single contractor's responsibility, completely covering all Technical Specifications referred in and including accompanying Technical Specification. |
| 1.1.2 | Detailed design of all the equipment and subsystem and work as per specification. |
| 1.1.3 | Complete manufacture / Procurement of all the equipment / subsystem including shop testing and assembly as per specification. |
| 1.1.4 | Providing of special tools and tackles and services necessary for satisfactory execution of the contract. |
| 1.1.5 | Providing engineering drawings, data sheets, operation manual, etc. |
| 1.1.6 | Packing and transportations of the Goods from the manufacturer's works to the site. |
| 1.1.7 | E&C works or Supervision of E&C works at destination site (as applicable), called for elsewhere in the contract documents |
| 1.1.8 | Performance testing and obtaining site certification regarding satisfactory performance as per Specification, where applicable and as prescribed in the Contract documents and/or mutually agreed upon by BHEL/ Purchaser and the Contractor. |
| 1.2 | APPLICATION |
| 1.2.1 | Unless otherwise provided in the contract documents, these general conditions shall govern the works of the accompanying technical specifications. Specific conditions and conditions in other documents, if attached to this tender, shall be read in conjunction with these general conditions, and these conditions together will form a part of the contract. |
| 1.3 | ORDER OF PRECEDENCE |
| 1.3.1 | <p>In case of any inconsistency, conflicts or contradiction among any of the contract documents, the interpretations will be based on the following order of precedence:</p> <ol style="list-style-type: none"> Amendments to Purchase Order/ Work Order/ Framework Agreement Purchase Order/ Work Order/ Framework Agreement Letter of intent (LOI)/ Letter of Award (LOA) Clarifications agreed between Buyer and Seller as regards to the tender or the bidding conditions Corrigenda to NIT, with those of later date having precedence over those of earlier date Enquiry letter and annexures except documents listed in point no (vii) to (ix) below Technical specifications including their annexures Special Conditions of Contract (SCC) General Conditions of Contract (GCC) |
| 2.0 | ACCEPTANCE OF ORDER |
| 2.0.1 | <p>Issuance of Purchase order by the purchaser shall result in a binding contract between the seller/contractor and the Buyer. The seller shall send the order acceptance/acknowledge in totality within seven days from the date of LOI/ Purchase order and bring to the notice of BHEL, any discrepancy/errors with regard to scope of work, rates, taxes & duties, agreed terms & conditions etc. for due rectification.</p> <p>In case of any clerical error in the LOA/ Purchase order with respect to agreed Terms & Conditions, BHEL reserves the right to issue correction(s) as and when noticed. Purchaser reserves the right to revoke the order placed if the order confirmation differs from the original order placed. Purchaser shall only be legally bound if agreed explicitly in writing to be in agreement with the deviation. The acceptance of deliverables or supplies by Purchaser as well as payments made in this regard shall not imply acceptance of any deviations.</p> |
| 2.0.2 | The Purchaser order will be deemed to have been accepted by seller if no communication to the contrary is received within seven days from the date of PO/LOA and LOA/ Purchase order issued shall be deemed as having no discrepancy/ errors. Purchaser is at liberty to send signed PO through electronic media such as e-mail and the receipt of which shall be treated as receipt of order. |
| 3.0 | TIME (THE ESSENCE OF CONTRACT) |

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| 3.0.1 | The time and date of material supply completion stipulated in the contract Documents shall be deemed to be the essence of the Contract. The Contractor shall so organise their resources and perform so as to complete the work not later than the aforesaid date of completion. The contractor shall commence the works and shall proceed with the same with due expedition and without delay except as may be expressly sanctioned or ordered by the Engineer. If the contractor fails to commence the work or organize his resources to enable delivery of supplies within the stipulated time, BHEL at their sole discretion will have the right to cancel the contract. In such an event the contractor's security deposit with BHEL will stand forfeited without any further reference to the contractor, without prejudice to any and all of the BHEL's other rights and remedies in this regard. |
| 4.0 | CONTRACT PRICE |
| 4.0.1 | The contract price is the agreed sum of money stated in the contract documents to be paid to the contractor for the successful completion of supply and execution of the works in accordance with the terms of the contract. The contract price shall be for the entire scope of the work with the break-ups as specified. |
| 4.0.2 | The individual item rates or lump sum price as the case may be, in the schedule of this contract shall be deemed to be firm for the entire period of the Contract or extended period of contract and no escalation in the rates or price shall be permissible for any reason whatsoever unless otherwise specified. |
| 4.0.3 | The contract price shall not be varied in respect of the fluctuations in rate of wages or allowances payable to the labour or in the cost of materials, consumables, water, fuel, power or for anticipated profit or alleged losses or for any other reason whatsoever. |
| 4.0.4 | Prices shall remain Firm (or with PVC as specified in NIT) for any increase in the Order/ Contract value up to plus 10% (for any amendment) within three years from the date of original PO or till execution of contract whichever is earlier, unless specified otherwise in NIT. The Purchaser shall have the right to increase or decrease quantities and scope up to the above extent of value and Vendor/ Contractor shall be bound to accept the same at the contracted prices without any escalation. |
| 5.0 | QUANTITY VARIATION |
| 5.0.1 | BHEL shall have the right to increase/ decrease bid quantities up to plus 10% of the order value and the bidder shall be bound to accept the same at the final order rates without any escalation. |
| 5.0.2 | Unit rates of detailed BOQ list, where applicable, shall be valid till contract completion. |

PART-2: PAYMENT, TAXES, SECURITIES, PENALTIES & RECOVERIES

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| 6.0 | TERMS OF PAYMENT |
| 6.1 | SUPPLY PACKAGES |
| 6.1.1 | <p><u>For Indian Vendors:</u></p> <ul style="list-style-type: none"> ▪ Ninety percent (90%) of basic price of materials and 100% of Packing & Forwarding, Freight, and Transit Insurance (if applicable) supplied as per PO (and/or approved billing schedule), shall be payable on receipt of material at site on pro-rata basis on submission of each of the following: <ul style="list-style-type: none"> ⇒ Copy of MRC or acknowledged LR/Proof of Delivery copy duly signed by BHEL site/customer with <i>clear date</i> of receipt of material at site. ⇒ Other documents listed at Cl. 6.7 ▪ Final Ten percent (10%) of the basic price of materials supplied will be retained as security deposit which will be released on: <ul style="list-style-type: none"> ⇒ completion of all supplies of the contract ⇒ receipt of Material Receipt Certificate (MRC) from project site engineer of owner/purchaser ⇒ and on submission of other documents listed at Cl. 6.7 ▪ All documents are to be submitted directly to Purchaser and not through bank. <p>NOTE: If final documentation could not be submitted up to 24 months from supply completion for reasons not attributable to the vendor, then 2% of the basic price of materials supplied shall be withheld as security deposit and balance payment shall be released subject to fulfilment of all other conditions. Final 2% shall be released only after completion of contractual obligations.</p> |
| 6.1.2 | <p><u>For Indian Vendors (Special Case):</u></p> <ul style="list-style-type: none"> ▪ Hundred percent (100%) of basic price of materials and 100% of Packing & Forwarding, Freight, and Transit Insurance (if applicable) supplied as per PO for supply items mentioned under Annexure-14 or if specified in SCC, shall be payable on receipt of material at site on completion of total supplies or completion of each lot as defined as per PO Terms, on submission of each of the following: <ul style="list-style-type: none"> ⇒ Copy of MRC or acknowledged LR/Proof of Delivery copy duly signed by BHEL site/customer with <i>clear date</i> of receipt of material at site. ⇒ Other documents listed at Cl. 6.7 <p>NOTE:</p> <ul style="list-style-type: none"> ▪ All documents are to be submitted directly to Purchaser and not through bank. ▪ In case of part supplies, as regards basic price, only 90% shall be released as above on pro-rata basis and balance 10% shall be released on completion of total supplies or completion of each lot as defined as per PO Terms. |
| 6.1.3 | <p><u>For Foreign Vendors:</u></p> <ul style="list-style-type: none"> ▪ Eighty percent (80%) of basic price of materials supplied, as per PO shall be paid against Bill of lading/ AWB on pro-rata basis. ▪ Ten percent (10%) of basic price of materials supplied (along-with freight charges, if any), as per PO, shall be paid against Import General Manifest (IGM)/ Bill of Entry on pro-rata basis. ▪ Final Ten percent (10%) of the basic price of materials supplied will be retained as security deposit which will be released on: <ul style="list-style-type: none"> ⇒ completion of all supplies of the contract ⇒ receipt of Material Receipt Certificate (MRC) from project site engineer of owner/purchaser ⇒ submission of all final documents as per technical specification ⇒ and on submission of Documents listed at Cl. 6.7 |
| 6.2 | SUPPLY PAYMENT FOR TURNKEY PACKAGES (E&C IN VENDOR'S SCOPE) |
| 6.2.1 | <p><u>For Indian Vendors:</u></p> <ul style="list-style-type: none"> ▪ Eighty five percent (85%) of basic price of materials supplied, as per approved billing schedule, and 100% of Packing & Forwarding, Freight, and Transit Insurance (if applicable) supplied as per PO (and/or approved billing schedule), shall be payable on receipt of material at site on pro-rata basis on submission of each of the following: <ul style="list-style-type: none"> ⇒ acknowledged LR/Proof of Delivery copy duly signed by BHEL site/customer with <i>clear date</i> of receipt of material at site. ⇒ Other documents listed at Cl. 6.7 ▪ Fifteen percent (15%) of the basic price of materials supplied will be retained as security deposit which will be released as below: <ul style="list-style-type: none"> ➤ Five percent (5%) of basic price of materials supplied will be released on pro-rata basis after submission of Material Receipt Certificate (MRC) from project site engineer of Owner/ Purchaser. Collection of Material Receipt Certificate from Site/ Owner and its submission for claiming the payment shall be the responsibility of the Seller/ Contractor. ➤ Final Ten percent (10%) of the total basic price shall be released after: <ul style="list-style-type: none"> ⇒ completion of all supplies of the contract ⇒ successful completion of erection and commissioning |

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| | <p>⇒ successful completion of Performance Guarantee (PG)/ Demonstration Test and handing over of the system/ package, if applicable, as per Order/ Contract</p> <p>⇒ and on submission of Documents listed at Cl. 6.7</p> <p>NOTE: <i>If the Performance Guarantee/ Demonstration Test is not conducted up to 24 months from E&C completion for reasons not attributable to the vendor, then last 10% payment will be released on submission of all other documents as defined above and submission of Bank Guarantee of an equivalent amount, valid till completion of the contractual obligation. However, PBG for contract shall be released only after completion of contractual obligations.</i></p> |
| 6.2.2 | <p>For Foreign Vendors:</p> <ul style="list-style-type: none"> ▪ Eighty five percent (85%) of C&F price of materials supplied, as per approved billing schedule, shall be paid against Bill of lading/ AWB on pro-rata basis. ▪ Fifteen percent (15%) of the C&F price of materials supplied will be retained as security deposit which will be released as below: <ul style="list-style-type: none"> ○ Five percent (5%) of C&F price of materials supplied will be released on pro-rata basis after submission of Material Receipt Certificate (MRC) from project site engineer of Owner/ Purchaser. Collection of Material Receipt Certificate from Site/ Owner and its submission for claiming the payment shall be the responsibility of the Seller/ Contractor. ○ Final Ten percent (10%) of the total C&F price shall be released after: <ul style="list-style-type: none"> ⇒ completion of all supplies of the contract ⇒ successful completion of erection and commissioning ⇒ successful completion of Performance Guarantee (PG)/ Demonstration Test and handing over of the system/ package, if applicable, as per Order/ Contract ⇒ and on submission of Documents listed at Cl. 6.7 <p>NOTE: <i>If the Performance Guarantee/ Demonstration Test is not conducted up to 24 months from E&C completion for reasons not attributable to the vendor, then last 10% payment will be released on submission of all other documents as defined above and submission of Bank Guarantee of an equivalent amount, valid till completion of the contractual obligation. However, PBG for contract shall be released only after completion of contractual obligations.</i></p> |
| 6.3 | ERECTION & COMMISSIONING PAYMENT FOR TURNKEY PACKAGES |
| 6.3.1 | Eighty percent (80%) payment of basic value on pro-rata basis for the work completed, as per approved billing schedule, shall be released on submission of protocols, duly signed by BHEL Site/ Owner, and on submission of other documents specified in the contract, on monthly basis. |
| 6.3.2 | Ten percent (10%) of the total basic value shall be released on successful commissioning of the complete system/ package and on submission of other documents specified in the contract. |
| 6.3.3 | <p>Final Ten percent (10%) of the total basic value shall be released on successful completion of PG/ Demonstration test(s) and handing over system/ package to the Owner, as applicable and submission of Performance bank guarantee.</p> <p>NOTE: <i>If the Performance Guarantee/ Demonstration Test is not conducted up to 24 months from E&C completion for reasons not attributable to the vendor, then last 10% payment under clause 6.3.3 will be released against Bank Guarantee of an equivalent amount, valid for 12 months, provided other conditions of the contract are complied with. (This bank guarantee will be in addition to Contract Performance Bank Guarantee for 5% of the contract value excluding taxes, duties and freight).</i></p> |
| 6.4 | PG TEST, INSTALLATION CHECK, SUPERVISION OF ERECTION/COMMISSIONING CHARGES |
| 6.4.1 | <p>PAYMENT OF SERVICE(S) CHARGES: Demonstration Charges, PG Test, Installation Check, Supervision of Erection / Commissioning Charges, Engineering Charges, O&M, Study, Calibration Charges, Type Test, AMC, etc.</p> <ul style="list-style-type: none"> ▪ Full (100%) payment shall be released after successful completion of the activity on pro rata basis, on Site certification/ certification by engineering as applicable and on submission of other documents specified in the contract. <p>Payment of O&M and AMC shall be released on quarterly basis after completion of each activity or as specified in NIT, on Site certification and on submission of other documents specified in the contract</p> |
| 6.5 | PAYMENT OF GST |
| 6.5.1 | The GST amount on gross value of each invoice shall be claimed by the bidders along with the first stage payment mentioned under 6.1/ 6.2/ 6.3/ 6.4 above by submission of GST invoice in original as mentioned under clause 7.0 (Taxes & Duties). |
| 6.5.2 | <p>The amount of GST shall be paid to the vendor only upon confirmation of the following:</p> <ol style="list-style-type: none"> a) Receipt of original Tax Invoice strictly as per the format prescribed under the relevant applicable GST law. b) Vendor/ contractor declaring such invoice in GSTR 1/GST-ANX-1 as per the relevant GST Act c) The tax component charged by the vendor in the invoice should match with the details uploaded by vendor in GSTR 1/GST-ANX-2 d) Confirmation of payment of GST thereon by bidder on GSTN Portal |

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| | e) Ensuring availability of input credit to BHEL |
| 6.6 | RELEASE OF PAYMENT |
| | <p>a) For Indian Vendors:</p> <ul style="list-style-type: none"> For every stage payment mentioned herein above, the bidders shall submit a claim/invoice on BHEL along with all the respective relevant supporting documents mentioned hereinabove or elsewhere. The payment shall be released within 60 days (45 days for vendors qualified and registered as Micro or Small as per MSMED Act) after receipt of each claim/invoice along with relevant supporting documents complete in all respects. Indian vendors shall submit documents for payment directly to BHEL. <p>b) For Foreign Vendors:</p> <ul style="list-style-type: none"> Payment Cl. 6.2.1 and Cl. 6.2.2 will be released within 60 days from date of Bill of Lading/AWB through irrevocable LC (LC opening/ negotiation/ confirmation charges will be to vendor's account and the LC usance period shall be 90 days OR as per the purchase order terms). All other payments will be released within 60 days after receipt of complete documents as per order/ contract and/or mentioned hereinabove or elsewhere. <p>NOTE: Any negative PVC, balance recoverable if any, balance recoverable penalty, etc. if not adjusted in earlier payments, will be adjusted at the time of final payment</p> |
| 6.7 | DOCUMENTS TO BE SUBMITTED BY VENDOR |
| | <p>FOR RECOGNITION OF DISPATCH</p> <p>Copy of the following documents to be submitted by the vendor to the Purchase Officer by e-mail immediately on movement of the goods:</p> <ol style="list-style-type: none"> GST compliant Invoice Consignee copy of LR / Courier Slip/ Bill of Lading or AWB for foreign vendor Packing List (indicating No. of boxes, packing size, gross weight and net weight of each package, Contents of the package with cross reference to BoM item code no. or item serial no. and Quantity of each item separately) Insurance Intimation to underwriter through email/fax E-way bill <p>Softcopies of the above documents shall be mailed to the concerned purchase officer of BHEL within the same calendar month of dispatch of Goods else penalty shall be levied as per the GST act.</p> |
| 6.7.1 | |
| 6.7.2 | <p>For Claiming Initial Payments (by Indian Vendors):</p> <ol style="list-style-type: none"> GST compliant Invoice (2 sets of Originals) Consignee copy of LR / Courier Slip (in original) Copy of Receipted LR (signed & stamped by BHEL site/customer with <i>clear date</i> of receipt of material at site.)/ confirmation from site regarding receipt of packages/ Boxes original Copy or Bill of lading/ AWB for foreign vendors. Packing List (indicating No. of boxes, packing size, gross weight and net weight of each package, Contents of the package with cross reference to BoM item code no. or item serial no. and Quantity of each item separately) PVC Calculation and copy of all applicable indices, if PVC applicable MDCC from BHEL/ Customer Guarantee Certificate Contract performance Bank guarantee, if applicable CQIR / Inspection Reports Duty drawback documents, if applicable. Any other documents as mentioned in SCC/Dispatch instructions (DI) |
| 6.7.3 | <p>For Claiming Initial Payments (by Foreign Vendors):</p> <ol style="list-style-type: none"> Invoice Bill of Lading or AWB Import General Manifest (IGM)/ Bill of Entry and shipping bill indicating freight amount Packing List: Must be indicating No. of boxes, Packing size, Gross weight and net weight of each package, Contents of the package with cross reference to BoM item code no. or item serial no. and Quantity of each item separately Guarantee Certificate COO - Certificate of Origin <p>Documents required for foreign vendors claiming payments under clause 6.1.2, 6.2.2, and 6.3.2 – Import General Manifest (IGM)/ Bill of Entry and shipping bill indicating freight amount.</p> |
| 6.7.4 | <p>For Claiming Final Payment:</p> <ol style="list-style-type: none"> Commercial Invoice for 10% value– Original + 1 copy Copy of Material Receipt Certificate (MRC) from project site engineer of owner/purchaser Certificate of submission of all final documentation duly certified by purchaser's Engineering department Proof of submission of PBG (IF applicable) Clearance letter for final payment duly certified by purchaser's commercial/project department |

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| | <p>f. No Claim Certificate (full and final payment for the contract)</p> <p>g. TCS certificate of vendor.</p> <p>NOTE: Any negative PVC, balance recoverable if any, balance recoverable penalty, etc. if not adjusted in earlier payments, will be adjusted at the time of final payment</p> |
| 6.7.5 | <p>For Claiming Payment of Services (under clause 6.3, 6.4):</p> <p>a. GST compliant Invoice (2 sets of Originals)</p> <p>b. Certificate of completion of the service duly certified by site engineer/Owner</p> <p>Other documents specified hereinabove or elsewhere in the contract</p> |
| 6.8 | BHEL'S BANKERS |
| 6.8.1 | Please refer attached Annexure for list of BHEL's Consortium Banks or visit BHEL website www.bhel.com. |
| 6.9 | MODE OF PAYMENT |
| 6.9.1 | <p>Payments shall be made directly to the Seller/ Contractor by E-transfer. Seller/ Contractor to provide necessary information for the same as per Annexure-6.</p> <p>Note: Option of payment through TReDS is also available to MSME vendors.</p> |
| 6.9.2 | No interest shall be payable by the Purchaser on the security amount, bank guarantee amount or balance payment or any money which may become due owing to difference or misunderstanding or any dispute between the Purchaser and the Contractor, or any delay on the part of Purchaser in making periodical or final payment or any other aspects incidental thereto. |
| 7.0 | TAXES AND DUTIES |
| 7.1 | GOODS AND SERVICES TAX (GST) (includes CGST/SGST/UTGST/IGST) |
| 7.1.1 | Seller/ Contractor is required to ensure that GST is quoted as per the existing tariff on the date of the offer and all benefits as per existing laws have been considered |
| 7.1.2 | The quoted rates shall be exclusive of GST but inclusive of all other taxes including any cess or surcharge or tax by whatever name called, imposed under GST law or any other law at any time, of which input credit is not available to BHEL under any interpretation of the law. |
| 7.1.3 | GST at the applicable rates shall be payable extra. However, the same shall not be paid if the input credit thereof is not available to BHEL due to any reason attributable to the supplier/bidder. |
| 7.1.4 | It is the responsibility of the seller/contractor to issue the Tax Invoice strictly as per the format prescribed under the relevant applicable GST law. |
| 7.1.5 | The bidder shall indicate HSN (Harmonised System Nomenclature) / SAC (Service Accounting Code), its description and applicable rate of GST for each item/ package in his techno-commercial bid. However, the decision of BHEL about the GST HSN/SAC Number, is binding on the bidders. |
| 7.1.6 | IGST/CGST/SGST/UTGST: Rate of Tax to be quoted as extra in percentage (%). Bidders to ensure correct applicability of IGST/CGST/SGST/UTGST based on the Inter/Intra state movement of goods. |
| 7.1.7 | In case Bidder has opted for GST Composition Scheme, the same may be stated explicitly both in their technical and price bids. <i>No GST will be reimbursed to unregistered or composite dealer. In the event, any GST is quoted by composite dealer, the same shall be added to the cost of supply in evaluating the bid.</i> |
| 7.1.8 | TDS under GST as and when applicable, shall be deducted at prevailing rates. |
| 7.1.9 | GST as applicable on the LD/Penalty shall also be recoverable in addition to LD/Penalty applicable on delayed supplies. |
| 7.1.10 | <p>SUPPLY: Bidders have to issue GST compliant invoices showing:</p> <ol style="list-style-type: none"> BHEL PE&SD R C Puram Hyderabad GSTIN No. 36AAACB4146P1ZG under "Details of Receiver (Billed To) BHEL's Customers details (mentioned in SCC/Dispatch Instructions) under "Details of Consignee (Shipped To) State of Telangana as the "Place of Supply" irrespective of where the goods are shipped to, since these transactions fall under Section 10(1)(b) of the IGST Act in case of suppliers from outside Telangana. <p>Details of dispatch comprising of copies of GST Invoice, LR/ delivery challan, packing list etc., have to be submitted to BHEL immediately on dispatch.</p> <p>In the event of any delay in submission of these document to BHEL and/or any documentary discrepancies, any consequential financial implication to BHEL, including interest loss on discharge of BHEL's GST liability, denial of input credit of GST, etc., shall be recoverable from the supplier/bidder.</p> |
| 7.1.11 | <p>SERVICES (E&C, Supervision of E&C, Civil Works etc.): Bidders have to issue GST compliant invoices showing:</p> <p>BHEL, State of _____ (State in which the project site is located) GSTIN of BHEL in such State (to be obtained by the bidders before raising any invoice) under "Details of Receiver (Billed To)</p> <p>BHEL's Customers details (mentioned in SCC/Dispatch Instructions) under "Details of Consignee (Shipped To) State in which the project is located, as the "Place of Supply".</p> |

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| | The invoices shall be raised within the time limit prescribed under the GST law. In the event of any delay in submission of the invoice to BHEL, any consequential financial implication to BHEL, including interest loss on discharge of BHEL's GST liability, denial of input credit of GST, etc., shall be recoverable from the supplier/bidder. |
| 7.1.12 | Supplier to take cognizance of TCS compliance on account of section 206C(1H) of Finance Act, 2020. BHEL's PAN for this purpose is: AAACB4146P . Final payment will be released after receipt of TCS certificate of vendor. |
| 7.2 | OTHER TAXES AND LEVIES |
| 7.2.1 | All taxes/ duties/ Cess / surcharge other than GST shall be deemed to be included in the basic Ex-Works prices by the seller/contractor. No variation for such taxes and levies shall be paid in any circumstance even if the same are mentioned anywhere in the bids by the bidders |
| 7.3 | CUSTOMS DUTY |
| 7.3.1 | Applicable Customs Duty/ IGST/ Goods and Services Compensation Cess (as per the relevant GOI orders/Acts) element for imported items shall be included in the Basic Ex-Works prices No variation in customs duty and exchange rate for imported items shall be payable by purchaser. |
| 7.3.2 | Seller/Contractor shall arrange for his own import license, if required, since purchaser will not provide any import license. Therefore, seller/ contractor alone shall be responsible for any delay in getting import license or non-availability of the same or completion of other related formalities. Purchaser shall not be responsible for any financial liability, whatsoever, on this account |
| 7.3.3 | IMPORTED GOODS OFFERED BY INDIAN BIDDERS AGAINST DEALER INVOICE: Wherever the material being offered is imported, the bidder must quote the prices inclusive of IGST. The rate and value of IGST as included in the price must be indicated separately. In case quantum of IGST is not mentioned by the bidder the same will not be considered for evaluation. However, bidder will have to pass on the benefit of IGST to BHEL at the time of supply |
| 7.4 | DIRECT TAX |
| 7.4.1 | Seller is required to update himself on his own and comply with provisions of Indian Income Tax Act as notified from time to time. Purchaser shall not be liable towards liability of income tax accruing to the Seller of whatever nature including variations thereof, arising out of this Order/ Contract, as well as tax liability of the Seller/ Contractor and his personnel |
| 7.4.2 | Deductions of Tax at source (TDS) at the prevailing rates shall be effected by the Purchaser before release of payment, as a statutory obligation. The Seller/Contractor has to mention their Permanent Account Number (PAN) and GSTIN in all invoices. |
| 7.5 | GST COMPLIANCES |
| 7.5.1 | The bidder should be registered with the appropriate authority under relevant GST laws. The Bidders/Suppliers must comply with all requirements of the GST law as may be prescribed by the Government from time to time (including provisions related to E-way bills). |
| 7.5.2 | Vendor/Supplier will share the Tax invoice along with LR/RR (as applicable) to BHEL immediately on removal of goods from vendor/supplier works OR/and his sub-vendor works |
| 7.5.3 | Vendor/Supplier will ensure filing of timely return and payment of tax and compliance of other applicable provisions on him under GST regime. |
| 7.5.4 | In the event of any change in the status of vendor from composite to regular dealer after the submission of the bid but before the supply, no reimbursement of additional GST will be made. However, the vendor has to raise the invoice strictly, as per the law, by adjusting their ex-works price |
| 7.5.5 | In the event of any non-compliance to any of the requirements of the GST law by the supplier/bidder, any consequential financial implication to BHEL, including interest on delayed discharge of BHEL's GST liability, denial of input credit of GST, etc., shall be recoverable from the supplier/bidder. |
| 7.5.6 | Bidder must ensure compliance of all the applicable rules and procedure as envisaged in the GST Regime. Any loss to BHEL due to fault / non-compliance by the bidder will be to the bidder's account. |
| 7.6 | GST PAYMENTS AND RECOVERIES |
| 7.6.1 | All payments against Tax Invoice shall be released only after confirmation of payment of GST thereon by vendor on GSTN portal. |
| 7.6.2 | Payment of GST to vendors will be only after correct filing of return and payment of applicable GST by bidder, reimbursement of GST shall be made by BHEL on matching of bidder inputs at GST portal, ensuring availability of input credit to BHEL. |
| 7.6.3 | In case, any GST credit is delayed/denied to BHEL due to non/delayed receipt of goods and/or tax invoice or expiry to timeline prescribed in the relevant GST Act for availing such ITC, or any other reasons not attributable to BHEL, tax amount shall be recoverable from the vendor/contractor along with interest levied/ leviable on BHEL |

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| 7.6.4 | In general, GST shall be paid at actuals against Tax Invoice but restricted to the amount and percentage in the order/contract |
| 7.6.5 | However, BHEL will reimburse the actual applicable tax even if the same is higher than the amount quoted by the bidder and considered in the order/contract in case BHEL is able to take the input tax credit. The decision of BHEL in this regard will be final and binding on the seller/contractor |
| 7.6.6 | Wherein GST liability arises on BHEL under reverse charge, any interest levied/ leviable due to any reasons not attributable to BHEL shall be recovered from the vendor/contractor. |
| 7.6.7 | In the event of any disallowance of input credit or applicability of interest or any other financial liability arises on BHEL due to any default of bidder under GST, such recoveries/ litigations/ implications shall be to bidder's account. |
| 8.0 | STATUTORY VARIATION |
| 8.0.1 | It is the responsibility of the vendor/contractor to inform themselves of the correct rates of GST, customs or other duties or taxes leviable on the materials at the time of tendering. If the rates assumed by the bidder are less than the correct rates prevailing at the time of tendering the bidder will be responsible for such errors. |
| 8.0.2 | In general, Statutory variation for GST is payable to the vendor/contractor during currency of the contract between BHEL and vendor/contractor. Further, for period beyond the currency of the contract, BHEL will reimburse the actual applicable tax even if the same is higher than the amount applicable within the contractual period in case BHEL is able to take the input tax credit. However, the decision of BHEL in this regard will be final and binding on the vendor/contractor, otherwise vendor/contractor has to bear the differential upward increase in tax and ex- works price is to be adjusted accordingly. |
| 8.0.3 | In the event of no change in law but bidder quoting certain tax structure in bid document which is lower than the applicable one, such amount shall be the maximum amount of tax that can be claimed by bidder. |
| 8.0.4 | No other variations such as on customs duty/ exchange rate/ minimum wages, prices of controlled commodities or any other input, etc. shall be payable by BHEL. |
| 9.0 | BANK GUARANTEE |
| 9.1 | CONTRACT PERFORMANCE BANK GUARANTEE (CPBG) |
| 9.1.1 | Bank Guarantee is required to be submitted where installation / E&C / Civil is in the scope of seller/contractor or if mentioned so in the SCC/NIT. |
| 9.1.2 | <p>The vendor shall submit Contract Performance Bank Guarantee (as per Annexure-8) for five percent (5%) of Supply Order value and E&C /Civil value (including value of spares excluding taxes, duties & freight) within thirty (30) days from placement of order OR before first submission of documents for payment.</p> <p>In the event of non-receipt of the bank guarantee, the order is liable to be cancelled at the discretion of BHEL. In case PO is not cancelled and in absence of a valid bank guarantee, the equivalent amount of the BG shall be recovered from payment due to the Seller/ Contractor, before releasing any payment, which shall be refunded on completion of supplies or on submission of required BG.</p> <p>Foreign vendors seeking payment through Letter of Credit (LC) should submit the Bank Guarantee before LC opening.</p> |
| 9.1.3 | In case of turnkey packages, separate BGs shall be submitted for Supply portion & Service (E&C and /or Civil) portion. |
| 9.1.4 | Value of the Bank Guarantee (at the time of submission) shall remain unchanged for any subsequent variations in order/ contract value up to ten percent (10%). Beyond this, the Seller/ Contractor shall arrange to enhance or reduce the value of the Bank Guarantee accordingly. |
| 9.1.5 | Validity of the Bank Guarantee shall be initially for the entire original contract period plus six months claim period and extended till completion of supplies, plus three months claim period. |
| 9.1.6 | Purchaser reserves the right to encash the Bank Guarantee and forfeit the amount in the event of any default, failure or neglect on part of the Seller/ Contractor in fulfilment of performance of the Order/ Contract OR in the event GST credit is delayed / denied to BHEL due to non/delayed receipt of goods and / or tax invoice or expiry to timeline prescribed in the relevant act for availing such Input Tax Credit or any other reasons not attributable to BHEL |
| 9.1.7 | Seller/ contractor shall be required to submit additional Bank Guarantee and claim for release of the relevant milestone payment mentioned under Cl. No. 06 (Terms of Payment). Seller/contractor may opt to extend the existing BG to cover the entire guarantee period OR submit a new BG. Validity of the Bank Guarantee shall be for the entire guarantee period plus six months claim period. Purchaser reserves the right to encash the Bank Guarantee and forfeit the amount in the event of any breach of guarantee conditions. The release of payment shall be at the discretion of buyer. |
| 9.1.8 | Validity of bank guarantee shall be extended one month prior to its expiry if required to meet the contractual conditions. |
| 9.1.9 | Bank Guarantees shall be from Consortium Bank as per list and directives on www.bhel.com . |
| 9.1.10 | In case of private sector banks, a clause is to be incorporated in the text of bank guarantee that it can be enforced by being presented at any branch of the bank located in Hyderabad and in case of turnkey packages, at any branch of the bank located in the Head Quarter of PO issuing agency. |

| 9.2 | PERFORMANCE BANK GUARANTEE (PBG) | | | | | | | | | | |
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| 9.2.1 | The vendor shall submit Performance Bank Guarantee (as per Annexure-9) for five percent (5%) of Supply Order value (including value of spares excluding taxes, duties & freight) and in case of turnkey packages, five percent (5%) of Supply order value and E&C/Civil value (including value of spares excluding taxes, duties & freight). | | | | | | | | | | |
| 9.2.2 | In case of turnkey packages, separate BGs shall be submitted for Supply portion & Service (E&C/Civil) portion. | | | | | | | | | | |
| 9.2.3 | Submission of this Bank Guarantee shall be a pre-condition for release of the relevant milestone payment mentioned under Cl. No. 06 (Terms of Payment). | | | | | | | | | | |
| 9.2.4 | Validity of the Bank Guarantee shall be for the entire Guarantee period plus six months claim period. | | | | | | | | | | |
| 9.2.5 | Purchaser reserves the right to encash the Bank Guarantee and forfeit the amount in the event of any breach of guarantee conditions. | | | | | | | | | | |
| 9.2.6 | Bank Guarantees shall be from Consortium Bank as per list and directives on www.bhel.com . | | | | | | | | | | |
| 9.2.7 | In case of private sector banks, a clause to be incorporated in the text of bank guarantee that it can be enforced by being presented at any branch of the bank located in the Hyderabad and in case of turnkey packages, at any branch of the bank located in the Head Quarter of PO issuing agency. | | | | | | | | | | |
| 9.3 | STAMP DUTY FOR BANK GUARANTEE | | | | | | | | | | |
| 9.3.1 | The Bank Guarantee (BG) shall be executed on non-judicial stamp paper and shall be submitted along with Covering Letter from Bank. The Stamp Duty for BG issued in the State of Telangana is hereunder: | | | | | | | | | | |
| | <table><tr><th></th><th>Value of Bank Guarantee</th><th>Applicable Rate of Stamp Duty</th></tr><tr><td>A</td><td>Below INR 2,00,000/-</td><td>Rs. 100/-</td></tr><tr><td>B</td><td>INR 2,00,000/- and above</td><td>Rs. 200/-</td></tr></table> | | | Value of Bank Guarantee | Applicable Rate of Stamp Duty | A | Below INR 2,00,000/- | Rs. 100/- | B | INR 2,00,000/- and above | Rs. 200/- |
| | | Value of Bank Guarantee | Applicable Rate of Stamp Duty | | | | | | | | |
| | A | Below INR 2,00,000/- | Rs. 100/- | | | | | | | | |
| B | INR 2,00,000/- and above | Rs. 200/- | | | | | | | | | |
| If BG is issued from any other states the applicable <i>stamp duty in that state</i> or the <i>stamp duty in Telangana</i> , <u>whichever is higher</u> has to be paid. Also, for each extension of any Bank Guarantee, the stamp is to be duly paid. | | | | | | | | | | | |
| 10.0 | DELIVERY FAILURE AND LIQUIDATED DAMAGES / PENALTY | | | | | | | | | | |
| 10.0.1 | It should be clearly understood by the Seller/Contractor that time and the date of delivery of despatch stipulated in the order is the essence of the contract. If the Seller/Contractor fails to complete the dispatch/delivery and other schedules within the time period stipulated in Order/Contract, or within any extension of time granted by Purchaser, it shall be lawful for purchaser to recover damages for breach of Order/Contract and hereunder, without prejudice to any other rights and / or remedies provided for in the contract. To be entitled to impose such damage, Purchaser will not be required to prove that he has incurred such amount as actual damage. | | | | | | | | | | |
| 10.1 | LD FOR DELAYED DELIVERY | | | | | | | | | | |
| 10.1.1 | Purchaser reserves the right to recover from the Seller/ Contractor, as agreed liquidated damages (LD), a sum equivalent to half percent (1/2%) and applicable GST thereon of the total main supply contract price excluding GST, per week or part thereof subject to a maximum of ten percent (10%) of total main supply contract price excluding GST, if the seller/contractor has failed to deliver any part of equipment/ item within the period fixed for delivery. | | | | | | | | | | |
| 10.1.2 | If an Order/Contract (for procurement of non-Capital Goods) involves staggered delivery schedule, then LD/Penalty shall be levied at half (1/2) percent of the undelivered portion per week of delay or part thereof subject to a maximum of 10% of the total contract price . | | | | | | | | | | |
| 10.1.3 | Where delivery for mandatory spares is defined separately in the NIT, LD shall be applicable @ half percent (1/2%) and applicable GST thereon , of the total mandatory spares portion of contract value excluding GST per week or part thereof, limiting to 10% of total contract value of mandatory spares excluding GST. | | | | | | | | | | |
| 10.1.4 | For Supply Packages & Supply Portion of Turnkey packages: Site-acknowledged LR/ GR/ RR date for indigenous supplies (Bill of Lading/ AWB for Foreign supplies) shall be treated as the date of dispatch for levying LD. | | | | | | | | | | |
| 10.2 | LD FOR DELAYED SERVICES | | | | | | | | | | |
| 10.2.1 | For Supervision of E&C: Liquidated Damages / Penalty shall not be applicable. | | | | | | | | | | |
| 10.2.2 | For Civil/E&C Portion of Turnkey packages: Liquidated Damages/Penalty shall be levied at the rate of half percent (1/2%) and applicable GST thereon of the total Civil/E&C contract price excluding GST, per week or part thereof on total Civil/E&C order price excluding GST, if Civil/E&C completion of the package is delayed beyond the contractual completion date or extension thereof. However, total LD (main supply and services) shall be limiting to 10% of cumulative total contract value (main supply +services) excluding GST. | | | | | | | | | | |
| 10.3 | OTHER LD TERMS | | | | | | | | | | |
| 10.3.1 | In case of any amendment/ revision, LD shall be linked to the amended/ revised contract value and delivery date(s). | | | | | | | | | | |

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| 10.3.2 | In the event of LD/penalty is imposed by the purchaser/seller, such LD shall attract applicable GST which shall be recovered along with the applicable LD/Penalty. Corresponding tax invoice will be issued to seller/contractor. |
| 10.3.3 | Purchaser reserves the right to deduct the amount of such LD/Penalty from any money due or which may become due to the Seller/ Contractor and/or recover such LD/Penalty from the bank guarantees/ security deposit of the Seller/ Contractor. |
| 10.3.4 | Purchaser reserves the right to purchase from elsewhere on account of and at the risk and cost of Seller/ Contractor, with notice to Seller/ Contractor, the equipment/package/system due for delivery but not so delivered, or their equivalent without cancelling the Order/ Contract in respect of equipment/package/system not yet due for delivery. The manner and method of such purchase shall be at the discretion of the Purchaser. |
| 10.3.5 | Purchaser reserves the right to cancel the Order/ Contract or a portion thereof for the equipment/package/system not so delivered at the risk and cost of the Seller/ Contractor and the Seller/ Contractor shall be liable to the Purchaser for any excess cost thereof. |
| 10.3.6 | Seller/ Contractor shall continue performance of the Order/ Contract, under all circumstances, to the extent not cancelled. |
| 11.0 | RECOVERY OF OUTSTANDING AMOUNT |
| 11.0.1 | <p>In event of any amount of money being outstanding at any point of time against the Seller/ Contractor due to excess payment, imposition of liquidated damages, invocation of risk and cost clause or any other reason whatsoever, in the present order/ contract or any other order/ contract from any BHEL Unit, the outstanding amount shall be recovered from the payments due to the Seller/ Contractor from the following:</p> <ul style="list-style-type: none"> ▪ Dues available in the form of bills payable to Seller, Security Deposit, BGs against the same contract ▪ Dues payable to Seller against other contracts in the same Region/Unit/Division of BHEL. ▪ Dues payable to Seller against other contracts in the different Region/Unit/Division of BHEL <p>any other mode as deemed fit by the Purchaser at its sole discretion including legal options for recovery of dues.</p> |

PART-3: ENGINEERING, INSPECTION, GUARANTEES

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| 12.0 | ENGINEERING/QUALITY DOCUMENTS |
| 12.1 | ENGINEERING DOCUMENTS SUBMISSION |
| 12.1.1 | The Engineering documents (data sheets/ drawings, etc.) shall be submitted for Purchaser's approvals within 15 days from the day of the issue of purchase order/ Lol/ LoA unless otherwise mentioned in the NIT. All engineering document submission by vendors after award of contract shall be done as per the Order Execution Schedule/ Instructions provided with the Technical Specification. |
| 12.2 | QUALITY DOCUMENTS SUBMISSION |
| 12.2.1 | Quality plan shall be submitted for Purchaser's approvals within 15 days from the day of the issue of purchase order/LOI/LOA. If standard QAPs are furnished with the NIT, the same shall be followed and submitted with bidders stamp as token of acceptance of the same. |
| 12.3 | MISTAKE IN DRAWINGS |
| 12.3.1 | The Engineer shall have the right at all reasonable times to inspect at the office/ premises of contractor all shop and/ or detailed drawings of the works or any portion of the works. The Contractor shall be responsible for and shall undertake without any commercial implications, any alternations of the work due to any discrepancies, errors or omission in the drawings or other particulars supplied by him whether such drawings or particulars has been approved by the Engineer or not, provided that such discrepancies, errors or omissions be not due to inaccurate information or particulars furnished to the contractor by the Engineer. |
| 13.0 | AVAILABILITY OF SPARES |
| 13.0.1 | Vendor to keep BHEL informed by giving six (6) months advance notice for discontinuation of manufacturing of the spares, mentioned/ required in the order. |
| 14.0 | INSPECTION AND TESTING AT CONTRACTOR'S PREMISES |
| 14.0.1 | The material/equipment/system or package shall be manufactured as per contract specifications, approved drawings and quality assurance plan. Vendor/ Contractor shall be fully responsible for the quality of products& materials supplied by his sub-contractors. Non-conformance if any from the contract specifications and approved quality assurance plan shall be reported by the vendor/ Contractor well in advance and seek purchaser's acceptance before proceeding further. |
| 14.0.2 | Vendor /contractor shall perform all standard shop tests, physical and chemical tests required by the standards or as may be prescribed or approved as per Order/ Contract. Purchaser/ Inspection Agency reserves the right to waive any of the specified tests requirements and/or to prescribe new tests, if found necessary, to complete the work so as to conform to the best practices. The inspection shall be as per the standard quality assurance plan issued with the NIT or the approved quality assurance plan whichever is later. |
| 14.0.3 | In the event of rejection, Purchaser shall inform the seller accordingly and Purchaser shall be entitled to replacement or repair at his discretion or may proceed to terminate or cancel the agreement. All this, does not affect Purchaser's right to recover compensation. |
| 14.0.4 | Purchaser or his nominated inspection agency shall have at all reasonable times access to vendor/contractor's premises or works and shall have the power at all reasonable times to inspect drawings of any portion of the work or examine the materials and workmanship of the plant/ equipment/ stores during their manufacture, and if part of the plant/ equipment/ stores is manufactured at other premises, the vendor/ Contractor shall arrange for inspection, examination and testing by the Inspection Agency as if the plant/ equipment/ stores is manufactured on the Seller/ Contractor's premises. Such inspection, examination, and testing, if made shall not release the seller from any obligation under the contract and his responsibilities for meeting all the requirements of the contract. |
| 14.0.5 | Inspection calls should be raised by the vendor/ Contractor on BHEL CQS Website/CQIR website link mentioning all the details and uploading the requisite documents. |
| 14.0.6 | Vendor/ Contractor shall give reasonable notice of any material being ready for testing and the Inspection Agency shall (unless the inspection of tests is voluntarily waived) attend at the vendor/ Contractor's premises within seven (7) days of the date on which the material is notified as being ready. Inspection shall be performed as per the approved quality assurance plan by purchase and /or his nominated agency and/or the end customer. In case of delay in witnessing of inspection beyond stipulated time (i.e. 7 days from the date on which the material is notified as being ready), by BHEL arising due to reasons not attributable to vendor, BHEL will extend the delivery period for such delay in carrying out inspection. If BHEL is not able to witness inspection up to 15 days then in addition to delay beyond stipulated period, extension in delivery time of 7 days for arranging fresh inspection will be given |
| 14.0.7 | The vendor/contractor shall maintain & ensure necessary safety measures as required for performing inspections & tests like HV test, Pneumatic test, Hydraulic test, Bend & tensile test, load test, etc. |
| 14.0.8 | For indigenous suppliers, all costs related to first inspection request shall be borne by the purchaser and the cost of subsequent inspections due to non-readiness of material/rework/ rejections shall be borne by the seller/vendor/contractor. |

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| | <p>In case of imports all inspection, charges including third party inspections if any shall be borne by the seller/vendor/contractor.</p> <p>The cost of inspection staff/third party specified by the Purchaser shall be borne by seller unless otherwise specifically agreed. Whether the contract provides for tests on the premises of the seller or any of his sub-contractor/s, seller shall be responsible to provide such assistance, labor, materials, electricity, fuels, stores, apparatus, instruments as may be required and as may be reasonably demanded to carry out such tests efficiently.</p> |
| 14.0.9 | <p>Cost of any type test or such other special tests shall be borne by the seller unless otherwise specifically agreed in the contract. The Seller shall give the authorized representative of the purchaser reasonable notice in writing of the date on and the place at which the product will be ready for inspection/ testing as provided in the Contract. The timelines for execution of contract mentioned in the technical specification or elsewhere in the NIT shall be strictly be complied with. Any delay in submission of the documents by the vendor will not alter the delivery date.</p> |
| 14.1 | INSPECTION MEASURING AND TEST EQUIPMENTS |
| 14.1.1 | <p>Inspection Measuring and Test Equipment (IMTE) whether used by the vendor/ Contractor or sub-contractor shall be calibrated, maintained and controlled. Calibration shall be valid and IMTE maintained in sound condition during usage.</p> <p>Responsibility of usage of valid and calibrated IMTEs by his sub-contractor(s) shall be of the vendor/ contractor. In case, calibration records are required by purchaser, copies of the same shall be furnished.</p> |
| 14.1.2 | <p>The vendor/ Contractor, shall provide free of charge such assistance, labour, materials, electricity, fuel, water, stores, apparatus, measuring instruments and test equipment including any other facilities as may be reasonably required to carry out such tests & inspection efficiently</p> |
| 14.2 | MATERIAL DESPATCH CLEARANCE (DI) / INSPECTION RELEASE NOTE (IRN) |
| 14.2.1 | <p>When the tests have been satisfactorily completed at Seller/ Contractor's works, the Inspection Agency shall issue a certificate (IRN) to that effect within fifteen (15) days after completion of the tests, but if the tests were not witnessed by the Inspection Agency or his representative, the certificate would be issued within fifteen (15) days after receipt of the test certificates by the Purchaser.</p> |
| 14.2.2 | <p>Vendor/Contractor shall forward to the Purchaser, inspection reports, test certificates, raw material test certificates, etc. as called for.</p> |
| 14.2.3 | <p>Purchaser/ Owner will issue dispatch clearance along with the necessary dispatch instructions (DI) to the Seller/ Contractor based on inspection report/ test certificates</p> |
| 14.2.4 | <p>Seller/Contractor shall not dispatch any material before issue of dispatch clearance by purchaser/ Owner.</p> |
| 14.2.5 | <p>Satisfactory completion of tests or issue of MDCC shall not bind the Purchaser/ Owner to accept the supply/ equipment should it, on further tests after erection, be found not to comply with the contract provisions.</p> |
| 14.2.6 | <p>Vendor/ Contractor shall arrange copy of acknowledged LR from the project site, duly signed by BHEL Site representative after receipt of the material at site and submit the same to purchaser for claiming the payment.</p> |
| 14.2.7 | <p>In case of delay in issuance of dispatch clearance beyond 2 days stipulated time (i.e. from the date of successful inspection report), by BHEL arising due to reasons not attributable to vendor, BHEL will extend the delivery period for such delay in issuing MDCC.</p> |
| 14.3 | STORAGE INSTRUCTIONS |
| 14.3.1 | <p>Vendor/Contractor shall be required to submit detailed instructions for storage of supplies within three months of date of issue of LOA/ Order/ Contract or before dispatch of the goods. Specific storage requirements if any shall be submitted and also marked on the package.</p> <p>In case storage instruction available in technical specification of the tender, same shall be followed by the vendors</p> |
| 14.4 | QUALITY ASSURANCE DOCUMENTS |
| 14.4.1 | <p>The vendor shall be required to submit the following Quality Assurance Documents (in original + one copy) within 2 weeks after dispatch of the equipment:</p> <ol style="list-style-type: none"> Inspection reports duly certified by inspection agency routine test reports type test reports test certificates/report of components other factory test results for tests as per applicable codes and specified in approved QA plan & technical specification. |
| 15.0 | INTERCHANGEABILITY AND CHANGES |
| 15.0.1 | <p>All similar components or parts of similar equipment (including spares and replacements) supplied by Seller/ Contractor shall be interchangeable with one another.</p> |
| 15.0.2 | <p>Even though all the work and materials necessary for satisfactory completion of the works may not be detailed in the specifications and schedules, the cost will be considered to be within the contract price and no extra charges shall be payable. However, if there are substantial changes in the specifications of the stores/ plant, consequential changes in prices shall be mutually agreed between Purchaser and Seller/ Contractor.</p> |

| 16.0 | GUARANTEE/ WARRANTY FOR PLANT/ EQUIPMENT/ SYSTEM/ PACKAGE | | |
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| 16.0.1 | Seller/ Contractor shall warrant that the equipment/item/system/package supplied (including the supplies from his sub-vendors) shall be free from all defects and faults in design & engineering, material, workmanship & manufacture and shall be of the highest grade and consistent with the established and generally accepted standards and in full conformity with the Order/ Contract specifications, drawing or samples, if any. | | |
| 16.0.2 | <p>The warranty period shall be as under:</p> <p>a) Warranty period for Supply packages shall be twenty-four (24) months from the date of last dispatch or as specified in SCC.</p> <p>b) Warranty period for Supply packages with Supervision of E&C shall be twenty-four (24) months from the date of last dispatch or eighteen (18) months from the date of commissioning, whichever is earlier or as specified in SCC.</p> <p>c) Warranty period for Supply packages with E&C / Turnkey packages shall be twenty-four (24) months from the date of last dispatch or eighteen (18) months from the date of commissioning, whichever is later or as specified in SCC.</p> <p>d) Warranty period for the replaced/repared equipment/item shall be twelve (12) months from the date of such repair/replacement(s).</p> <p>Warranty period for Supply packages with E&C and O&M / Turnkey packages shall be twelve (12) months from the date of completion of O&M or as specified in SCC.</p> | | |
| 16.0.3 | Seller/ Contractor's liability in respect of any complaints, defects and claims shall not be limited to supply and installation of replaced parts free of charge, or repair of defective parts to the extent that such replacements are attributable to or arise from faulty workmanship, material or design, in the manufacture, of the equipment/item/system/package but at the option of the Purchaser, to the payment of the value, expenditure and damages as mentioned hereafter, provided defects on being discovered are brought to the notice of the Seller/ Contractor within a period of three (3) months from the date of expiry of the guarantee period. | | |
| 16.0.4 | All replacements and repairs during the Warranty period shall be delivered and completed promptly and satisfactorily within a period of three months from the time of reporting the defect/ loss/ rejection etc. If the Seller/ Contractor so desires and the Purchaser agrees, subject to import control regulations, the replaced parts can be taken over by Seller/ Contractor or his representative or can be dispatched at Seller/ Contractor's cost. No claim, whatsoever shall be entertained by Purchaser on account of such replaced parts. | | |
| 16.0.5 | All the replaced and replenished stores shall also be guaranteed as per above clauses. | | |
| 16.0.6 | Decision of Purchaser with regard to Seller/ Contractor's liability and the amount involved, if any, payable by Seller/ Contractor under the guarantee shall be final, conclusive and binding. However, vendor's maximum liability will be limited to the total contract value including taxes, duties, and freight. | | |
| 17.0 | LIST OF STANDARDS FOR REFERENCE | | |
| 17.0.1 | <table border="0"> <tr> <td> <ul style="list-style-type: none"> International Standards Organization (ISO) International Electro-technical Commission (IEC) American Society of Mechanical Engineers (ASME) American National Standards Institute (ANSI) American Society for Testing and Materials (ASTM) American Institute of Steel Construction (AISC) American Wilding Society (AWS) Architecture Institute of Japan (AIJ) National Fire Protection Association (NFPA) National Electrical Manufacturer's Association (NEMA) Japanese Electro-Technical Committee (JEC) Institute of Electrical and Electronics Engineers (IEEE) Federal Occupation Safety and Health Regulations (FOSHA) Instrument Society of America (ISA) National Electric Code (NEC) Heat Exchanger Institute (HEI) Tubular Exchanger Manufacturer's Association (TEMA) </td> <td> <ul style="list-style-type: none"> Hydraulic Institute (HIS) International Electro-Technical Commission Publications Power Test Code for Steam Turbines (PTC) Application German Standards (AGS) Application British Standards (ABS) Application Japanese Standards (AJS) Electric Power Research Institute (EPRI) Standard of Manufacturer's Standardization Society (MSS) Bureau of Indian Standards Institute (BIS) Indian Electricity Rules Indian Boiler Regulations (IBR) Indian Explosives Act Indian Factories Act Tariff Advisory Committee (TAC) Rules Emission regulation of Central Pollution Control board (CPCB) Pollution Control regulations of Dept of Environment Govt of India Central Board of Irrigation and Power (CBIP) Publications </td> </tr> </table> <p><i>Any other statutory Codes/ Standards/ Regulations.</i></p> | <ul style="list-style-type: none"> International Standards Organization (ISO) International Electro-technical Commission (IEC) American Society of Mechanical Engineers (ASME) American National Standards Institute (ANSI) American Society for Testing and Materials (ASTM) American Institute of Steel Construction (AISC) American Wilding Society (AWS) Architecture Institute of Japan (AIJ) National Fire Protection Association (NFPA) National Electrical Manufacturer's Association (NEMA) Japanese Electro-Technical Committee (JEC) Institute of Electrical and Electronics Engineers (IEEE) Federal Occupation Safety and Health Regulations (FOSHA) Instrument Society of America (ISA) National Electric Code (NEC) Heat Exchanger Institute (HEI) Tubular Exchanger Manufacturer's Association (TEMA) | <ul style="list-style-type: none"> Hydraulic Institute (HIS) International Electro-Technical Commission Publications Power Test Code for Steam Turbines (PTC) Application German Standards (AGS) Application British Standards (ABS) Application Japanese Standards (AJS) Electric Power Research Institute (EPRI) Standard of Manufacturer's Standardization Society (MSS) Bureau of Indian Standards Institute (BIS) Indian Electricity Rules Indian Boiler Regulations (IBR) Indian Explosives Act Indian Factories Act Tariff Advisory Committee (TAC) Rules Emission regulation of Central Pollution Control board (CPCB) Pollution Control regulations of Dept of Environment Govt of India Central Board of Irrigation and Power (CBIP) Publications |
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PART-4: DISPATCH AND DELIVERY

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| 18.0 | DELIVERY TERMS |
| 18.0.1 | Terms of delivery shall be Ex-Works including freight up to destination for indigenous supplies and on C&F for Foreign supplies OR as specified in SCC (Port of Dispatch shall be as specified in SCC/NIT) |
| 18.0.2 | All dispatches shall be through road carriers, on freight pre-paid basis. Road Permit/E-way bill, if required, will be arranged by Supplier |
| 18.0.3 | When the goods are ready for shipment BHEL / owner should be notified by the contractor through e-mail. Notification of delivery in regard to each and every consignment shall be made to the owner/BHEL at least 48 hours ahead of actual delivery, enabling arrangements for its receipt at the site. All packages, containers, bundles and loose materials forming part of each and every consignment shall be described fully in the packing list, and full details of the contents of packages and quantity of goods shall be submitted to enable the consignee to check the goods on arrival at destination |
| 18.0.4 | The vendor/contractor shall submit soft copies of -GST compliant priced invoice, - LR or RR and e-way bill, - packing list of all goods dispatched (refer packing instructions specified elsewhere) to the seller/Purchaser immediately on dispatch (but not later than 48hours) of the goods. However, the above documents for the goods dispatched in a calendar month shall be submitted within the last working day of the month else penalty as per the GST act shall be applicable. |
| 18.0.5 | Supply of plant/ equipment/ system/package shall not be considered complete until they have been inspected and accepted at the place and destination specified for delivery by the time stipulated under the terms & conditions of the Order/ Contract. Mere payment by itself shall not constitute acceptance of the goods or materials in any manner, whatsoever. |
| 18.1 | TRANSPORT |
| 18.1.1 | If for any reason, the contractor has to resort to a mode of transport other than what was contemplated by them at the time of tendering to keep up the completion schedule and consequently and has to incur more expenditure, BHEL will not under any circumstances reimburse such extra expenditure and price will not exceed the firm contract / order price. |
| 18.1.2 | All dispatches shall be on freight pre-paid basis. |
| 18.2 | PREVENTION OF EXTRAORDINARY TRAFFIC AND PROTECTION OF HIGHWAY |
| 18.2.1 | The Contractor shall use every reasonable means to prevent any of the highways of bridges communicating with or on the routes to the Site from being damaged or injured by any traffic of the contractor or any or his sub-contractors and in particulars shall select routes, choose and use vehicles and restrict and distribute loads so that any such extraordinary traffic as will inevitably arise from the moving of Plant and material from and to the site shall be limited as far as reasonably possible and so that no damage or injury may be occasioned to such highways and bridges. Should it be found necessary for the Contractor to move one of more loads or construction plant machinery or reconstructed units or parts of units or work as applicable over part of a highway or bridge and that the moving of such load must in all probability damage the highway or bridge unless means of protection of strengthening are carried out then the contractor shall before moving the load on to such highway or bridge carryout such protection or strengthening at his own cost. If during the execution of the works or at anytime thereafter BHEL or purchaser shall receive any claim arising out of the execution of the works in respect of damage or injury to highways or bridges, he shall immediately notify the same to the contractor and thereafter the contractor shall negotiate the settlement of and pay all sum due in respect of such claim and shall indemnify BHEL in respect thereof and in respect or all claims demands, cost charges and expenses in relation thereto. |
| 18.3 | DELIVERY TERMS SPECIFIC TO FOREIGN BIDDERS |
| 18.3.1 | Goods shall be dispatched by sea or Air, unless stated otherwise in the tender enquiry or purchase order. |
| 18.3.2 | In the event of bidder offering CFR delivery terms for delivery in FCL (Full Container Load), the bidder shall provide 21 days' time free of detention for General Purchase Container / High Cube Container and 14 days for the other types from the date of delivery at delivery port. Wherever the detention free period offered is less than the above specified period, the consequential cost at port of clearance shall be to the account of the bidder. Number of detention free days must be mentioned on Bill of Lading (BL). |
| 18.3.3 | In case of CFR delivery, Port congestion charges or any additional charges claimed by shipping line till delivery at destination port shall be to the bidder's account. |
| 18.3.4 | Specifically confirm your agreement to change the mode by Air at BHEL's request as per mutually agreed terms even after placement of Purchase Orders. |
| 18.3.5 | The Trans-shipment is not permissible in case of Break Bulk Cargo. In rest of the case Trans-shipment condition in BHEL purchase order / letter of credit will be as per Uniform Custom and Practice for documentary credits, UCP 600 of International Standard Bank proceed re-issued by International chamber of Commerce (ICC). |
| 18.3.6 | No demurrage / godown rent will be payable to the vendor / vendor's transporter for any delay in payments attributable to the vendor. |

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| 18.3.7 | The shipping line should be ready to move the containers to consignees nominated CFS (Container Freight Station) yard and Indian agent of shipping line should issue Cargo Arrival Notice (CAN) 7 days in advance for filing the IGM (Import General Manifest) at discharge port. |
| 18.3.8 | In case of CFR contract, bidder to supply the material through a Certified Seaworthy vessel. |
| 18.3.9 | A certificate of origin (COO) sanctioned in country of origin from chamber of commerce of the manufacturing country is mandatory to be provided. However a certificate of origin (COO) from the countries under the restricted list of Govt. of India will not be acceptable. |
| 18.3.10 | For reasons of delay in receipt of documents from suppliers or due to the same being found to be incomplete, and / or faulty, the suppliers shall be responsible to reimburse in all demurrages / wharfages, if any paid by BHEL (for stated reasons). |
| 18.3.11 | The invoices being issued by shipping lines must be in the name of BHEL. Otherwise, BHEL will have to forego Input Credit on GST. |
| 18.3.12 | While booking the shipment, bidder to also finalize destination charges and the same should appear over BL or agreed tariff to be provided to BHEL before arrival of shipment. |
| 18.3.13 | If cargo is stuffed in container then the same should be allowed to be moved to CFS of importers choice without any additional charges. |
| 18.3.14 | Load port charges shall be settled by the supplier and not be passed on to BHEL in form of destination charges. |
| 18.3.15 | NNDs (Non-Negotiable Documents) (preferably with OBLs) should be sent at least 7 days in advance i.e. 7 days before the arrival of vessel so as to enable BHEL to move the containers to JWC CFS. |
| 18.3.16 | <p>Information related to OBL / AWB Documents:</p> <ul style="list-style-type: none"> i. Consignee name and address should be same as mentioned in the Purchase order. ii. Notify party: Name and address will be as mentioned in NIT. iii. OBL should clearly mention the Indian agent address and contact details. iv. OBL should be issued as per UCP 600. v. In case of inco-terms other than FOB, OBL should mention the container detention free period. <p>In case of placement of an Order, BHEL requests bidder to supply one Original Bill of Lading / AWB directly to their Mumbai office with other non-negotiable documents to ensure timely clearance of goods. The other Original Bill of Ladings may be routed through bank based on the other agreed terms and conditions of purchase order.</p> |
| 19.0 | PACKING |
| 19.0.1 | Packing shall be in conformity with specifications and shall be such as to ensure prevention of damages, corrosion, deterioration, shortages, pilferage and loss in transit and storage. |
| 19.0.2 | The packing shall be capable of withstanding the rigours of transit and handling at various points / ports and may be provided with fixtures / hooks and sling marks as may be required for safe handling. |
| 19.0.3 | In case of shipment by sea, the packing shall be sea-worthy and of international standards. |
| 19.0.4 | Each package must be marked with Consignee name, PO number, Package number, Gross weight, Net weight, dimensions of the package (L x B x H) and seller's name. The packing shall allow for easy removal and checking of goods on receipt and comply with established trade practices. |
| 19.0.5 | <p>Packing List shall be submitted as per standard format along with advance set of documents for claiming payment which shall also indicate:</p> <ul style="list-style-type: none"> a) Packing size and no. of boxes b) Gross weight and net weight of each package c) Contents of the package with reference to BOM/Item no. and quantity of each item separately <p>One copy of packing list shall be put inside the package, one copy shall be fixed securely to the outside of the package and one copy shall be submitted along with dispatch documents for claiming payments</p> |
| 19.0.6 | <p>If any consignment / package needs special handling requirements, the same shall be clearly marked on the consignment / package with standard symbols and instructions.</p> <p>Hazardous materials should be notified and their packing, transportation and other protection must conform to relevant regulations.</p> |
| 19.0.7 | The packing instructions specified in technical specifications and the specific instructions in NIT documents shall also be referred. |
| 19.1 | PACKING FOR SPARES |
| 19.1.1 | Different types of spares i.e. start-up/ commissioning spares and initial spares (Mandatory spares and recommended O&M spares) are to be packed separately. Mandatory and Recommended Spares shall not be packed with main equipment but shall be packed separately. |
| 19.1.2 | Packing of Mandatory Spares should have a Red colour band all around the box/ package and words "MANDATORY SPARES" written in red colour, same shall also be mentioned on the packing list. |
| 19.1.3 | Project, Package description, BHEL's PO No. and date should also be clearly mentioned on the box. |
| 19.2 | COLOUR CODING OF TAGS/ MARKING/ STICKERS |
| 19.2.1 | Aluminium stickers are required to be attached to large components, but plastic sheet tags should be tied with small components, giving details like purchase order, description of the component, quantity etc. |

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| 19.2.2 | Tags should be of the colour as mentioned below: Main equipment: Yellow or White tag; Mandatory spares: Pink or Red tag; Start-up/ Commissioning spares: Blue tag; O&M spares: Green tag |
| 20.0 | PHYTOSANITARY CERTIFICATE |
| 20.0.1 | As per the Indian Law, all consignments being imported into India by air/sea require a phytosanitary certificate from the country of origin-if articles have been packed with wooden packaging materials. This is mandatory. Bidder to confirm in his offer/dispatch documents that the required phytosanitary certificate will be submitted. |
| 20.0.2 | Packaging material means any kind of material of plant origin used for packing which include hay, straw wood shavings, wood chips, saw dust, wood waste, wooden pallets, dunnage mats, wooden packages, coir pith, peat or sphagnum moss etc. |
| 21.0 | INSURANCE |
| 21.0.1 | Transit insurance policy shall be arranged by BHEL except when specified in vendor's scope in NIT/SCC. |
| 21.0.2 | Vendors shall inform the underwriters appointed/ nominated by BHEL/ Purchaser as communicated in dispatch instructions(DI), the details of dispatches under intimation to BHEL such as LR No. and date, Truck No., P.O. No., project and value before the actual dispatch of the goods. |
| 21.0.3 | In case the damage / loss / theft of materials are attributable to negligence / failure in discharging the duties and obligations of the contractor, the expenses incurred for repair / replacement of such components in excess of the amount realized from the underwriters, limited to Normal Excess (Deductible Franchise) shall be recovered from the contractor |
| 21.0.4 | Insurance as applicable for field work such as third party liability, workmen compensation, Seller/ Contractor's own Tools & Plants and automobile shall be arranged by the Seller/ Contractor. |
| 22.0 | MATERIAL RECEIPT CERTIFICATE |
| 22.0.1 | For Supply packages, Material Receipt Certificate shall be arranged by BHEL. Vendor to provide copy of receipted LRs and other relevant documentation to enable BHEL to obtain MRC from site. |
| 22.0.2 | Seller/ Contractor shall arrange Material Receipt Certificate from the project site, duly signed by Purchaser/ Owner Site Engineer after receipt & physical verification of the material at site, wherever E&C is in the scope of Seller/ Contractor. |
| 23.0 | SHORTAGES / DAMAGES |
| 23.0.1 | <u>FOR SUPPLY PACKAGES:</u> In case of shortages/ damages noticed on receipt of materials at site, the contractor should replenish the same immediately. a) Replenishment of damages arising out of faulty and insufficient packing will be to the cost of contractor. b) Shortages in sound cases shall be replenished free of cost by the vendor immediately. For shortages/ damages during transit/ handling at site upon intimation to vendor within 3 months of receipted LR, vendor shall supply replacements, as early as possible, at the old contractual rates. |
| 23.0.2 | <u>FOR TURNKEY PACKAGES (Supply + E&C Scope):</u> Any shortages or damages during unloading and handling at site, including at the time of erection and commissioning, shall be made good by the Seller/ Contractor at his risk and cost, to meet the project schedule. In case of faults/ discrepancies in any material, component, sub-assembly, assembly, etc., the same shall be supplied/ replenished free of cost to enable the equipment to be put to service. |
| 23.0.3 | In case of faults, deficiencies in materials, components assemblies, subassemblies etc., these are to be supplied free of cost to enable the equipment to be put in order. |
| 23.1 | CONSIGNEE'S RIGHT OF REJECTION |
| 23.1.1 | Notwithstanding any approval of Purchaser or Engineer in respect of equipment/system/package or materials or other particulars or work or workmanship involved in performance of order/ contract (with or without any test carried out by Seller/ Contractor or Inspection Agency or under direction of Purchase Officer), and notwithstanding delivery of the equipment/system/package where so provided to the consignee, it shall be lawful for the consignee, on behalf of the Purchaser, to reject the equipment/system/package or any part/ portion of consignment thereof, within 30 days after actual delivery at the stipulated place or destination, if such equipment/system/package or part/ portion of consignment thereof is not in conformity with terms and conditions of order/ contract whether on account of any loss, storage, deterioration or damage before dispatch or otherwise, whatsoever. |
| 23.1.2 | Rejected goods or materials shall be removed by Seller/ Contractor within a period of 30 days from the date of receipt of notice of such rejection. The expenses to be incurred in respect thereof shall be borne entirely by the Seller/ Contractor. |
| 23.1.3 | In the event of the Seller's failure to comply, Buyer may take action as appropriate, including Repair / Replenish rejected goods & disposal of rejections, at the risk & cost of the Seller. |
| 23.2 | REJECTION OF DEFECTIVE SYSTEM |
| 23.2.1 | If the completed system or any portion thereof before it is taken over (under clause taking over) or during the guarantee / warranty period, be found defective or fails to fulfil the requirements of the contract, the Engineer shall give the contractor notice setting forth particulars of such defects or failure, and the contractor shall forthwith make the defective system good by free replacement or alter the same to make it comply with the |

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| | requirements of the contract without any commercial implication to BHEL. Should he fail to do so within a reasonable time, BHEL after giving seven (7) days written notice may reject and replace at the cost of the contractor the whole or any portion of the system, as the case may be, which is defective or fails to fulfil the requirements of the contract. The contractor's full and extreme liability to BHEL under this clause shall be difference, if any between the replacement price of the equipment (including charges for erection and supervision of erection) and the original contract price including charges for erection and supervision of erection, in respect of such defective system. |
| 23.2.2 | In the event of such rejection, BHEL shall have the right to operate any and/or all equipment as long as it is in operating condition, whether or not, such equipment has been accepted as complete and satisfactory, except that this shall not be construed to permit operation of any equipment which may become damaged by such operation before any required alterations or repairs and /or replacements have been made. All repairs or alterations or replacements required of the contractor shall be made by the contractor at such times as directed and in such a manner as will cause the minimum interruption in the use of the equipment. Should the contractor not so replace the rejected system within the time frame as directed by the engineer to meet the requirement of the specification, the contractor's full and extreme liability under this clause will be satisfied by the repayment of all money paid by BHEL to him in respect of such system. |
| 23.2.3 | Nothing in this clause shall be deemed to deprive BHEL or, effect any right under the contract which he may otherwise have in respect of such defects or deficiencies or in any way relieve the contractor or his obligation under the contract. |
| 23.3 | RISK IN STORES (FOR TURNKEY CONTRACTS) |
| 23.3.1 | Seller/ Contractor shall perform the order/ contract in all respects in accordance with terms and conditions thereof. Stores and every constituent part thereof, whether in possession or control of the Seller/ Contractor, his agents or servants, or a carrier, or in joint possession of Seller/ Contractor, his agent or servants and Purchaser, his agents or servants, shall remain in every respect at the risk of Seller/ Contractor until their actual delivery to consignee at the stipulated place or destination or where so provided in acceptance of offer, until their delivery to a person specified by Purchaser as interim consignee for the purpose of dispatch to the consignee. Seller/ Contractor shall be solely responsible for all losses, destructions, damages or deterioration to the plant/ equipment/ stores from any cause whatsoever, while the plant/ equipment/ stores await dispatch after approval by the Inspection Agency. |

PART-5: SERVICES/ TURNKEY PROJECTS

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| 24.0 | SUPERVISION OF ERECTION & COMMISSIONING (if applicable as per NIT/SCC) |
| 24.0.1 | <p>The Contractor's Obligations: The Vendor/Contractor, upon notification and whenever called for by BHEL, shall provide the services of the competent supervisors:</p> <ul style="list-style-type: none"> to give to the Purchaser or his site representative the necessary instructions for the installation and erection of the system/equipment or package or product. to supervise the installation and erection of the system/equipment or package or product. to commission & performance testing of the system/equipment or package or product supplied to the satisfaction of the site representative <p>The number and qualifications of the Contractor's personnel, and the estimated duration of erection, shall be as included in the contract.</p> |
| 24.0.2 | <p>The Purchaser's Obligations: Erection will be carried out by the power sector region, BHEL/ BHEL Erection contractor, who shall, at his own expense, provide the skilled and unskilled labour, all erection tools and everything necessary for the erection of the Product/ Equipment.</p> |
| 24.0.3 | <p>Notification of Readiness of the Site: The Purchaser or BHEL's site representative shall give the contractor a notice in advance (7 days for indigenous / 15 days for imports / as per contracted terms) in writing of the date at which the site will be ready for the work and the commencement of supervision. Contractor to mobilize concerned competent personnel for supervision of Erection & commissioning activities within a period of 7 days of receipt of intimation in this regard by BHEL.</p> |
| 24.0.4 | <p>Local Laws and Safety Regulations: The Contractor shall ensure that his staff complies with local laws and safety regulations as applicable at the work site. Any liability or penalty arising due to violation or non-compliance thereof shall be to contractor's account.</p> |
| 24.0.5 | <p>Work Completion Certificate: Upon completion of the contracted scope of work, Purchaser or BHEL's site representative shall issue a 'Work Completion Certificate'. Onus of obtaining the same shall be on the vendor/contractor.</p> |
| 25.0 | SUPERVISION OF ERECTION & COMMISSIONING (if applicable as per NIT/SCC) |
| 25.0.1 | <p>The Contractor's Obligations: The Contractor, upon notification and whenever called for by BHEL, shall provide the services of the competent workmen and Supervisors to undertake:</p> <ul style="list-style-type: none"> the installation and erection of the system/equipment or package or product. to supervise the installation and erection of the system/equipment or package or product. to commission & performance testing of the system/equipment or package or product supplied to the satisfaction of the site representative <p>This shall also be read in conjunction with the scope of work specified elsewhere in the contract. Vendor/ Contractor shall arrange Material Receipt Certificate (MRC) from the project site, duly signed by Site Engineer/Owner after receipt & physical verification of the material at site The number and qualifications of the Contractor's personnel shall be as required by site conditions prevailing at the time of execution of E&C portion of the Contract.</p> |
| 25.0.2 | <p>The Purchaser's Obligations: The Purchaser or BHEL's site representative shall ensure the front availability for execution of the E&C in line with the notification of readiness of site given to the contractor. However, the Contractor should ensure that the supply portion of the contract has been completed by the time of this notice, provided this notice is broadly in line with the supply completion date stipulated in the contract.</p> |
| 25.0.3 | <p>Site Storage of Materials: Vendor/ Contractor or his sub-contractors shall organise safe storage of the materials at site until their actual delivery to consignee or handing over of the equipment/system in totality. Vendor/ Contractor shall be solely responsible for all losses, destructions, damages or deterioration to the materials from any cause whatsoever.</p> |
| 25.0.4 | <p>Notification of Readiness of the Site: The Purchaser or BHEL's site representative shall give the Contractor a notice in advance (7 days for indigenous / 15 days for imports / as per contracted terms) in writing of the date at which the site will be ready for the work and the commencement of E&C activities. Contractor to mobilize concerned competent personnel for Erection & commissioning and supervision thereof within a period of 7 days of receipt of intimation in this regard by BHEL.</p> |
| 25.0.5 | <p>Local Laws and Safety Regulations: The Contractor shall ensure that his staff complies with local laws and safety regulations as applicable at the work site. Any liability or penalty arising due to violation or non-compliance thereof shall be to Contractor's account.</p> |
| 25.0.6 | <p>Site Register: A site register shall be maintained at work site wherein all works carried out and problems encountered, if any, will be recorded. This site register will be completed and signed daily by the representatives of the BHEL / Contractor and also owner where required. Unless otherwise specified in the contract, the representatives shall be authorised to act on behalf of their respective parties in all matters concerning the E&C work and the supervision. Wherever these Supplementary Conditions stipulate that written notice shall be given, the representative shall be authorised to receive such notice on behalf of the party he represents.</p> |
| 25.0.7 | <p>Work Completion Certificate: Upon completion of the contracted scope of work, Purchaser or BHEL's site representative shall issue a 'Work Completion Certificate'. Onus of obtaining the same shall be on the vendor/contractor.</p> |

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| 25.0.8 | Extra Cost During Erection: If it is shown by the notices in the site register or otherwise proved by the Purchaser that the Contractor has failed, to perform his obligations in accordance with necessary requirement of the contract, or has failed to use proper skill, care and diligence in carrying out the said obligations, thereby causing the cost of erection to be increased, the Purchaser shall be entitled to claim compensation for such extra cost. The Contractor shall make good any damage to the Product/ Equipment occurring during erection & commissioning (or its supervision) caused due to negligence by Contractor's personnel. |
| 26.0 | EXTENSION OF TIME FOR COMPLETION (FOR TURNKEY PACKAGES) |
| 26.0.1 | If the completion of work as detailed in the scope of work gets delayed beyond the contract/ completion period, the seller/ contractor shall request for an extension of the contract and BHEL at its discretion may extend the contract as per procedure prescribed in clause 26.0.3, 26.0.4, and 26.0.5. |
| 26.0.2 | Pending finalization of extension of time, payment to vendors for supply/services executed during such periods will be done only in excess of maximum LD amount as per LD clause for delayed delivery (Clause 10.0). On finalization of extension of time, payments to vendor shall be regularized in line with approved time extension proposal. |
| 26.0.3 | Based on the reviews jointly signed as per Clause 36.2.1, the scope balance at the end of original contract period less the backlog attributable to the seller/ contractor shall be quantified, and the number of months of time extension required for completion of the same shall be jointly worked out. Within this period of time extension, the seller/contractor is bound to complete the portion of backlog attributable to the seller/ contractor. Any further time extension or time extensions at the end of the previous extension shall be worked out similarly. |
| 26.0.4 | However, if any time extension is granted to the seller/contractor to facilitate continuation of work and completion of contract, due to backlog attributable to the seller/ contractor alone, then it shall be without prejudice to the rights of BHEL to impose LD in line with Clause 10.0 for the delays attributable to the seller/ contractor, in addition to any other actions BHEL may wish to take at the risk and cost of seller/ contractor. |
| 26.0.5 | A joint programme shall be drawn for the balance amount of work to be completed during the period of 'Time extension'. Review of the programme and record of shortfall shall be done as per Clause no. 36.2.1. |

PART-6: DISPUTES AND RESOLUTIONS

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| 27.0 | FORCE MAJEURE |
| 27.0.1 | Notwithstanding anything contained in the Contract, neither the Seller and nor the Buyer 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 affect the obligations to be performed by the Buyer or the Seller. Such events include war, military operations of any nature, blockages, revolutions, insurrections, riots, civil commotions, insurgency, sabotage, acts of public enemy, fires, explosion, epidemics, quarantine restrictions, floods, earthquake, or acts of God, restrictions by Govt. authorities over which the Seller or the Buyer has no control. Seller and Buyer shall endeavour to prevent, overcome or remove the causes of force Majeure. |
| 27.0.2 | The party claiming to be affected by Force Majeure shall notify the other party in writing without delay, within two weeks on the intervention and on the cessation of such circumstance. The notifying party shall specify the matter constituting Force Majeure, explaining to what extent contractual obligations will thereby be prevented or delayed and the further period for which it is estimated that such prevention or delay will continue. Extension of time sought by the Seller along with supporting evidence and so granted by the Buyer for the supply/ work affected, if any, shall not be construed as waiver in respect of remaining deliveries. |
| 27.0.3 | Notwithstanding above provisions, Buyer shall reserve the right to cancel the order/ Contract, wholly or partly, in order to meet the overall project schedule and make alternative arrangements for completion of deliveries and other schedules. If the war like situation has developed in a country where a seller's works is located in this P.O. or there is political instability and Indian Embassy located in that country forbids or advises for not having any business dealing with the sellers located in such zone / region/ country, then BHEL reserves the right to cancel the order. |
| 27.1 | HOLD ON CONTRACT EXECUTION CASES OTHER THAN FORCE MAJEURE |
| 27.1.1 | In case of uncertainty regarding lifting of HOLD on contract execution relating to any activity put by Buyer/BHEL (because of any reason other than Force Majeure) or by end customer (cancellation or hold on project), the contract/Purchase Order may be short closed by Buyer/BHEL after 3 years from date of imposition of HOLD without prejudice to any claim of either party with regard to the executed portion of the contract. However, all future obligations of the Buyer and Seller with respect to the contract/Purchase Order shall come to end in case of such short closure. |
| 28.0 | LIMITATION OF LIABILITY |
| 28.0.1 | Except in cases of wilful misconduct, notwithstanding anything to the contrary in this contract, in no event, whether based on contract, tort (including negligence), strict liability or otherwise, shall either party be liable for incidental, indirect, exemplary, or consequential damages of any nature. In no event shall either party be liable for loss of profits or loss of revenue under any circumstances. Neither party's liability for any direct damages resulting from its performance or failure to perform here under shall exceed the total contract price, provided, however, that this limitation shall not apply to any obligation of the Seller to indemnify the Purchaser with respect to Intellectual Property Rights. |
| 29.0 | POWER TO VARY OR OMIT WORK OR TERMINATION OF CONTRACT |
| 29.0.1 | No alternations, amendments, omissions, additions, suspensions or variation of the work (hereinafter referred as "variations") under the contract shall be made by the contractor except as directed in writing by BHEL. But BHEL shall have full power, subject to the provision hereinafter contained from time to time during the execution of the contract by notice in writing to instruct the contractor to make such variation without prejudice to the contract and the contractor shall carry out such variations and be bound by the same conditions as far as applicable, as though the said variations occurred in the contract Documents. |
| 29.0.2 | If any suggested variations would in the opinion of the contractor, if carried out, prevent him from fulfilling any of his obligations or guarantee under the contract he shall notify BHEL thereof in writing and BHEL shall decide forthwith whether or not the same shall be carried out and if BHEL confirms his instruction, the contractor's obligations and guarantee shall be modified to such an extent as may be justified. |
| 29.1 | SUSPENSION OF DELIVERY/WORK |
| 29.1.1 | BHEL reserves the right to suspend and reinstate execution of the whole or any part of the supplies without invalidating the provision of the contract. Orders for suspension or reinstatement of the supplies/work will be issued by BHEL to the contractor in writing. The time for completion of the work shall be extended for a period equal to duration of the suspension. |
| 29.1.2 | During the suspension period BHEL shall not pay any compensation, profit or loss, storage charges, interest, etc. |
| 29.2 | FORECLOSURE OF CONTRACT |
| 29.2.1 | If at any time after acceptance of the contract, the owner/BHEL shall decide to abandon or reduce the scope of the work for any reason whatsoever and hence not require the whole or any part of the work to be carried out, BHEL shall give notice in writing to that effect to contractor and the Contractor shall have no claim to any payment of compensation or otherwise, whatsoever, on account of any profit or advance which he might have derived from the execution of the works in full but which he could not derive in consequence of the foreclosure of the whole or part of the supplies/work. |

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| 29.3 | TERMINATION OF CONTRACT |
| 29.3.1 | Purchaser shall have the right to cancel Order/ Contract, wholly or in part, in case they are obliged to do so on account of any decline, diminution, curtailment or stoppage of their business and in that event, the Seller/ Contractor compensation claim shall be settled mutually. |
| 29.3.2 | Purchaser shall have the right to cancel order/ contract at the risk and cost of Seller/ Contractor in case either the Seller/ Contractor himself or any of his representative or agent is found to have been a previous employee of the Purchaser immediately before retirement and has within a period of two years of such retirement accepted the employment of the Seller/ Contractor either as a Seller/ Contractor or as an employee without having obtained prior permission of Purchaser. |
| 29.3.3 | In case of cancellation of main supply order/ contract, all other associated orders/ contracts like mandatory spares/ recommended spares/ E&C/ supervision of E&C would also get cancelled. |
| 29.4 | TERMINATION ON DEATH OF CONTRACTOR |
| 29.4.1 | If the bidder/seller is an individual or proprietary concerned, on death of such individual or proprietary concerned, the contract shall be deemed to have been terminated on date of the death. |
| 29.4.2 | In case of partnership firm, if one of the partner dies or any change or re-constitution of the firm takes place, BHEL shall take an appropriate decision in this regard. Such decision shall be final and binding on the parties. |
| 29.4.3 | The legal heir/ estates/representatives of the deceased individual or proprietary concern or partners of a partnership firm cannot claim compensation or damages etc. |
| 29.5 | TERMINATION/ OFFLOADING FOR DELAY IN EXECUTION OF ORDER |
| 29.5.1 | The contractor fully understands that time is essence of the contract and timely completion of the work as per the schedule is of paramount necessity as otherwise it would lead to adversely affecting the schedules of other works/project with resultant financial and other losses to the purchaser. In view of this, the contractor unconditionally agrees and binds himself to be liable for all the consequences for non-completion of the work within the stipulated time. |
| 29.5.2 | In case a situation is brought about by the contractor warranting termination/off-loading of the whole or any part of the work for any reason whatsoever, the Purchaser shall have the liberty and right to entrust/engage/award the work so terminated/off loaded at the risk and cost of the contractor to any other agency/contractor by adopting any mode of inviting tenders, in order to ensure completion of the work or at the quickest possible time. |
| 30.0 | TRANSFER, SUB-LETTING/ ASSIGNMENT/ SUB-CONTRACTING |
| 30.0.1 | Bidder shall not sublet, transfer or assign order/ contract or any part thereof or interest therein or benefit or advantage thereof save with the prior consent in writing of Buyer. In the event of bidder sub-letting, transferring or assigning order/ contract or any part thereof or interest therein or benefit or advantage thereof without such permission, the Buyer shall be entitled to cancel the Order/ Contract and to purchase the equipments/system/package from elsewhere at risk and costs of bidder and the bidder shall be liable for any loss or damage which Buyer may sustain in consequence of or arising out of such risk purchase. |
| 30.0.2 | If bidder is an individual or proprietary concern and the individual or the proprietor dies or the partnership is dissolved or substantially affected, then unless the Buyer is satisfied that legal representative of individual bidder or proprietor of proprietary concern and surviving partners of partnership firm are capable of carrying out and completing the order/ contract, the Buyer shall be entitled to cancel the order/ contract as to its incomplete portion and without being in any way liable to payment of any compensation to estate of bidder and/ or to surviving partners of bidder's firm on account of cancellation of the order/ contract. |
| 30.0.3 | Decision of Buyer that legal representatives of deceased bidder or surviving partners of the bidder's firm cannot carry out and complete the order/ contract shall be final and binding on the parties hereto. |
| 30.0.4 | Terms and Conditions shall not get affected in case of merger/ amalgamation/ takeover/ re-arrangement etc. |
| 31.0 | DEFAULT/ BREACH OF CONTRACT, INSOLVENCY, AND RISK & COST PURCHASE |
| 31.0.1 | <p>If Seller/ Contractor</p> <ul style="list-style-type: none"> ▪ fails to deliver goods or materials or any instalment thereof within the period(s) fixed for such delivery or ▪ delivers goods or materials not of the contracted quality and failing to adhere to the contract specifications or ▪ withdraws his offer after the part two bid opening (Price bid opening) or ▪ at any time repudiates or otherwise abandons the contract before expiry of such period or refuses or ▪ is unable to supply goods or materials covered by the Order/ Contract either in whole or in part or otherwise fails to perform the Order/Contract or ▪ commits any breach of Order/ Contract not herein specifically provided for or ▪ in the event of the death or insanity or if the Seller/ Contractor being an individual or if a firm on a partnership thereof, shall at any time, be adjudged insolvent or shall have a receiving order for administration of his estate made against him or shall take any proceeding for composition under any Insolvency Act for the time being in force or ▪ make any assignment of the Order/ Contract or enter into any arrangement or composition with his creditors or suspend payment or if the firm is dissolved under the Partnership Act or ▪ if the Seller/ Contractor being a company is wound up voluntarily or by order of a Court or a Receiver, Liquidator or Manager on behalf of the debenture holders and creditors is appointed or circumstances |

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| | <p>shall have arisen which entitles the Court of debenture holder and creditors to appoint a receiver, liquidator or manager,</p> <p>the purchaser without prejudice to his right to recover any expenses, losses or damages to which the Purchaser may be put to incur or sustain by reason of Seller/ Contractor's default or breach of Order/ Contract, Purchaser shall be entitled to cancel the Order/ Contract either in whole or portion thereof without compensation to Seller/ Contractor and if the Purchaser so desires, may procure upon such terms and in such manner as deemed appropriate, stores not so delivered or others of similar description where stores exactly complying with particulars are not, in the opinion of the Purchaser, which shall be final, readily procurable, at the risk and cost of the Seller/ Contractor and the Seller/ Contractor shall be liable to the Purchaser for any excess costs provided that the Seller/ Contractor shall continue the performance of the Order/ Contract to the extent not cancelled under the provisions of this clause.</p> <p>The Seller/ Contractor shall on no account be entitled to any gain on such repurchases.</p> <p>Risk & Cost Clause, in line with Conditions of Contract may be invoked in any of the following cases:</p> <ol style="list-style-type: none"> Contractor/ supplier's poor progress of the work vis-à-vis execution timeline as stipulated in the Contract, backlog attributable to contractor/ supplier including unexecuted portion of work/ supply does not appear to be executable within balance available period considering its performance of execution. Withdrawal from or abandonment of the work by contractor before completion of the work as per contract. Non-completion of work/ Non-supply by the Contractor/ supplier within scheduled completion/delivery period as per Contract or as extended from time to time, for the reasons attributable to the contractor/ supplier. Termination of Contract on account of any other reason(s) attributable to Contractor/ Supplier. Assignment, transfer, subletting of Contract without BHEL's written permission resulting in termination of Contract or part thereof by BHEL. <p>Non-compliance to any contractual condition or any other default attributable to Contractor/ Supplier.</p> |
| 31.0.2 | <p><u>Risk and Cost against Balance Work:</u> Risk & Cost Amount= $[(A-B) + (A \times H/100)]$ Where, A= Value of Balance scope of Work/ Supply (*) as per rates of new contract B= Value of Balance scope of Work/ Supply (*) as per rates of old contract being paid to the contractor/ supplier at the time of termination of contract i.e. inclusive of PVC & ORC, if any. H = Overhead Factor to be taken as 5 In case (A-B) is less than 0 (zero), value of (A-B) shall be taken as 0 (zero). *(Balance scope of work/ supply) Difference of Contract Quantities and Executed Quantities as on the date of issue of Letter for 'Termination of Contract', shall be taken as balance scope of Work/ Supply for calculating risk & cost amount.</p> <p>LD against delay in executed work/supply shall be calculated in line with LD clause of the contract for the delay attributable to contractor/ supplier. For this purpose, contract value shall be taken as Executed Value of work/supply for the purpose of limiting maximum LD value. Method for calculation of "LD against delay in executed work/supply" is given below. i) Let the time period from scheduled date of start of work till termination of contract excluding the period of Hold (if any) not attributable to contractor/ supplier= T1 ii) Let the value of executed work/supply till the time of termination of contract= X iii) Let the Total Executable Value of work/supply for which inputs/fronts were made available to contractor/ supplier and were planned for execution till termination of contract = Y iv) Delay in executed work/supply attributable to contractor/supplier i.e. $T2=(1-X/Y) \times T1$ v) LD shall be calculated in line with LD clause of the Contract for the delay attributable to contractor/ supplier taking "X" as Contract Value and "T2" as delay attributable to contractor/ supplier.</p> <p>Note: In case portion of service/ supply is withdrawn, no LD shall be applicable for portion of service/ supply withdrawn.</p> |
| 31.0.3 | <p>Recovery from Supplier Recoveries from contractor/ supplier on whom risk & cost has been invoked shall be made from the following:</p> <ol style="list-style-type: none"> Dues available in the form of Bills payable to contractor/ supplier, SD, BGs against the same contract. Dues payable to contractor/ supplier against other contracts in the same Region/Unit/ Division of BHEL. Dues payable to contractor/ supplier against other contracts in the different Region/Unit/ division of BHEL Legal Options for recovery of dues payable by the supplier/ contractor. |
| 32.0 | NON WAIVER OF DEFAULTS |
| 32.0.1 | <p>If any individual provision of the Contract is invalid the other provisions shall not be affected. The failure of BHEL to insist upon performance of the Contract, to enforce any of the terms and conditions of this Contract or to exercise any right or privilege granted to BHEL under this Contract or under law shall not release the</p> |

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| | <p>seller from any of the warranties or obligations of the contract and shall not be construed as a waiver thereof and the same shall continue in full force and effect.</p> <p>If any individual provision of the Contract is held by a Court or any other Responsible Authority to be unlawful, invalid, void or unenforceable, that provision shall be deemed to be deleted from the Contract and shall be of no force or effect and this Contract shall remain in full force and effect as if such provision had not originally been contained in this Contract and the other provisions shall not be affected. In the event of any such deletion the Parties shall negotiate in good faith in order to agree to terms of a mutually acceptable and satisfactory alternative provision in place of the provision so deleted.</p> <p>No waiver shall be effective unless it is communicated in writing to the other party. A waiver accorded on one occasion shall not constitute a continuing waiver in respect of such such/similar breach/event in future and separate waiver shall be necessary for each event/breach.</p> <p>The failure of BHEL to exercise any contractual right or remedy or to enforce any of the terms and conditions of this Order/Contract or to exercise any right or privilege granted to BHEL under this Contract or under law shall not constitute a waiver thereof or constitute a waiver of any right or remedy arising from any other breach of the Contract nor shall it release the seller from any of the warranties or obligations of the Order/Contract and the same shall continue in full force and effect.</p> |
| 33.0 | SETTLEMENT OF DISPUTES |
| 33.0.1 | <p>i. Except as otherwise specifically provided in the Order/ Contract, all disputes concerning questions of the facts arising under the Order/ Contract, shall be decided by Purchaser, subject to written appeal by the Seller/ Contractor to the Purchaser, whose decision shall be final</p> <p>ii. Any dispute or difference shall be, to the extent possible, settled amicably between the parties hereto, failing which the disputed issues shall be settled through arbitration and conciliation.</p> <p>iii. Seller/ Contractor shall continue to perform the order/ contract, pending settlement of dispute(s).</p> |
| 33.1 | CONCILIATION |
| 33.1.1 | <p>CONCILIATION CLAUSE FOR CONDUCTING CONCILIATION PROCEEDINGS UNDER THE BHEL CONCILIATION SCHEME, 2018: 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, penalty deduction, time extension), 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.</p> |
| 33.1.2 | <p>The proceedings of Conciliation shall broadly be governed by Part-III of the Arbitration and Conciliation Act 1996 or any statutory modification thereof and as provided in Procedure (Annexure-12) to this GCC. The Procedure (Annexure-12) together with its Formats will be treated as if the same is part and parcel hereof and shall be as effectual as if set out herein in this GCC</p> |
| 33.1.3 | <p>NOTES:</p> <p>1. No serving or a retired employee of BHEL/Administrative Ministry of BHEL shall be included in the BHEL Panel of Conciliators.</p> <p>2. Any other person(s) can be appointed as Conciliator(s) who is/are mutually agreeable to both the parties from outside the BHEL Panel of Conciliators.</p> |
| 33.2 | ARBITRATION (WITH SOLE ARBITRATOR) |
| 33.2.1 | <p>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, penalty deduction, validity or execution of the Contract; time extension, 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 arbitrator to be appointed by Head of the BHEL Unit/Region/Division issuing the Contract</p> |
| 33.2.2 | <p>The Arbitrator shall pass a reasoned award and the award of the Arbitrator shall be final and binding upon the Parties.</p> |
| 33.2.3 | <p>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 Sangareddy / Hyderabad, Telangana. The language of arbitration shall be English and the documents shall be submitted in English.</p> |
| 33.2.4 | <p>The cost of arbitration shall initially be borne equally by the Parties subject to the final apportionment of the cost of the arbitration in the award of the Arbitrator.</p> |
| 33.2.5 | <p>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.</p> |
| 33.3 | ARBITRATION FOR CONTRACT WITH PUBLIC SECTOR ENTERPRISE (PSE) OR A GOVERNMENT DEPARTMENT |

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| 33.3.1 | In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract(s) between Central Public Sector Enterprises (CPSEs)/Port Trusts inter se and also between CPSEs and Government Departments/Organizations (excluding disputes concerning railways, Income Tax, Customs & Excise Departments), such dispute or difference or difference shall be taken up by either party for resolution through AMRCD as mentioned in DPE OM no. 4(1)/2013-DPE(GM)/FTS-1835 dated 22.05.2018. |
| 33.4 | LAWS GOVERNING THE CONTRACT & JURISDICTION OF COURT |
| 33.4.1 | The contract shall in all respects be deemed to be and shall be construed and all payments there under shall be made in Indian Rupees unless otherwise specified. |
| 33.4.2 | This contract shall be construed as per and be governed by the laws in force in India. The Courts of Sangareddy / Hyderabad, Telangana (or Purchase order issuing agency city) shall have exclusive Jurisdiction over any matter arising out of or in connection with this contract, including Arbitration Awards. |
| 34.0 | INDEMNIFICATION |
| 34.0.1 | Seller/ Contractor shall fully indemnify and keep indemnified the Purchaser against all claims of whatsoever nature arising during the course and out of the execution of this Order/ Contract. |
| 34.0.2 | The Seller agrees to indemnify, defend and hold harmless the Buyer, its officers, employees, agents, representatives, successors, assignees or any of the buyer's customers buying or using the goods or services specified herein, against any actual or alleged infringement of such intellectual property interests, claims by third parties in this regard. Seller and shall pay to the Buyer merely on demand without demur and without requiring the Buyer to furnish any proof of such claim, such sum as indicated in the demand towards any liabilities, damages, penalties, injuries, claims, demands, actions, cost and expenses etc. suffered as a result thereof. |
| 34.1 | NO PERSONAL LIABILITY |
| 34.1.1 | Neither any member of BHEL's staff nor the Engineer, nor the Engineer's representative shall be in any way personally liable for the acts or obligations under the contract or answerable for any default or omission on the part of BHEL in the observance or performance of any of the acts, matters, or things which are herein contained. |

PART-7: OTHER GENERAL TERMS

| 35.0 | FOREIGN SUPPLIERS AND INDIAN AGENTS OF FOREIGN SUPPLIERS (AGENCY AGREEMENT) |
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| 35.0.1 | <p>For Indian Agents of Foreign Principals:</p> <ol style="list-style-type: none"> BHEL shall deal directly with foreign vendors, wherever required, for procurement of goods. However, if the foreign principal desires to avail of the services of an Indian agent, then the foreign principal should ensure compliance to regulatory guidelines - which require mandatory submission of an Agency Agreement. It shall be incumbent on the Indian agent and the foreign principal to adhere to the relevant guidelines of Government of India, issued from time to time. The Agency Agreement should specify the precise relationship between the foreign OEM/ foreign principal and their Indian agent and their mutual interest in the business. All services to be rendered by agent/ associate, whether of general nature or in relation to the particular contract, must be clearly stated by the foreign supplier/ Indian agent. Any payment, which the agent or associate receives in India or abroad from the OEM, whether as commission or as a general retainer fee should be brought on record in the Agreement and be made explicit in order to ensure compliance to laws of the country. Any agency commission to be paid by BHEL to the Indian agent shall be in Indian currency only. Tax deduction at source is applicable to the agency commission paid to the Indian agent as per the prevailing rules. In the absence of any agency agreement, BHEL shall not deal with any Indian agent (authorized representative/ associate/ consultant, or by whatever name called) and shall deal directly with the foreign principal only for all correspondence and business purposes. The "Guidelines for Indian Agents of Foreign Suppliers" enclosed at annexure - 'A' shall apply in all such cases. The supply and execution of the Purchase Order (including indigenous supplies/ service) shall be in the scope of the OEM/ foreign principal. The OEM/ foreign principal should submit their offer inclusive of all indigenous supplies/ services and evaluation will be based on 'total cost to BHEL'. In case OEM/ foreign principal recommends placement of order(s) towards indigenous portion of supplies/ services on Indian supplier(s)/ agent on their behalf, the credentials/ capacity/ capability of the Indian supplier(s) agent to make the supplies/ services shall be checked by BHEL as per the extant guidelines of Supplier Evaluation, Approval & Review Procedure (SEARP), before opening of price bids. In this regard, details may be checked as per Annexure-B (copy enclosed). It will be the responsibility of the OEM/ foreign principal to get acquainted with the evaluation requirements of Indian supplier/ agent as per SEARP available on www.bhel.com. |
| 35.0.2 | The responsibility for successful execution of the contract (including indigenous Supplies/ services) lies with the OEM/ foreign principal. All bank guarantees to this effect shall be in the scope of the OEM/ foreign principal. |
| 35.0.3 | <p>BHEL prefers to deal directly with the manufacturers. In case any Manufacturer insists for submission of offer from their agent and subsequently placement & execution of PO through their agent:</p> <ol style="list-style-type: none"> Agent should submit authorization letter from the manufacturer, clearly indicating name and address of Manufacturer & agent. The authorization letter should be tender specific and clearly define that the manufacturer has authorized only the referred agent for participating in the tender. Manufacturer, should take responsibility for Quality and Guarantee. In case offer of one Manufacturer received from more than one agent (i.e. Manufacturer authorizing more than one agent), all such offer will be rejected. Channel Partner / Distributor / dealer / trader of a Manufacturer should also meet criteria defined in NIT/ GCC for the agent. Manufacturer should necessarily meet PQR defined in NIT for manufacturers in either case (i.e. In case of Submission of Offer Directly by manufacturer or Participating through agent). Offers of Manufacturers forwarded by their agent (i.e. Offer are of manufacturer and agent is only forwarding their offer with their covering letter), shall be treated as direct offer from manufacturer. |
| 35.0.4 | The FOB / CIF price quoted will be deemed to be inclusive of Indian Agency commission. Agency commission if payable shall be converted to Indian Rupees at TT buying rates of exchange ruling on tender opening date which shall not be subjected to any further exchange rate variation, as disclosed by the bidder in his quoted FOB / CIF price will be paid in Indian Rupees on receipt & acceptance of Materials or it's installation at destination, as the case may be. The lower of the TT buying rate prevailing on the date of technical bid opening shall be considered for computation of Agency commission. |
| 35.0.5 | In a tender either the Indian Agent on behalf of Principal / OEM or the Principal / OEM itself can bid, but both cannot bid simultaneously for same item / product in the same Tender. If both OEM and its authorized agent submit their bids separately in that case only the offer of Principal/ OEM can be considered as an exception. |
| 36.0 | SUPPLIER PERFORMANCE MONITORING AND RATING SYSTEM |
| 36.1 | FOR SUPPLY PACKAGES |
| 36.1.1 | Seller/ Contractor's performance will be evaluated as per Supplier Performance Monitoring and Rating System of BHEL. Please refer BHEL website www.bhel.com for details. |
| 36.2 | FOR TURNKEY PACKAGES |

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| 36.2.1 | A detailed plan/ programme for completion of the contractual scope of work as per the time schedule given in the contract shall be jointly agreed between BHEL and Contractor, before commencement of work. The above programme shall be supported by month/ Quarter wise deployment of resources viz. Manpower, T&P, Consumables, etc. Progress will be reviewed periodically (Monthly/ Quarterly) vis a vis this jointly agreed programme. The Contractor shall submit periodical progress reports monthly/ Quarterly and other reports/information including manpower, consumables, T&P mobilization etc. as desired by BHEL. These progress reports shall also form basis for preparing time extension proposal. |
| 36.2.2 | Monthly/ Quarterly progress review between BHEL and Contractor shall be based on the agreed programme as above, availability of inputs/fronts etc., and constraints if any, as per prescribed formats Manpower, T&P and consumable reports as per prescribed formats as handed over by regions during execution shall be submitted by contractor every month/ Quarter Release of RA Bills shall be contingent upon certification by BHEL Site Engineer of the availability of the above prescribed formats duly filled in and signed. |
| 36.2.3 | The burden of proof that the causes leading to any shortfall is not due to any reasons attributable to the contractor is on the contractor himself. The monthly/ Quarterly progress review shall record shortfalls attributable to (i) Contractor, (ii) Force Majeure Conditions, and (iii) BHEL. |
| 36.2.4 | Online performance monitoring system is in place for vendors which will be used for quarterly/ overall performance review of the vendors. |
| 37.0 | DEALING WITH BANNED SUPPLIERS/ CONTRACTORS IN BHEL |
| 37.0.1 | In order to protect the commercial interests of BHEL, it becomes necessary to take action against suppliers/ contractors by way of suspension of business dealings, who either fail to perform or are in default without any reasonable cause, cause loss of business/ money/ reputation, indulge in malpractices, cheating, bribery, fraud or any other misconduct or formation of cartels so as to influence the bidding process or influence the price etc. Suspension of Business Dealings could be in the form of "Hold" or "Banning" a supplier/ contractor or a bidder or an applicant for registration as a registered supplier. For this purpose, the following guidelines shall be followed across all BHEL units/ divisions/ regions (here in after referred to as Units). These guidelines are not exhaustive but enunciate broad principles governing action against such suppliers/ contractors. |
| 37.0.2 | For Guidelines for suspension of business dealings with suppliers/contractors, refer http://www.bhel.com/index.php/vender . Bidders should get themselves acquainted with these guidelines. |
| 37.0.3 | Offers of the bidders, who are on the hold/banned list, and also the offers of the bidders who engage the services of the banned firms, shall be rejected and considered for evaluation. The list of banned firms is available on BHEL website http://www.bhel.com/vender_registration . |
| 38.0 | INTELLECTUAL PROPERTY RIGHTS AND/OR LICENCES |
| 38.0.1 | If any Patent design, Trade mark, copyright, trade secret or any other intellectual property rights apply to the delivery or accompanying documentation, Buyer or its bidder shall be entitled to the legal use thereof free of charge by means of a non-exclusive, assignable, transferrable sub-licensable, worldwide, perpetual license. All intellectual property rights that arise due to the execution of the delivery by the Seller and by its employees or third parties involved by the Seller for performance of the Contract belong to Buyer. The Seller shall be obligated to do everything necessary to obtain or establish the above-mentioned rights. |
| 38.0.2 | The Seller guarantees that the delivery does not infringe on any of the intellectual property rights of third parties. |
| 38.0.3 | The seller/Contractor shall defend any claim which allege in a suit of proceeding against BHEL that equipment or any part thereof constitutes an infringement of any patent, if notified promptly in writing and given authority, information and assistance for the defence and the Contractor shall pay all damage and costs awarded against BHEL in such suit or proceeding for the patent infringement and the use of equipment or part is prohibited, the contractor shall, at his own expenses either procure for BHEL the right to continue using the equipment or replace the same with a non-infringing equipment, or modify it so that it becomes non-infringing, or move the equipment and refund the Contract Price plus the transportation and installation costs thereof. |
| 38.0.4 | The contractor shall indemnify BHEL from and against all claims and proceeding for or on account of infringement or alleged infringement of any patent rights, design trademark or name or other protected rights in respect of execution of the contract. |
| 38.1 | EXPORT ADMINISTRATION REGULATIONS |
| 38.1.1 | If a delivery by seller includes such technology and/ or supply, which is subject to extant export regulations, the seller shall obtain due permissions, approvals, licenses, etc., and consequences of not obtaining the same shall be to the account of seller. |
| 39.0 | CONFIDENTIALITY/ NON-DISCLOSURE AND INFORMATION OBLIGATIONS |
| 39.0.1 | All drawing and technical documents or technical information (in physical or in electronic form) relating to the product or its manufacture submitted by one party to the other, prior or subsequent to the formation of contract, shall remain property of the submitting party. |
| 39.0.2 | Drawing, technical documents or other technical information received by one party, shall not without the consent of the other party, be used for any other purpose than that, for which they were provided. Such technical information shall not without the consent of the submitting party, otherwise be used or copied, reproduced, transmitted or communicated to a third party. |
| 39.0.3 | The seller shall provide all information pertaining to the bid / contract, in so far as it could be of importance to the Purchaser. The seller shall not reveal confidential information to its own employees not involved with the |

| | |
|--------|--|
| | tender / contract and its execution or to the third parties, unless the purchaser has agreed to this in writing, beforehand. |
| 39.0.4 | The Seller shall not be entitled to use the Buyer's name in advertisements and other commercial publications without prior written permission from Buyer. Upon completion, cancellation or termination of this order, Seller shall return to the Buyer all such data, designs drawings, specifications and other information, including copies made by Seller. |
| 39.0.5 | All drawings, patterns & tools supplied by BHEL or made at BHEL's expense are BHEL's property. These cannot be used or referred to any other party and must only be used in the execution of BHEL's orders. These should be preserved at the bidder's cost for a period of not less than 5 years. Patterns & tools should be returned to BHEL within 90 days of issue of the same. |
| 39.0.6 | Bidder shall, at all times, undertake to maintain complete confidentiality of all data, information, software, drawings & documents, etc. belonging to the Buyer and also of systems, procedures, reports, input documents, manuals, results and any other company documents discussed and/ or finalized during the course of execution of order/ contract. |
| 39.0.7 | In the event of violation of this confidentiality / non-disclosure, BHEL will take legal action as deemed fit. |

ANNEXURES

| SL. NO. | DESCRIPTION |
|--------------------|---|
| 1 | Proforma Declaration of Acceptance of BHEL's Techno-Commercial Terms |
| 2 | Deviation Schedule |
| 3 | Proforma Declaration of Minimum Local Content |
| 4 | Proforma Declaration for Non-Formation of Cartel |
| 5 | Proforma Declaration from Bidders from Country Sharing Land Border with India |
| 6 | NEFT Application Form |
| 7 | Loading Criteria |
| 8 | Contract Performance Bank Guarantee – CPBG |
| 9 | Bank Guarantee for Performance Security – PBG |
| 10 | List of BHEL's Consortium Banks |
| 11 | Integrity Pact |
| 12 | Brief Procedure for Conduct of Conciliation Proceedings |
| 13 | State-Wise GST Registration Code of BHEL |
| 14 | List of Items Identified for 100% Payment (<i>Refer Cl. 6.1.2</i>) |

ANNEXURE – 1: PROFORMA DECLARATION OF ACCEPTANCE OF BHEL'S TECHNO-COMMERCIAL TERMS

[To be submitted on Bidder' Letterhead]

We, (*Bidder's Name*) hereby declare and confirm that we have read the tender documents and noted the job content under Enquiry Number (*Enquiry Number*), issued by *Project Engineering & Systems Division of Bharat Heavy Electricals Limited at Ramachandrapuram, Hyderabad* and have acquired full knowledge and information about the nature of the job and other tender clauses.

We confirm that the above information is true and correct, and we will not raise any claim of any nature due to lack of knowledge of scope of work.

We also confirm that we have not changed/ modified the tender documents as appeared in the website/ as issued by you and in case of such observance at any stage, it shall be treated as null and void.

We have listed all our deviations from terms & conditions specified in NIT documents in "*Deviation Schedule*" appended with this declaration and nowhere else.

We hereby declare our unqualified acceptance to all terms & conditions set out in the NIT Documents, except our deviations listed under "*Deviation Schedule*". In the event of observance of any deviation apart from those listed under "*Deviation Schedule*", whether implicit or explicit, in any part of our offer later, the deviations shall stand null & void.

We understand that non-submission of "*Deviation Schedule*" with this declaration or leaving "*Deviation Schedule*" blank shall automatically imply our unqualified acceptance of all terms & conditions set out in the NIT Documents.

We also understand that BHEL is not under any circumstance obligated to accept any or all our deviations and that BHEL exclusively reserves the right for rejecting our bid on grounds of deviations mentioned in "*Deviation Schedule*".

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

Thanking you,

Yours faithfully,

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

ANNEXURE-2: DEVIATION SCHEDULE

A. COMMERCIAL DEVIATION

| SL. NO. | VOLUME | PAGE | CLAUSE | COMPLETE DESCRIPTION OF DEVIATION | REMARKS |
|---------|--------|------|--------|-----------------------------------|---------|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

B. TECHNICAL DEVIATION

| SL. NO. | VOLUME | PAGE | CLAUSE | COMPLETE DESCRIPTION OF DEVIATION | REMARKS |
|---------|--------|------|--------|-----------------------------------|---------|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

C. ADDITIONAL TERMS

| SL. NO. | ADDITIONAL TERMS | REMARKS |
|---------|------------------|---------|
| | | |
| | | |
| | | |

NOTE:

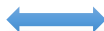
1. Bidders must mention the NIT Volume, Page, and Clause Number while describing their deviations in Tables – A and B.
2. If the bidder wishes to propose any term that is NOT already covered in the NIT Documents, he may write the same in Table – C.

ANNEXURE-3: PROFORMA DECLARATION OF MINIMUM LOCAL CONTENT

[To be submitted on Bidder' Letterhead]

*Pro-forma for self-certification by Supplier on their letterhead for minimum local content -
for order value less than Rs 10 Crores*

"We _____ (Name of Manufacturer) undertake that we meet the mandatory minimum Local Content (LC) requirement i.e. _____ (to be filled as notified in the policy) for claiming Purchase Preference linked with Local Contents under the Govt. policy against tender no. _____."



*Auditor's certification with respect to minimum local content on the letterhead of
Statutory Auditor for order value above Rs 10 Crores*

"We _____ the statutory auditor of M/s _____ (name of the bidder) hereby certify that M/s _____ (name of manufacturer) meet the mandatory Local Content requirements of the Goods and/or Services i.e. _____ (to be filled as notified in the policy) quoted vide offer No. _____ dated _____ against BHEL's tender No. _____ by M/s _____ (Name of the bidder)."



ANNEXURE – 4: PROFORMA DECLARATION OF NON-FORMATION OF CARTEL

[To be submitted on Bidder' Letterhead]

I/ We declare that I/we will not enter into any illegal or undisclosed agreement or understanding, whether formal or informal with other Bidder(s), 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.

For and on behalf of

(Name of the Bidder)

Date.....

Place of Issue.....



**ANNEXURE-5: PROFORMA DECLARATION FROM BIDDERS FROM COUNTRY SHARING LAND
BORDER WITH INDIA**

[To be submitted on Bidder' Letterhead]

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

For and on behalf of

(Name of the Bidder)

Date.....

Place of Issue.....

[Where applicable, evidence of valid registration by the Competent Authority shall be attached.]

NOTE: This Order is not applicable to bidders from those countries (even if sharing a land border with India) to which the Gol has extended lines of credit or in which the Gol is engaged in development projects. Updated lists of countries to which lines of credit have been expended or in which development projects are undertaken are available on The Ministry of External affairs website (<https://www.mea.gov.in>).



ANNEXURE – 6: NEFT APPLICATION FORM

[To be submitted on Bidder' or Bidders' Banks' Letterhead]

Name of the Vendor:

Name of the Bank:

Address of the Bank:

Vendor's A/c no:

Type of A/c:

IFSC Code:

RTSG Code:

Vendor's e-mail address:

Authorized Signatory Seal:

Signature of the Authorized
Representative of Vendor with date & seal

Confirmation by Banker
with office seal

- ABOVE DETAILS ARE TO BE SUBMITTED ON COMPANY'S LETTERHEAD.
- THE DETAILS MAY EITHER BE ATTESTED BY VENDOR'S BANKERS OR ACCOMPANIED BY A CANCELLED CHEQUE LEAF WITH IFSC CODE & A/C NO. PRINTED ON IT.
- UNDERTAKING TO REPORT IMMEDIATELY ANY CHANGES IN THE ABOVE TO BE SUBMITTED ON COMPANY'S LETTERHEAD.

ANNEXURE-7: LOADING CRITERIA

No deviations in GCC terms and conditions are generally acceptable, and bids with deviations are liable to be rejected. However, in exceptional circumstances, BHEL may accept deviations with Loading as given below:

A. PAYMENT TERMS

Payment will be released generally within 60 days after receipt of material/ services and complete documents as per GCC Clause 6.7 (45 days for vendors qualified and registered as Micro or Small as per MSMED Act).

Loading will be done for vendors seeking earlier payment w.r.t. above, for the value and the period of deviation, as stated under:

Interest Rate for loading will be taken as Base rate of SBI on the date of bid opening, (Techno-commercial bid, in case of 2 part bids) + 6% for the period of relaxation sought by the bidders. If the bid opening day happens to be non-working day for SBI, then previous bank working day shall be considered.

B. BANK GUARANTEE `

Non submission of Bank Guarantee – No deviation is permitted.

C. LIQUIDATED DAMAGES

If maximum limit asked for is on Undelivered Portion – 10% value of the total quoted ex works price & freight (excluding GST).

If maximum limit asked is less than 10 % of contract value loading shall be to the extent to which not agreed by bidder (at offered value).

D. PRICE VARIATION CLAUSE (PVC)

PVC instead of firm price – Maximum ceiling of PVC as demanded by the vendor.



**ANNEXURE-8: PROFORMA OF BANK GUARANTEE (in lieu of SECURITY DEPOSIT)
(CONTRACT PERFORMANCE BANK GUARANTEE – CPBG)**

In consideration of the Bharat Heavy Electricals Limited¹ (hereinafter referred to as the 'Employer' which expression shall unless repugnant to the context or meaning thereof, include its successors and permitted assigns) incorporated under the Companies Act, 1956 and having its registered office at _____ through its Unit at _____ (name of the Unit) having agreed to exempt (Name of the Vendor / Contractor / Supplier) having its registered office at _____² (hereinafter called the said Contractor which term includes supplier), from demand under the terms and conditions of the Contract reference No. _____ dated _____³ valued at Rs. _____⁴ (Rupees _____)⁴ (hereinafter called the said Contract) of Security Deposit for the due fulfilment by the said contractor of the terms and conditions contained in the said Contract, on production of a Bank Guarantee for Rs. _____⁵ (Rupees _____ only), we _____ (indicate the name and address of the Bank) having its Head Office at _____ (address of the head Office) (hereinafter referred to as the Bank) at the request of _____ [Contractor(s)] do hereby undertake to pay to the Employer an amount not exceeding Rs. _____ in the event of any breach by the said Contractor(s) of any of the terms and conditions contained in the said Contract.

We, _____ (indicate the name of the Bank), do hereby undertake to pay the amounts due and payable under this guarantee without any demur, merely on a demand from the Employer. 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. _____.

We undertake to pay to the Employer any money so demanded notwithstanding any dispute or disputes raised by the Contractor(s) in any suit or proceeding pending before any Court or Tribunal relating thereto our liability under this present being absolute and unequivocal.

The payment so made by us under this guarantee shall be a valid discharge of our liability for payment hereunder and the Contractor(s) shall have no claim against us for making such payment. We, 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 said Contract and that it shall continue to be enforceable till all the dues of the Employer under or by virtue of the said Contract have been fully paid and its claim satisfied or discharged or till _____⁶ office/Department/Division of Bharat Heavy Electricals Limited certifies that the terms and conditions of the said Contract have been fully and properly carried out by the said contractor(s) and also including the satisfactory performance of the equipment during guarantee period and accordingly discharges this guarantee. Unless a demand or claim under this guarantee is made on us in writing on or before the _____⁷, we shall be discharged from all the liability under this guarantee thereafter.

We, _____ (indicate the name of the Bank) further agree with the Employer that the Employer 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 Contract or to extend time of performance by the said contractor(s) from time to time or to postpone for any time or from time to time any of the powers exercisable by the Employer against the said contractor(s) and to forbear or enforce any of the terms and conditions relating to the said Contract and we shall not be relieved from our liability by any reason of any such variation or extension being granted to the said contractor(s) or for any forbearance, act or omission on the part of the Employer or any indulgence by the Employer to the said contractor(s) or by any such matter or thing whatsoever which under the law relating to sureties would but for this provision have effect of so relieving us.

This guarantee will not be discharged due to the change in the constitution of the Bank or the Contractor(s). We, _____ BANK lastly undertake not to revoke this guarantee during its currency except with the previous consent of the Employer in writing.

Notwithstanding anything to the contrary contained hereinabove:

- a) The liability of the Bank under this Guarantee shall not exceed _____⁸
- b) This Guarantee shall be valid up to _____⁹
- c) Unless the Bank is served a written claim or demand on or before _____¹⁰ all rights under this guarantee shall be forfeited and the Bank shall be relieved and discharged from all liabilities under this guarantee irrespective of whether or not the original bank guarantee is returned to the Bank.

We, _____ (indicate the name of the Bank) lastly undertake not to revoke this guarantee during its currency except with the previous consent of the Employer in writing.

Date _____ Day of _____

for _____ (indicate the name of the Bank)
(Signature of Authorised signatory)

* This date to be indicated should not be earlier than 60 days after the date contemplated under the contract.

¹ NAME AND ADDRESS OF THE EMPLOYER. I.e Bharat Heavy Electricals Limited

- ² NAME AND ADDRESS OF THE VENDOR / CONTRACTOR / SUPPLIER .
³ DETAILS ABOUT THE NOTICE OF AWARD/CONTRACT REFERENCE
⁴ PROJECT/SUPPLY DETAILS
⁵ BG AMOUNT IN FIGURES AND WORDS
⁶ VALIDITY DATE
⁷ DATE OF EXPIRY OF CLAIM PERIOD
⁸ BG AMOUNT IN FIGURES AND WORDS.
⁹ VALIDITY DATE
¹⁰ DATE OF EXPIRY OF CLAIM PERIOD

Note:

1. Units are advised that expiry of claim period may be kept 2/3 months after validity date.
2. In Case of Bank Guarantees submitted by Foreign Vendors-
 - a. **From Nationalized/Public Sector / Private Sector/ Foreign Banks (BG issued by Branches in India)** can be accepted subject to the condition that the Bank Guarantee should be enforceable in the town/city or at nearest branch where the Unit is located i.e. Demand can be presented at the Branch located in the town/city or at nearest branch where the Unit is located.
 - b. **From Foreign Banks (wherein Foreign Vendors intend to provide BG from local branch of the Vendor country's Bank)**
 - b.1 In such cases, in the Tender Enquiry/ Contract itself, it may be clearly specified that Bank Guarantee issued by **any of the Consortium Banks only** will be accepted by BHEL. As such, Foreign Vendor needs to make necessary arrangements for issuance of Counter- Guarantee by Foreign Bank in favour of the Indian Bank (BHEL's Consortium Bank). It is advisable that all charges for issuance of Bank Guarantee/ counter- Guarantee should be borne by the Foreign Vendor. The tender stipulation should clearly specify these requirements.
 - b.2 **In case, Foreign Vendors intend to provide BG from Overseas Branch of our Consortium Bank** (e.g. if a BG is to be issued by SBI Frankfurt), the same is acceptable. However, the procedure at **sl.no. b.1** will required to be followed.
 - b.3 The BG issued may preferably be subject to Uniform Rules for Demand Guarantees (URDG) 758 (as amended from time to time). In case, of Foreign Vendors, the BG Format provided to them should clearly specify the same.
 - b.4 The BG should clearly specify that the demand or other document can be presented in electronic form.

The Bank Guarantee (BG) shall be executed on non-judicial stamp paper and shall be submitted along with Covering Letter from Bank. The Stamp Duty for BG issued in the State of Telangana is hereunder:

| | Value of Bank Guarantee | Applicable Rate of Stamp Duty |
|---|--------------------------|-------------------------------|
| A | Below INR 2,00,000/- | Rs. 100/- |
| B | INR 2,00,000/- and above | Rs. 200/- |

If BG is issued from any other states the applicable *stamp duty in that state* or the *stamp duty in Telangana, whichever is higher* has to be paid. Also, for each extension of any Bank Guarantee, the stamp is to be duly paid.



ANNEXURE-9: BANK GUARANTEE FOR PERFORMANCE SECURITY

Bank Guarantee No:
Date:

To
NAME & ADDRESSES OF THE BENEFICIARY

Dear Sirs,

In consideration of the Bharat Heavy Electricals Limited ¹ (hereinafter referred to as the 'Employer' which expression shall unless repugnant to the context or meaning thereof, include its successors and permitted assigns) incorporated under the Companies Act, 1956 and having its registered office at _____ through its Unit at _____ (name of the Unit) having awarded to (Name of the Vendor / Contractor / Supplier) having its registered office at _____ ² hereinafter referred to as the 'Contractor/Supplier', which expression shall unless repugnant to the context or meaning thereof, include its successors and permitted assigns), a contract Ref No. _____ dated _____ ³ valued at Rs. _____ ⁴ (Rupees -----) /FC. _____ (in words.) for _____ ⁵ (hereinafter called the 'Contract') and the Contractor having agreed to provide a Contract Performance Guarantee, equivalent to _____ % (.... Percent) of the said value of the Contract to the Employer for the faithful performance of the Contract,

we, _____, (hereinafter referred to as the Bank), having registered/Head office at _____ and inter alia a branch at _____ being the Guarantor under this Guarantee, hereby, irrevocably and unconditionally undertake to forthwith and immediately pay to the Employer a maximum amount Rs. ----- (Rupees -----) without any demur, immediately on a demand from the Employer, .

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. _____.

We undertake to pay to the Employer any money so demanded notwithstanding any dispute or disputes raised by the Contractor/ Supplier in any suit or proceeding pending before any Court or Tribunal relating thereto our liability under this present 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 contractors/supplier shall have no claim against us for making such payment.

We the _____ bank 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 said Contract and that it shall continue to be enforceable till all the dues of the Employer under or by virtue of the said Contract have been fully paid and its claims satisfied or discharged.

We _____ BANK further agree with the Employer that the Employer 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 Contract or to extend time of performance by the said Contractor/Supplier from time to time or to postpone for any time or from time to time any of the powers exercisable by the Employer against the said Contractor/Supplier and to forbear or enforce any of the terms and conditions relating to the said Agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Contractor/Supplier or for any forbearance, act or omission on the part of the Employer or any indulgence by the Employer to the said Contractor/Supplier or by any such matter or thing whatsoever which under the law relating to sureties would but for this provision have effect of so relieving us.

The Bank also agrees that the Employer at its option shall be entitled to enforce this Guarantee against the Bank as a principal debtor, in the first instance without proceeding against the Contractor and notwithstanding any security or other guarantee that the Employer may have in relation to the Contractor's liabilities.

This Guarantee shall remain in force upto and including _____ ⁶ and shall be extended from time to time for such period as may be desired by Employer.

This Guarantee shall not be determined or affected by liquidation or winding up, dissolution or change of constitution or insolvency of the Contractor/Supplier but shall in all respects and for all purposes be binding and operative until payment of all money payable to the Employer in terms thereof.

Unless a demand or claim under this guarantee is made on us in writing on or before the _____ ⁷ we shall be discharged from all liabilities under this guarantee thereafter.

We, _____ BANK lastly undertake not to revoke this guarantee during its currency except with the previous consent of the Employer in writing.

Notwithstanding anything to the contrary contained hereinabove:

- d) The liability of the Bank under this Guarantee shall not exceed _____ ⁸
- e) This Guarantee shall be valid up to _____ ⁹



- f) Unless the Bank is served a written claim or demand on or before _____¹⁰ all rights under this guarantee shall be forfeited and the Bank shall be relieved and discharged from all liabilities under this guarantee irrespective of whether or not the original bank guarantee is returned to the Bank.

We, _____ Bank, have power to issue this Guarantee under law and the undersigned as a duly authorized person has full powers to sign this Guarantee on behalf of the Bank.

For and on behalf of

(Name of the Bank)

Dated.....

Place of Issue.....

¹ NAME AND ADDRESS OF EMPLOYER I.e Bharat Heavy Electricals Limited

² NAME AND ADDRESS OF THE VENDOR /CONTRACTOR / SUPPLIER.

³ DETAILS ABOUT THE NOTICE OF AWARD/CONTRACT REFERENCE

⁴ PROJECT/SUPPLY DETAILS

⁵ BG AMOUNT IN FIGURES AND WORDS

⁶ VALIDITY DATE

⁷ DATE OF EXPIRY OF CLAIM PERIOD

⁸ BG AMOUNT IN FIGURES AND WORDS.

⁹ VALIDITY DATE

¹⁰ DATE OF EXPIRY OF CLAIM PERIOD

Note:

6. In Case of Bank Guarantees submitted by Foreign Vendors-

a. **From Nationalized/Public Sector / Private Sector/ Foreign Banks (BG issued by Branches in India)** can be accepted subject to the condition that the Bank Guarantee should be enforceable in the town/city or at nearest branch where the Unit is located i.e. Demand can be presented at the Branch located in the town/city or at nearest branch where the Unit is located.

b. **From Foreign Banks (wherein Foreign Vendors intend to provide BG from local branch of the Vendor country's Bank)**

b.1 In such cases, in the Tender Enquiry/ Contract itself, it may be clearly specified that Bank Guarantee issued by **any of the Consortium Banks only** will be accepted by BHEL. As such, Foreign Vendor needs to make necessary arrangements for issuance of Counter- Guarantee by Foreign Bank in favour of the Indian Bank (BHEL's Consortium Bank). It is advisable that all charges for issuance of Bank Guarantee/ counter- Guarantee should be borne by the Foreign Vendor. The tender stipulation should clearly specify these requirements.

b.2 In case, **Foreign Vendors intend to provide BG from Overseas Branch of our Consortium Bank** (e.g. if a BG is to be issued by SBI Frankfurt), the same is acceptable. However, the procedure at **sl.no. b.1** will required to be followed.

b.3 The BG issued may preferably be subject to Uniform Rules for Demand Guarantees (URDG) 758 (as amended from time to time). In case, of Foreign Vendors, the BG Format provided to them should clearly specify the same.

b.4 The BG should clearly specify that the demand or other document can be presented in electronic form.

The Bank Guarantee (BG) shall be executed on non-judicial stamp paper and shall be submitted along with Covering Letter from Bank. The Stamp Duty for BG issued in the State of Telangana is hereunder:

| | Value of Bank Guarantee | Applicable Rate of Stamp Duty |
|---|--------------------------|-------------------------------|
| A | Below INR 2,00,000/- | Rs. 100/- |
| B | INR 2,00,000/- and above | Rs. 200/- |

If BG is issued from any other states the applicable *stamp duty in that state* or the *stamp duty in Telangana, whichever is higher* has to be paid. Also, for each extension of any Bank Guarantee, the stamp is to be duly paid.

ANNEXURE-10: LIST OF BHEL'S CONSORTIUM BANKS

(Bank Guarantees issued by BHEL's Consortium Banks shall only be accepted. These banks are listed below. For the latest updated list please visit www.bhel.com.)

Nationalised Banks

1. Allahabad Bank
2. Andhra Bank
3. Bank of Baroda
4. Canara Bank
5. Corporation Bank
6. Central Bank
7. Indian Bank
8. Indian Oversea Bank
9. Oriental Bank of Commerce
10. Punjab National Bank
11. Punjab & Sindh Bank
12. State Bank of India
13. Syndicate Bank
14. UCO Bank
15. Union Bank of India
16. United Bank of India
17. Vijaya Bank

Public Sector Bank

18. IDBI

Foreign Banks

19. Citi Bank
20. Deutsche Bank Ag
21. The Hongkong And Shanghai Banking Corporation Limited
22. Standard Chartered Bank
23. The Royal Bank of Scotland N.V.
24. J P Morgan

Private Banks

25. Axis Bank
26. The Federal Bank Limited
27. HDFC Bank
28. Kotak Mahindra Bank
29. ICICI Bank
30. IndusInd Bank
31. Yes Bank

ANNEXURE – 11: INTEGRITY PACT

Between

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

And

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

Preamble

The Principal intends to award, under laid-down organizational procedures contract/s for _____.
_____. The Principal values full compliance with all relevant laws of the land, rules and regulations, and the principles of economic use of resources, and of fairness and transparency in its relations with its Bidder(s)/ Contractor(s).

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

Section 1 – Commitments of the Principal

1.1 The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles -

1.1.1 No employee of the Principal, personally or through family members, will in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.

1.1.2 The Principal will, during the tender process treat all Bidder(s) with equity and reason. The Principal will in particular, before and during the tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential / additional information through which the Bidder(s) could obtain an advantage in relation to the tender process or the contract execution.

1.1.3 The Principal will exclude from the process all known prejudiced persons.

1.2 If the Principal obtains information on the conduct of any of its employees which is a penal offence under the Indian Penal Code 1860 and Prevention of Corruption Act 1988 or any other statutory penal enactment, or if there be a substantive suspicion in this regard, the Principal will inform its Vigilance Office and in addition can initiate disciplinary actions.

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

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

2.1.1 The Bidder(s)/ Contractor(s) will not, directly or through any other person or firm, offer, promise or give to the Principal or to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person any material, immaterial or any other benefit which he / she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.

2.1.2 The Bidder(s)/ Contractor(s) will not enter with other Bidder(s) into any illegal or undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.

2.1.3 The Bidder(s)/ Contractor(s) will not commit any penal offence under the relevant IPC/ PC Act; further the Bidder(s)/ Contractor(s) will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.

2.1.4 Foreign Bidder(s)/ Contractor(s) shall disclose the name and address of agents and representatives in India and Indian Bidder(s)/ Contractor(s) to disclose their foreign principals or associates. The Bidder(s)/ Contractor(s) will, when presenting his bid, disclose any and all payments he has made, and is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.

2.2 The Bidder(s)/ Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

2.3 The Bidder(s)/ Contractor(s) shall not approach the Courts while representing the matters to IEMs and will await their decision in the matter.

Section 3 – Disqualification from tender process & exclusion from future contracts

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

Section 4 – Compensation for Damages

4.1 If the Principal has disqualified the Bidder from the tender process prior to the award according to Section 3, the Principal is entitled to demand and recover the damages equivalent Earnest Money Deposit/Bid Security.

4.2 If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to section 3, the Principal shall be entitled to demand and recover from the Contractor liquidated damages equivalent to 5% of the contract value or the amount equivalent to Security Deposit/Performance Bank Guarantee, whichever is higher.

Section 5 – Previous Transgression

5.1 The Bidder declares that no previous transgressions occurred in the last 3 years with any other company in any country conforming to the anti-corruption approach or with any other Public Sector Enterprise in India that could justify his exclusion from the tender process.

5.2 If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

Section 6 – Equal treatment of all Bidders/ Contractors/ Sub-contractors

6.1 The Principal will enter into agreements with identical conditions as this one with all Bidders and Contractors. In case of sub-contracting, the Principal contractor shall be responsible for the adoption of IP by his sub-contractors and shall continue to remain responsible for any default by his sub-contractors.

6.2 The Principal will disqualify from the tender process all bidders who do not sign this pact or violate its provisions.

Section 7 – Criminal Charges against violating Bidders / Contractors / Sub-contractors

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

Section 8 –Independent External Monitor(s)

8.1 The Principal appoints competent and credible Independent External Monitor for this Pact. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.

8.2 The Monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. He reports to the CMD, BHEL.

8.3 The Bidder(s)/ Contractor(s) accepts that the Monitor has the right to access without restriction to all contract documentation of the Principal including that provided by the Bidder(s)/ Contractor(s). The Bidder(s)/ Contractor(s) will grant the monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his contract documentation. The same is applicable to Sub-contractor(s). The Monitor is under contractual obligation to treat the information and documents of the Bidder(s)/ Contractor(s) / Sub-contractor(s) with confidentiality in line with Non-disclosure agreement.

8.4 The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the contract provided such meetings could have an impact on the contractual relations between the Principal and the Contractor. The parties offer to the Monitor the option to participate in such meetings.

8.5 The role of IEMs is advisory, would not be legally binding and it is restricted to resolving issues raised by an intending bidder regarding any aspect of the tender which allegedly restricts competition or bias towards some bidders. At the same time, it must be understood that IEMs are not consultants to the Management. Their role is independent in nature and the advice once tendered would not be subject to review at the request of the organization.



8.6 For ensuring the desired transparency and objectivity in dealing with the complaints arising out of any tendering process, the matter should be examined by the full panel of IEMs jointly as far as possible, who would look into the records, conduct an investigation, and submit their joint recommendations to the Management.

8.7 The IEMs would examine all complaints received by them and give their recommendations! views to CMD, BHEL, at the earliest. They may also send their report directly to the CVO and the Commission, in case of suspicion of serious irregularities requiring legal! administrative action. IEMs will tender their advice on the complaints within 10 days as far as possible.

8.8 The CMD, BHEL shall decide the compensation to be paid to the Monitor and its terms and conditions.

8.9 IEM should examine the process integrity, they are not expected to concern themselves with fixing of responsibility of officers. Complaints alleging mala fide on the part of any officer of the organization should be looked into by the CVO of the concerned organization.

8.10 If the Monitor has reported to the CMD, BHEL, a substantiated suspicion of an offence under relevant Indian Penal Code! Prevention of Corruption Act, and the CMD, BHEL has not, within reasonable time, taken visible action to proceed against such offence or reported it to the Vigilance Office, the Monitor may also transmit this information directly to the Central Vigilance Commissioner, Government of India.

8.11 The number of Independent External Monitor(s) shall be decided by the CMD, BHEL.

8.12 The word 'Monitor' would include both singular and plural.

Section 9 – Pact Duration

9.1 This Pact shall be operative from the date IP is signed by both the parties till the final completion of contract for successful bidder and for all other bidders 6 months after the contract has been awarded. Issues like warranty/ guarantee etc. should be outside the purview of IEMs.

9.2 If any claim is made / lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified as above, unless it is discharged/ determined by the CMD, BHEL.

Section 10 – Other Provisions

10.1 This agreement is subject to Indian Laws and jurisdiction shall be registered office of the Principal, i.e. New Delhi.

10.2 Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.

10.3 If the Contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.

10.4 Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

10.5 Only those bidders/ contractors who have entered into this agreement with the Principal would be competent to participate in the bidding. In other words, entering into this agreement would be a preliminary qualification.

For & On behalf of the Principal
(Office Seal)

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

Place-----

Witness: _____

Date-----

(Name & Address)_____

Witness: _____

(Name & Address) _____

ANNEXURE – 12: BRIEF PROCEDURE FOR CONDUCT OF CONCILIATION PROCEEDINGS

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:

1. 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. If BHEL is to initiate Conciliation, then, the invitation to Conciliate shall be extended to the concerned Stakeholder in Format 7 hereto. Where the stakeholder is to initiate the Conciliation, the notice for initiation of Conciliation shall be sent in Format-8 hereto.
2. 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. 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. The appointment of Conciliator(s) shall be completed and communicated by the concerned Department/Group of BHEL Unit/Division/Region/Business Group to the other party and the Conciliator(s) within 30 days from the date of acceptance of the invitation to conciliate by the concerned party in the **Format-9**. The details of the Claim, and counter-claim, if any, shall be intimated to the Conciliator(s) simultaneously in **Format-5**.
3. The Parties shall be represented by only their duly authorized in-house executives/officers and neither Party shall be represented by a Lawyer.
4. 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.
5. 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.
6. 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.
7. 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.
8. 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.
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.
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; or,
 - e. On rejection of the Draft Settlement Agreement by the Competent Authority of BHEL or the other Party.

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 INR. 75,000/- for the whole case payable in terms of paragraph No.27 herein below. |
| 2 | Towards drafting of settlement agreement | <ul style="list-style-type: none"> ▪ In cases involving claim and/or counter-claim of up to INR 5 Crores: INR 50,000/- (<i>Sole Conciliator</i>) ▪ In cases involving claim and/or counter-claim of exceeding INR 5 crores but less than INR 10 crores: INR 75,000 (per Conciliator) ▪ In cases involving claim and/or counter-claim of more than INR 10 crores: INR 1,00,000/- (per Conciliator) <p><u>Note:</u> The aforesaid fees for the drafting of the Settlement Agreement shall be paid on the Signing of the Settlement Agreement after approval of the Competent Authority, or on Rejection of the proposed Settlement Agreement by the Competent Authority of BHEL.</p> |

| | | |
|----------|---|--|
| 3 | Secretarial Expenses | INR 10,000/- (one time) for the whole case for Conciliation by a Sole Member IEC. Where Conciliation is by multi member Conciliators — INR 30,000/- (one time) - to be paid to the IEC. |
| 4 | Travel and transportation and stay at outstation Retired Senior Officials of other Public Sector Undertakings (pay Scale Wise) in BHEL scale wise equivalent to or more than E-8 level of BHEL) | As per entitlement of the equivalent officer (pay Sector Undertakings (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. |
| 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. |

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.

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.

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.

Out of the lump sum fees of INR 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.

The travelling, transportation and stay at outstation shall be arranged by concerned Unit as per entitlements as per Serial No. 4 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.

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.

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:

- Views expressed or suggestions made by the other party in respect of a possible settlement of the Disputes;
- admissions made by the other party in the course of the Conciliator proceedings;
- proposals made by the Conciliator;
- The fact that the other Party had indicated his willingness to accept a proposal for settlement made by the Conciliator.

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.

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.

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 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.

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

▪ **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/ Lol/ LoA
3. Brief history of the Disputes:
4. Issues:
5. Details of Claim(s)/Counter Claim(s):
6. Basis/Ground of claim(s)/counter claim(s) (along with relevant clause of contract)

| Sl. No. | Description Of Claim(s)/ Counter Claim | Amount (In INR) Or Currency Applicable In The Contract | Relevant Contract Clause |
|---------|--|--|--------------------------|
| | | | |
| | | | |
| | | | |

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.

▪ **Format 7 to BHEL Conciliation Scheme, 2018**

FORMAT FOR NOTICE INVOKING CONCILIATION CLAUSE BY BHEL FOR REFERRING THE DISPUTES TO CONCILIATION THROUGH IEC

To,

M/s (Stakeholder's name)

Subject: NOTICE FOR INVOCATION OF THE CONCILIATION CLAUSE OF THE CONTRACT BY BHEL

Ref: Contract No/ MoU/ Agreement/ Lol/ LoA & Date _____

Dear Sir/Madam,

As you are aware, with reference to above referred Contract/MoU/Agreement/LOI/LOA, certain disputes have arisen, which, in spite of several rounds of mutual discussions and various correspondences have remained unresolved. The brief particulars of our claims which arise out of the above- referred Contract/ MoU/ Agreement/ Lol/ LoA are reproduced hereunder:

| Sl. No. | Claim description | Amount involved |
|---------|-------------------|-----------------|
| | | |
| | | |

As you are aware, there is a provision in the captioned Contract/MoU/Agreement/LOI/ LOA for referring disputes to conciliation.

In terms of Clause -----of Procedure i.e., Annexure ----- to the Contract/ MoU/ Agreement/ Lol/ LoA, we hereby seek your consent to refer the matter to Conciliation by Independent Experts Committee to be appointed by BHEL. You are invited to provide your consent in writing to proceed with conciliation into the above mentioned disputes within a period of 30 days from the date of this letter along with details of counter-claims, if any, which you might have with regard to the subject Contract/ MoU/ Agreement/ Lol/ LoA. Please note that upon receipt of your consent in writing within 30 days of the date of receipt of this letter by you, BHEL shall appoint suitable person(s) from the BHEL Panel of Conciliators. This letter is being issued without prejudice to our rights and contentions available under the contract and law.

Thanking you
Yours faithfully

Representative of BHEL

Note: The Format may be suitably modified, as required, based on facts and circumstances of the case.

▪ **Format-8 to BHEL Conciliation Scheme, 2018**

FORMAT FOR NOTICE INVOKING CONCILIATION CLAUSE BY A STAKEHOLDER FOR REFERRING THE DISPUTES TO CONCILIATION THROUGH IEC

To,

BHEL (Head of the Unit/Division/Region/Business Group)

Subject: NOTICE FOR INVOCATION OF THE CONCILIATION CLAUSE OF THE CONTRACT BY A STAKEHOLDER

Ref: Contract No/ MoU/ Agreement/ Lol/ LoA & Date _____

Dear Sir/ Madam,

As you are aware, with reference to above referred Contract/ MoU/ Agreement/ Lol/ LoA, certain disputes have arisen, which, in-spite of several rounds of mutual discussions and various correspondences have remained unresolved. The brief particulars of our claims which have arisen out of the above- referred Contract/MoU/Agreement/LOI/LOA are enumerated hereunder:

| Sl. No. | Claim description | Amount involved |
|---------|-------------------|-----------------|
| | | |
| | | |

As you are aware, there is a provision in the captioned Contract/ MoU/ Agreement/ Lol/ LoA for referring inter-se disputes of the Parties to conciliation.

We wish to refer the above-said disputes to Conciliation as per the said Clause of the captioned Contract/ MoU/ Agreement/ Lol/ LoA. In terms of Clause -----of Procedure i.e., Annexure ----- to the Contract/ MoU/ Agreement/ Lol/ LoA, we hereby invite BHEL to provide its consent in writing to proceed with conciliation into the above mentioned disputes within a period of 30 days from the date of this letter along with details of counter-claims, if any, which it might have with regard to the subject Contract/ MoU/ Agreement/ Lol/ LoA and to appoint suitable person(s) as Conciliator(s) from the BHEL Panel of Conciliators. This letter is being issued without prejudice to our rights and contentions available under the contract and law.

Thanking you
Yours faithfully

Representative of the Stakeholder

Note: The Format may be suitably modified, as required, based on facts and circumstances of the case.

▪ **Format-9 to BHEL Conciliation Scheme, 2018**

FORMAT FOR INTIMATION TO THE STAKEHOLDER ABOUT APPOINTMENT OF CONCILIATOR/ IEC

To,

M/s (Stakeholder's name)

Subject: INTIMATION BY BHEL TO THE STAKEHOLDER AND CONCILIATOR(S) ABOUT APPOINTMENT OF CONCILIATOR/IEC

Ref: Contract No/ MoU/ Agreement/ Lol/ LoA & Date _____

Sir,

This is with reference to letter dated ----- regarding reference of the disputes arising in connection with the subject Contract No./ MoU/ Agreement/ Lol/ LoA to conciliation and appointment of Conciliator(s). In pursuance of the said letter, the said disputes are assigned to conciliation and the following persons are nominated as Conciliator(s) for conciliating and assisting the Parties to amicably resolve the disputes in terms of the Arbitration & Conciliation Act, 1996 and the Procedure to the subject Contract / MoU/ Agreement/ Lol/ LoA, if possible. Name and contact details of Conciliator(s):

- a)
- b)
- c)



You are requested to submit the Statement of Claims or Counter-Claims (strike off whichever is inapplicable) before the Conciliator(s) in Format 5 (enclosed herewith) as per the time limit as prescribed by the Conciliator(s).

Yours faithfully,
Representative of BHEL

CC: To Conciliator(s)... for Kind Information please.

Encl: As above.

Note: The Format may be suitably modified, as required, based on facts and circumstances of the case.

ANNEXURE 13: STATE-WISE GST REGISTRATION CODE OF BHEL

| Sl. No. | State | Nodal Unit Registered as Supplier of Goods/Services in GST | GSTIN of Nodal Unit |
|---------|-------------------|--|---------------------|
| 1 | Andhra Pradesh | HPVP | 37AAACB4146P7Z8 |
| 2 | Assam | PSER | 18AAACB4146P1ZE |
| 3 | Bihar | PSER | 10AAACB4146P1ZU |
| 4 | Chandigarh | PSNR | 04AAACB4146P1ZN |
| 5 | Chhattisgarh | PSWR | 22AAACB4146P1ZP |
| 6 | Daman & Diu | EDN | 25AAACB4146P1ZJ |
| 7 | Delhi | TBG | 07AAACB4146P1ZH |
| 8 | Gujarat | PSWR | 24AAACB4146P1ZL |
| 9 | Haryana | PSNR | 06A1ACB4146P1ZJ |
| 10 | Himachal Pradesh | PSNR | 02AAACB4146P1ZR |
| 11 | Jharkhand | PSER | 20AAACB4146P5ZP |
| 12 | Karnataka | EDN | 29AAACB4146P1ZB |
| 13 | Kerala | PSSR | 32AAACB4146P1ZO |
| 14 | Maharashtra | PSWR | 27AAACB4146P1ZF |
| 15 | Madhya Pradesh | BPL | Z3AAACB4146P1ZN |
| 16 | Punjab | IVP | 03AAACB4146P2ZO |
| 17 | Rajasthan | PSNR | 08AAACB4146P1ZF |
| 18 | Tamil Nadu | TRY | 33AAACB4146P2ZL |
| 19 | Telangana | HYD | 36AAACB4146P1ZG |
| 20 | Tripura | PSER | 16AAACB4146P1ZI |
| 21 | Uttar Pradesh | PSNR | 09AAACB4146P2ZC |
| 22 | Uttarakhand | HWR | 05AAACB1146P1ZL |
| 23 | West Bengal | PSER | 19AAACB4146P1ZC |
| 24 | Mizoram | PSER | 15AAACB4146P1ZK |
| 25 | Orissa | PSSR | 21AAACB4146P1ZR |
| 26 | Arunachal Pradesh | PSER | 12AAACB4146P1ZQ |

ANNEXURE – 14: LIST OF ITEMS IDENTIFIED FOR 100% PAYMENT (REFER CL. 6.1.2)

| Sl. No. | PMD | Item Description |
|---------|-----------|---|
| 1 | PE.EP.007 | DIRECT ON LINE STARTERS |
| 2 | PE.EP.008 | DIRECT ON LINE STARTERS (EXPLOSION PROOF) |
| 3 | PE.EP.009 | HT CABLE JOINTING / TERMINATING KITS |
| 4 | PE.EP.010 | CABLE LUGS & CRIMPING TOOLS |
| 5 | PE.EP.015 | LIGHTING FIXTURES, LUMINAIRES (FOR SAFE AREA APPLICATIONS) |
| 6 | PE.EP.016 | LIGHTING FIXTURES & LUMINAIRES (EXPLOSION PROOF AREA APPLICATIONS) |
| 7 | PE.EP.021 | TELECOMMUNICATION SYSTEM (LSTB / PAGING / EPABX & PA SYSTEM) |
| 8 | PE.EP.027 | EARTHING AND LIGHTNING PROTECTION MATERIALS |
| 9 | PE.EP.028 | FLEXIBLE WIRE FOR LIGHTING |
| 10 | PE.EP.032 | LOCAL CONTROL STATIONS (SAFE / HAZARDOUS AREA) |
| 11 | PE.EP.033 | LT POWER CABLES |
| 12 | PE.EP.034 | CONTROL CABLES |
| 13 | PE.EP.035 | HT POWER CABLES |
| 14 | PE.EP.036 | CABLE TRAYS |
| 15 | PE.EP.037 | JUNCTION BOXES FOR WEATHER PROOF AND EXPLOSION PROOF FOR LIGHTING AND OTHER APPLICATION |
| 16 | PE.EP.038 | CABLE GLANDS (WEATHER PROOF/EX.PROOF) |
| 17 | PE.EP.043 | INSTRUMENT CABLE (SIGNAL/RTD COMPENSATION/TC EXTENSION) |
| 18 | PE.EP.047 | LIGHTING PANELS HAZARDOUS AREA |
| 19 | PE.EP.049 | ELECTRIC ACTUATORS |
| 20 | PE.EP.057 | ILLUMINATION ITEMS PACKAGE |
| 21 | PE.EP.058 | FIRE PROOF SEALING SYSTEM FOR CABLE INSTALLATIONS |
| 22 | PE.EP.059 | FRP CABLE TRAYS AND ACCESSORIES |
| 23 | PE.EP.060 | ELECTRICAL LAB EQUIPMENT |
| 24 | PE.EP.064 | ELECTRICAL SYSTEM STUDIES SOFTWARE PACKAGE |
| 25 | PE.EP.065 | WEATHER PROOF LOCAL CONTROL STATIONS CRCA UPTO IP55 |
| 26 | PE.EP.066 | ESE TYPE LIGHTNING ARRESTOR |
| 27 | PE.EP.070 | GI SUPPORT STRUCTURE FOR MOUNTING OF SMU/PANEL/JBS |
| 28 | PE.EP.071 | MINERAL INSULATED COPPER CLAD CABLE |
| 29 | PE.IN.010 | LEVEL TRANSMITTER (GUIDED WAVE RADAR TYPE) |
| 30 | PE.IN.011 | CLOSED CIRCUIT TV (CCTV) |
| 31 | PE.IN.014 | OPTICAL FIBRE CABLES & ACCESSORIES |
| 32 | PE.IN.015 | FLOW ANNUBAR |
| 33 | PE.IN.018 | FIELD BUS CABLES |
| 34 | PE.IN.520 | DIFFERENTIAL PRESSURE INDICATORS/ GAUGES |
| 35 | PE.IN.527 | FLOW NOZZLES |
| 36 | PE.IN.528 | FLOW ORIFICES |
| 37 | PE.IN.530 | FLOW SWITCHES |
| 38 | PE.IN.537 | JUNCTION BOXES (WEATHER PROOF) |
| 39 | PE.IN.538 | JUNCTION BOXES (EXPLOSION PROOF) |
| 40 | PE.IN.540 | LEVEL GAUGES (MAGNETIC TYPE) |
| 41 | PE.IN.541 | LIQUID LEVEL FLOAT SWITCH |
| 42 | PE.IN.542 | LIQUID LEVEL GAUGES |
| 43 | PE.IN.550 | PRESSURE AND DIFFERENTIAL PRESSURE SWITCHES |
| 44 | PE.IN.552 | PRESSURE GAUGES |
| 45 | PE.IN.555 | PR. & DIFF. PR. TRANSMITTERS (ELECTRONIC - SMART) |
| 46 | PE.IN.559 | INLINE ROTAMETER |
| 47 | PE.IN.561 | RTD & THERMOCOUPLES WITH THERMOWELLS |
| 48 | PE.IN.566 | SAFETY RELIEF VALVES |
| 49 | PE.IN.574 | TEMPERATURE GAUGES WITH THERMOWELL |
| 50 | PE.IN.577 | THERMOWELLS |
| 51 | PE.IN.579 | TEMPERATURE TRANSMITTER |

| Sl. No. | PMD | Item Description |
|---------|-----------|--|
| 52 | PE.IN.580 | INSTRUMENT HOOK UP MATERIAL PACKAGE |
| 53 | PE.IN.581 | VIBRATION & DISPLACEMENT MONITORING SYSTEM |
| 54 | PE.IN.582 | C & I LAB EQUIPMENTS |
| 55 | PE.IN.583 | MCT BLOCKS |
| 56 | PE.IN.584 | ULTRASONIC FLOW METER |
| 57 | PE.IN.586 | LEVEL TRANSMITTER (RADAR, NON-CONTACT TYPE) |
| 58 | PE.IN.587 | SIGNAL ISOLATORS, BARRIERS, FOUNDATION FIELD BUS JUNCTION BOX & ACCESSORIES |
| 59 | PE.IN.588 | BYPASS ROTAMETER |
| 60 | PE.IN.591 | LEVEL TRANSMITTER- ULTRASONIC TYPE |
| 61 | PE.IN.593 | INSTRUMENT TUBE FITTINGS |
| 62 | PE.MP.023 | SURGE/PRESSURE VESSELS |
| 63 | PE.MP.024 | SUMP PUMPS |
| 64 | PE.MP.034 | THERMAL INSULATION PACKAGE |
| 65 | PE.MP.035 | BOREWELL PUMP |
| 66 | PE.MP.036 | SILENCERS |
| 67 | PE.MP.040 | FLAME ARRESTORS |
| 68 | PE.MP.041 | GASKETS |
| 69 | PE.MP.042 | FLANGES |
| 70 | PE.MP.044 | PIPE HANGERS AND SUPPORTS PACKAGE. |
| 71 | PE.MP.045 | FLEXI GLASS RINGS |
| 72 | PE.MP.046 | METALLIC BELLOWS |
| 73 | PE.MP.050 | DRAIN TANK- FOR HSD/NAPHTHA/IFO/GAS CONDENSATE DRAINS |
| 74 | PE.MP.054 | RUBBER EXPANSION JOINTS |
| 75 | PE.MP.059 | STEAM TRAPS (THERMODYNAMIC / BALL FLOAT) |
| 76 | PE.MP.060 | BALL VALVES (CS.SS) |
| 77 | PE.MP.072 | STRAINERS (Y-TYPE / T-TYPE / BASKET / CONICAL) |
| 78 | PE.MP.083 | SLUICE GATES |
| 79 | PE.MP.084 | AIR RELEASE VALVE |
| 80 | PE.MP.501 | VALVES-GATE/GLOBE/REG.GLOBE/NON-RETURN; MAT: CS/AS/SS; PR.CL.#150,#300,#800 |
| 81 | PE.MP.502 | VALVES-GATE/GLOBE/REG.GLOBE/NON-RETURN; MAT: CS/AS/SS; PR.CL.#600 |
| 82 | PE.MP.503 | VALVES-GATE/GLOBE/REG.GLOBE/NON-RETURN; MAT: CS/AS/SS; PR.CL.#900 |
| 83 | PE.MP.504 | VALVES-GATE/GLOBE/REG.GLOBE/NON-RETURN; MAT: CS/AS/SS; PR.CL.#1500 |
| 84 | PE.MP.505 | VALVES-GATE/GLOBE/REG.GLOBE/NON-RETURN; MAT: CS/AS/SS; PR.CL.#2500 |
| 85 | PE.MP.510 | BUTTERFLY VALVE ABOVE 14" SIZE |
| 86 | PE.MP.511 | BUTT WELDED PIPE FITTINGS |
| 87 | PE.MP.512 | BOLTING MATERIAL |
| 88 | PE.MP.517 | PRE FABRICATED PIPE SPOOLS |
| 89 | PE.MP.519 | FIXED ROOF TANK CAPACITY 25 TO 50M3 |
| 90 | PE.MP.520 | FIXED ROOF TANK CAPACITY 50 TO 200M3 |
| 91 | PE.MP.527 | FIRE EXTINGUISHERS |
| 92 | PE.MP.534 | CARBON STEEL PIPES (SEAMLESS) OD UPTO AND INCLUDING 114.3 MM |
| 93 | PE.MP.535 | WELDED PIPES LARGER THAN 14" (CARBON STEEL AND MILD STEEL) |
| 94 | PE.MP.537 | STAINLESS STEEL PIPES (WELDED) |
| 95 | PE.MP.538 | WELDED PIPES UP TO 14" (M.S & G.I) |
| 96 | PE.MP.540 | ALLOY STEEL PIPES (WELDED) |
| 97 | PE.MP.544 | CARBON STEEL PIPES (SEAMLESS) OD ABOVE 355.6 MM. |
| 98 | PE.MP.549 | THERMAL INSULATION – LRB ROCKWOOL MATTRESSES AND ROCKWOOL PRE-FORMED PIPE SECTIONS |
| 99 | PE.MP.550 | THERMAL INSULATION - ANCILLARY MATERIAL |
| 100 | PE.MP.551 | ALUMINIUM SHEETS/COILS FOR THERMAL INSULATION CLADDING |
| 101 | PE.MP.552 | THERMAL INSULATION - CALCIUM SILICATE |
| 102 | PE.MP.553 | SELF ACTUATED CONTROL VALVES |
| 103 | PE.MP.554 | BUTTERFLY VALVE UPTO 14" SIZE |

| Sl. No. | PMD | Item Description |
|---------|-----------|--|
| 104 | PE.MP.559 | DELUGE VALVES FOR FIRE PROTECTION SYSTEMS |
| 105 | PE.MP.562 | ALARM VALVE FOR FIRE PROTECTION SYSTEMS |
| 106 | PE.MP.563 | QBD & SPRINKLERS FOR FIRE PROTECTION SYSTEMS |
| 107 | PE.MP.566 | SPRAY NOZZLES FOR FIRE PROTECTION SYSTEMS |
| 108 | PE.MP.571 | WATER MONITOR / WATER CUM FOAM MONITOR FOR FIRE PROTECTION SYSTEMS |
| 109 | PE.MP.577 | FOAM POURER AND GENERATION EQUIPMENTS FOR FIRE PROTECTION SYSTEMS |
| 110 | PE.MP.581 | BLADDER TANK FOR FIRE PROTECTION SYSTEMS |
| 111 | PE.MP.584 | BALANCE PROPORTIONER FOR FIRE PROTECTION SYSTEMS |
| 112 | PE.MP.586 | POSITIVE MATERIAL IDENTIFICATION (PMI) ANALYSER |
| 113 | PE.MP.587 | HYDRANT VALVES FOR FIRE PROTECTION SYSTEMS |
| 114 | PE.MP.588 | BRANCH PIPE WITH NOZZLE FOR FIRE PROTECTION SYSTEM |
| 115 | PE.MP.589 | FIRE HOSES FOR FIRE PROTECTION SYSTEMS |
| 116 | PE.MP.590 | HOSE CABINETS FOR FIRE PROTECTION SYSTEMS |
| 117 | PE.MP.591 | PRESSURE DEVICES FOR FIRE PROTECTION SYSTEMS |
| 118 | PE.MP.592 | AIR RELEASE VALVES FOR FIRE PROTECTION SYSTEMS |
| 119 | PE.MP.593 | HOSE REELS FOR FIRE PROTECTION SYSTEMS |
| 120 | PE.MP.595 | SELF CLEANING STRAINERS |
| 121 | PE.MP.596 | CHEMICAL LAB EQUIPMENT |
| 122 | PE.MP.600 | CAST IRON VALVES(GATE/SLUICE AND CHECK) |
| 123 | PE.MP.602 | PNEUMATIC ON-OFF BALL VALVES |
| 124 | PE.MP.603 | SOCKET WELDED / SCREWED WELDED PIPE FITTINGS |
| 125 | PE.MP.604 | WORKSHOP EQUIPMENTS |
| 126 | PE.MP.607 | SPECIAL TOOLS AND TACKLES |
| 127 | PE.MP.610 | EPOXY PAINTS INCLUDING PRIMER, HB INTERMEDIATE AND THINNER |
| 128 | PE.MP.611 | ANCHOR FASTENERS |
| 129 | PE.MP.612 | COLD INSULATION MATERIALS |
| 130 | PE.MP.619 | STAINLESS STEEL FASTENERS [FOR MMS OF SOLAR PV PROJECTS] |
| 131 | PE.MP.620 | MODULE MOUNTING STRUCTURE [MMS FOR SOLAR PV PROJECTS] |
| 132 | PE.MP.621 | MANUAL SCREENS & MECHANICAL SCREENS FOR STP/WTP |
| 133 | PE.MP.631 | HDPE PIPES, FITTINGS & FLANGES |
| 134 | PE.MP.632 | KNIFE GATE VALVES |
| 135 | PE.MP.633 | DUAL PLATE CHECK VALVES |
| 136 | PE.MP.637 | SOLENOID VALVES |
| 137 | PE.MP.643 | STAINLESS STEEL PIPES (SEAMLESS) |
| 138 | PE.MP.644 | ALLOY STEEL PIPES (SEAMLESS) |
| 139 | PE.MP.645 | CARBON STEEL PIPES (SEAMLESS) OD ABOVE 114.3 MM UPTO AND INCLUDING 355.6MM |