



Rev  
-04

JHS 2055A

## GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS

SN	Description
<b>1</b>	<b>General:</b>
<b>A</b>	These general terms & conditions shall apply to all enquiries, notice inviting tenders, request for quotations concerning the supply of goods and / or rendering of services to Bharat Heavy Electricals Ltd., Jhansi (hereinafter referred to as BHEL or the Purchaser) or its Projects / Customers.
<b>B</b>	Special / supplementary enquiry conditions & Mandatory Sheet requirements, if any, covered in the respective enquiry, will override the relevant conditions mentioned in this document. 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: i. Amendments to Purchase Order/ Framework Agreement ii. Purchase Order/ Framework Agreement iii. Letter of intent (LOI)/ Letter of Award (LOA) iv. Minutes of meeting or Clarifications agreed between Buyer and Seller as regards to the tender or the bidding conditions v. Corrigenda to NIT, with those of later date having precedence over those of earlier date vi. Original NIT and annexures except documents listed in point no (vii) to (ix) below vii. Technical specifications including their annexures viii. Special Terms and condition of Enquiry (STC) ix. General Terms & Conditions for Procurement of Goods
<b>C</b>	Commercial Conditions quoted by the vendor in any place including as stated in bidder's 'General Terms and Conditions' if any, shall not be binding on the Purchaser. Only the conditions contained in this document, including special conditions, if any, for this enquiry shall prevail.
<b>2</b>	<b>General Instructions - Common for Indigenous &amp; Foreign enquiries</b>
<b>A</b>	<b>Through eProcurement</b> 1. Interested bidders/suppliers shall submit their offer through e-procurement mode at <a href="https://eprocurebhel.co.in/nicgep/app">https://eprocurebhel.co.in/nicgep/app</a> 2. Offers in any other mode will not be accepted. 3. Procedure for submission of tender is available in the "Bidder Manual Kit" at e-tender portal <a href="https://eprocurebhel.co.in/">https://eprocurebhel.co.in/</a> 4. In case of any difficulty encountered during registration on BHEL's e-Procurement portal developed by NIC, bidders may contact the Help Desk at the telephone number and email ID provided on the "Contact Us" page of the portal. 5. Before uploading scanned documents if any, the bidders shall sign on all the statements, documents, certificates etc uploaded by him, owning responsibility for their correctness / authenticity. 6. Disclaimer clause: Bidders shall be responsible for obtaining Digital Signature Certificate (DSC), registration on the portal and timely submission of bids. BHEL shall not be responsible for network delays, portal issues at bidder end or incomplete uploads. Neither the Organization (Bharat Heavy Electricals Ltd.) nor the service provider is responsible for any failure of submission of bids due to failure of internet or other connectivity problems or reasons thereof.  Bidders are advised not to wait until the last moment for submission of their bids. Bids should be submitted well in advance of the closing date and time so as to avoid any last-minute technical glitches, connectivity issues or portal-related difficulties. BHEL shall not entertain any request for extension of bid submission deadline on account of such delays attributable to the bidder.
<b>B</b>	<b>Through Conventional Mode (Tender Box)</b>  Bids shall be submitted in a Sealed cover with Enquiry No., Due date and Bidder's name indicated on the Cover. The Cover should contain both <b>Part-I</b> and <b>Part -II</b> bids, as the case may be. <b>Part – I bid</b> In case of Two-part Bid, Part – I bid i.e. <b>Technical bid</b> containing (i) technical offer, (ii) Mandatory Sheet, (iii) <b>unpriced copy</b> of the Price Bid, (iv) EMD (if called in NIT) (v) Relevant documents of PQR (if called in NIT), and (vi) any other document(s) required as per NIT/Tender Conditions all duly filled-in & signed; should be kept in one envelope. <b>Part – I bid</b> Cover items should have Enquiry No., Part I Bid, Due date, and Bidder's name indicated on the Cover. <b>Part –II Bid</b> <b>Part – II bid</b> i.e. <b>Price Bid</b> containing only the price (as called for in the price format where required), duly filled-in & signed; should be kept in a <b>separate envelope</b> . The Price bid Cover items should have Enquiry No., Part II Bid, and Bidder's name indicated on the Cover.



Rev  
-04

JHS 2055A

## GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS

	<p>The envelopes indicating Part –I or Part-II, as the case may be, to be put in a bigger envelope, which should be addressed to In-charge, Tender Room, Bharat Heavy Electricals Ltd., Administration Building, Jhansi 284120. Enquiry No., due date and bidder's name must be mentioned on the bigger envelope. Offer must reach tender room of BHEL Jhansi latest by 13.15 hrs of the enquiry due date.</p> <p>In case, the bids are not submitted in the manner stated above, the offer of the bidder(s) may be liable for rejection. Rate should be quoted in the units asked for in the enquiry. The rates should be quoted both in figures and words. In case of discrepancy in figures and words, the rates quoted in words shall be considered.</p> <p>It is preferred that offers are sent in sealed envelope. However, if the bidder chooses to send the offer through E-mail, offers received through E-mail shall be considered only when such offers are complete in all respects. In cases of offers through E-mail, the offers shall be sent to <a href="mailto:tenderbox.jhs@bhel.in">tenderbox.jhs@bhel.in</a>, wherein the Subject of the Email should mention the Enquiry Number. E mail offers sent to any other E mail ID shall not be entertained. BHEL shall not take any responsibility if the offers are incomplete or if the Enquiry number is not mentioned in the subject of the E-mail.</p> <p>Offer received after 13.15 hrs of the due date will be termed as "Late" and will not be considered.</p>
	<b>Instructions Applicable Both for eProcurement and Conventional Mode (Tender Box) NITs</b>
<b>C</b>	BHEL shall be resorting to Reverse Auction (RA) (Guidelines as available on <a href="http://www.bhel.com">www.bhel.com</a> or <a href="https://www.bhel.com/guidelines-reverse-auction-2024">https://www.bhel.com/guidelines-reverse-auction-2024</a> ). If tender specific conditions call for reverse auction, RA shall be conducted among the techno-commercially qualified bidders. Price bids of all techno-commercially qualified bidders shall be opened and same shall be considered for RA. In case any bidder(s) do(es) not participate in online Reverse Auction, their sealed price bid along with applicable loading, if any, shall be considered for ranking. Bidders to give their acceptance with the offer for participation in RA.
<b>D</b>	The goods offered shall conform to BHEL specifications / drawings and / or Indian / International standards as mentioned in the Enquiry and the bidder is required to confirm his unconditional acceptance to the same. Vendors, seeking deviations from the specifications and any other conditions, may indicate the same clearly on a separate sheet, with reasons for such deviations. BHEL reserves the right to reject the offer with deviations or load the deviations suitably for evaluation.
<b>E</b>	Offers shall be submitted directly by vendor or his authorized agent/representative only. Offers from any other sources shall be considered as unsolicited and shall be summarily rejected.
<b>F</b>	Bid in single part or techno-commercial bid in <b>two</b> -part system (as the case may be) will be opened on the due date. In case of two-part bid, price bids of techno-commercially acceptable bidder(s) only shall be opened on the assigned date, for which separate intimation will be sent to the acceptable bidders.
<b>G</b>	<p>Whenever specified /called in special /additional /tender specific remarks of NIT the Bid Security/ Earnest Money Deposit (EMD)] is to be submitted by bidders along with their bids in full as per the amount indicated in the NIT (except Micro and Small Enterprises (MSEs) or Startups as recognized by Department for Promotion of Industry and Internal Trade (DPIIT)).</p> <p><b>Modes of deposit</b></p> <p>a) The EMD may be accepted only in the following forms:</p> <ol style="list-style-type: none"><li>Electronic Fund Transfer credited in BHEL account (before tender opening).</li><li>Banker's cheque/ Pay order/ Demand draft, in favour of BHEL and payable at BHEL Jhansi(along with offer)</li><li>Fixed Deposit Receipt (FDR) issued by Scheduled Banks/ Public Financial Institutions as defined in the Companies Act (FDR should be in the name of the Contractor, a/c BHEL marking lien in favour of BHEL) (along with offer). The Fixed Deposit in such cases shall be valid for a period of 45 (forty-five) days beyond the final bid validity period.</li><li>Bank Guarantee from any of the Scheduled Banks. In such cases shall be valid for a period of 45 (forty-five) days beyond the final bid validity period.</li><li>Insurance Surety Bonds.</li></ol> <p>b) In case the EMD is more than Rupees Two lakh and in case of foreign bidders, it may be in the form of a bank guarantee (in equivalent Foreign Exchange amount, in case of foreign bidders) issued/ confirmed from any of the scheduled commercial bank in India in an acceptable form. The EMD shall remain valid for a period of 45 (forty-five) days beyond the final bid validity period.</p>



Rev  
-04

## GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS

	<p><b>Forfeiture of EMD</b></p> <p>(i) A bidder's EMD will be forfeited if the bidder withdraws or amends its/ his tender or impairs or derogates from the tender in any respect within the period of validity of the tender or if the successful bidder fails to furnish the required performance security within the specified period mentioned in the Tender.</p> <p>(ii) EMD by the tenderer shall be withheld in case any action on the bidder is envisaged under the provisions of extant "Guidelines on Suspension of business dealings with suppliers/ contractors" and forfeited/ released based on the action as determined under these guidelines.</p> <p>Other Instructions</p> <p>(i) EMD of the unsuccessful bidders should be returned to them at the earliest after expiry of the final bid validity period and latest by the 30th day after the award of the contract. However, in case of two packet or two stage bidding, EMD of unsuccessful bidders during first stage i.e. technical evaluation etc. will be returned within 30 days of declaration of result of first stage i.e. technical evaluation etc.</p> <p>(ii) EMD will be refunded to the successful bidder on conclusion of the order/ receipt of a performance security (as called in the tender).</p> <p>(iii) EMD shall not carry any interest.</p>
H	<ol style="list-style-type: none"><li>1. Any discount / revised offer submitted by a bidder on its own shall be considered, provided it is received on or before the due date and time of offer submission (Part-I). Conditional discounts shall not be considered for evaluation of tenders.</li><li>2. Unsolicited discounts / revised offers given after Part-I bid opening shall not be accepted. No change in price will be permitted within the validity period asked for in the enquiry.</li><li>3. In case of changes in scope and / or technical specification and / or commercial terms &amp; conditions, having price implication, techno-commercially acceptable bidders shall be asked by BHEL to submit the impact of such changes on their price bids. A suitable cut-off date and time shall be given to all the techno-commercially acceptable bidders to submit the impact on their price bids. In case a bidder opts to submit revised price bid instead of impact called for, then their original price ( i.e. previous bid) shall be necessarily opened to know the price impact. .</li></ol>
I	The bidders will submit Integrity Pact, duly signed by its authorized signatory, if called for in the enquiry.
J	Wherever the enquiry is issued to unregistered vendor referred by customer of BHEL, the bidder shall submit the Supplier Registration Form (SRF) online at <a href="http://www.bhel.com">www.bhel.com</a> or <a href="https://supplier.bhel.in/">https://supplier.bhel.in/</a> . Price bids of such vendors, will be opened only on techno-commercial acceptance of bid and if allotted permanent code before the date of price bid opening.
K	BHEL expects that the bidder must respond to the enquiry. Regret letter, with valid reasons for not participating in the tender will be submitted where the bidder is unable to submit offer. Repeated lack of response on the part of vendor may lead to his deletion from BHEL's approved vendor list.
L	Goods shall be consigned to Manager , Stores (CRX), BHEL, Jhansi - 284120, India, unless otherwise specified in the PO.
M	<p>The offers of the bidders who are under suspension as also the offers of the bidders, who engage the services of the firms debarred across BHEL, shall be rejected. The list of firms debarred across BHEL is available on BHEL web site <a href="http://www.bhel.com">www.bhel.com</a> or <a href="https://www.bhel.com/list-debarred-firms">https://www.bhel.com/list-debarred-firms</a></p> <p><b>1.0 Integrity commitment, performance of the contract and punitive action thereof:</b></p> <p><b>1.1. Commitment by BHEL:</b></p> <p>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> <p><b>1.2. Commitment by Bidder/ Supplier/ Contractor:</b></p> <p><b>1.2.1.</b> 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>



Rev  
-04

## GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS

	<p><b>1.2.2.</b> 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> <p><b>1.2.3.</b> The bidder/ supplier/ contractor will perform/ execute the contract as per the contract terms &amp; conditions and will not default without any reasonable cause, which causes loss of business/ money/ reputation, to BHEL.</p> <p>If any bidder/ supplier/ contractor during pre-tendering/ tendering/ post tendering/ award/ execution/ post-execution stage indulges in malpractices, cheating, bribery, fraud or and other misconduct or formation of cartel so as to influence the bidding process or influence the price or acts or omits in any manner which tantamount to an offence punishable under any provision of the Indian Penal Code, 1860 or any other law in force in India, then, action may be taken against such bidder/ supplier/ contractor as per extant guidelines of the company available on <a href="http://www.bhel.com">www. bhel.com</a> and/or under applicable legal provisions”.</p> <p>Guidelines for suspension of business dealings is available in the webpage: <a href="http://www.bhel.com/vender_registration/vender.php">http://www.bhel.com/vender_registration/vender.php</a></p>
<b>N</b>	<p>In case of open tenders(i.e. those published in website), all corrigenda, addenda, amendments, time extensions, clarifications and other communications related to the tender shall be hosted only on the respective enquiry of BHEL on e-procurement portal /or the websites <a href="http://www.bhel.com">www.bhel.com</a>.</p> <p>Bidders responding to the open tender shall regularly visit the above website(s)/portal and keep themselves updated. BHEL shall not be responsible for any oversight or failure on the part of bidders to note such updates.</p>
<b>O</b>	<p>In case the bidder decides to sub-contract part of his activity / work to some of his vendors, details of such intended subcontracting shall be mentioned in the bid. This will however not absolve the bidder from his contractual obligations and responsibilities.</p>
<b>P</b>	<p>In the course of evaluation, if more than one bidder happen to occupy L-1 status and the order is to be placed on a single vendor, effective L-1 will be decided by soliciting discounts from the respective L1 bidders. In case more than one bidder happen to occupy the L1 status even after soliciting discounts, the L1 bidder shall be decided by, a toss / draw of lots, in the presence of the respective L1 bidder(s).</p> <p>In case where the Purchase Order is proposed to be split amongst ‘n’ bidders and two or more bidders share the same ranking status (other than L-1), the inter-se ranking of such bidders shall be decided by draw of lots amongst the bidders sharing the same ranking status. The concerned bidders shall be informed in advance regarding the conduct of the draw of lots.</p> <p>BHEL’s decision in such situations shall be final and binding.</p>
<b>Q</b>	<p>Due to large quantity requirement, BHEL may finalize the tendered quantities among more than one bidder (after acceptance of L1 price by the other bidders), but limited to the capacity quoted by the bidder. Indicate your committed capacity for the item(s) tendered and confirm that capacity offered by you against our tender shall be available for us during the entire period of the Purchase Order / Contract.</p> <p>Where the number of qualified responses (N) are three or more, the distribution shall be limited to (N-1) responses. The manner and proportion of distribution shall be mentioned in the specific enquiry. Normally, the quantity distribution shall be generally as per quantities allocated to the bidder, but limited to the capacity quoted by the bidder.</p> <p>While the manner of distribution is mentioned in the enquiry, the absolute values of the unit of measurement shall be rounded off . For e.g., If an allocation of 40% quantity results in <math>\geq 23.5</math> units, the quantity allocated shall be 24 units. If an allocation of 40% quantity results in <math>\leq 23.4</math> units, the quantity allocated shall be 23 units.</p> <p>The distribution shall be based on the acceptance given by bidders to the L1 price counter offered to them. In case any or all of the bidders do not accept the counter offer, and a situation arises wherein bidder(s) who have agreed to the counter</p>



Rev  
-04

## GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS

	<p>offer may have to be allotted more quantity than what has been proposed earlier, then the same shall be done, but limited to the capacity quoted by the bidder (s).</p> <p>Wherever, the number of techno commercially qualified responses (N) is two, BHEL reserves the right on whether or not to distribute the quantity on more than one bidder</p> <p>While the above pattern shall also be followed in long term framework agreements (FA), performance of the suppliers shall be monitored periodically, and the loading in FA will also be subject to factors like (a) Customer approval of suppliers in specific projects, (b) quality surveillance at Supplier works, (c) Suppliers delivery and quality performance during execution of FA, (d) Pendency of orders on the supplier and (e) responsiveness in addressing post order completion issues at BHEL. In view of these factors, the loading during execution of FA may vary with respect to allocated quantity. During execution of FA, if the performance of supplier is not upto the mark in respect of delivery / quality performance / quoted capacity of the bidder, BHEL reserves the right to either reduce further loading or stop loading till the execution of overdue orders. In such cases, action shall be taken against the defaulting supplier(s) as per guidelines of the Company, and the balance allocated full or part quantity of the defaulting supplier(s) may be redistributed amongst other performing and willing vendors of the FA.</p>
<b>R</b>	The bidder shall submit price bid strictly in the price format, wherever provided for, in the enquiry. Any attempt on the part of the bidder to alter the contents of the price bid format in any manner, which in the opinion of BHEL can vitiate the tendering process, will lead to rejection of the bid, <b><i>besides BHEL taking appropriate punitive action as deemed fit.</i></b>
<b>S</b>	BHEL reserves the right to negotiate with L1 vendor or re-float the tender for items. BHEL reserves the right to decrease the tender quantity in case where negotiation is being held.
<b>3</b>	<b>Vendor's particulars &amp; logistics information</b>
	Bidder to provide contact details and all logistical information as called for in the Mandatory Sheet enclosed to this enquiry
<b>4</b>	<b>Delivery Schedule &amp; Completion date</b>
<b>A</b>	<ul style="list-style-type: none"><li>• Instead of writing specific date against delivery offered, Bidder shall commit delivery period in number of days/weeks/ months to suit the delivery period indicated in the enquiry.</li><li>• Commencement of delivery period shall be reckoned from the date of PO / LOI or any other agreed milestone.</li><li>• Seller shall deliver the goods in the manner and schedule agreed under the Purchase order.</li><li>• Goods shall be delivered within contractual period or any extension thereof, if any, granted by the Purchaser.</li><li>• If delivery is linked to approval of documents, time for submission of such documents to be indicated and delivery period to be indicated from approval of documents.</li><li>• BHEL reserves the right to cancel the order if material is not delivered within PO scheduled delivery.</li><li>• Suitable action against defaulting vendor will be taken as per Guidelines for suspension of Business Dealings with Suppliers/Contractors available on <a href="http://www.bhel.com">www.bhel.com</a> or <a href="https://bhel.com/guidelines-suspension-business-dealings-supplierscontractors">https://bhel.com/guidelines-suspension-business-dealings-supplierscontractors</a></li></ul>
<b>B</b>	<p>In case of foreign supplies, the date of Bill of Lading (B/L) or AWB shall be taken as actual date of delivery where freight until discharge port in India is in Seller's scope like CFR/CIF/CIP delivery terms.</p> <p>For Ex-works/FCA/FOB or any other delivery term where freight is in buyer's scope, the date Invoice / Packing List / Test Certificate, whichever date is later, shall be reckoned as actual date of delivery (mutually agreed).</p>
<b>C</b>	In case of Indigenous bidders, the date of delivery at named destination in India shall be taken as contractual delivery completion date where delivery terms are FOR destination. In case of 'Ex-works' delivery terms, the date of LR / RR shall be the contractual delivery completion date.
<b>D</b>	In case of unreasonable delivery quoted by the bidders, BHEL reserves the right to reject such offers.
<b>E</b>	<b>Transit Insurance</b>
	Except where delivery terms are agreed on CIF/CIP basis for Imports & FOR destination basis for indigenous purchases, transit insurance will be covered by BHEL under its open Marine Insurance Policy. Seller shall inform dispatch particulars with value of consignment to the Purchaser within 07 days of dispatch for BHEL to arrange insurance coverage in its policy. Failure on the part of seller to inform dispatch particulars will make him liable to pay for any transit damages / losses suffered by the Purchaser.



Rev  
-04

## GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS

JHS 2055A

<b>5</b>	<b>Delivery Terms</b>																					
<b>A</b>	<b>Indigenous Purchase</b>																					
	Goods shall be delivered on 'FOR Destination' basis ( with freight and insurance in bidder scope) to the named destination unless otherwise called for in the enquiry. In case the bidder quotes on Ex-Works, the offer of such bidder(s) may be liable for rejection.																					
<b>B</b>	<b>Foreign Purchase – Imports</b>																					
	<ol style="list-style-type: none"> <li>1. Goods shall be despatched by Sea, unless stated otherwise in the enquiry or purchase order.</li> <li>2. Terms of Delivery for Sea shipment shall be on CFR / CIF basis with 14 days' detention free period preferably at Nhava Sheva (JNPT-INNSA1) for FCL (Full Container Load) Cargo of GP &amp; HC Containers. Wherever the detention free period offered is less than 14 days, the bids shall be <b>loaded</b> for the period short of 14 days period</li> <li>3. For other cases - Other than GP &amp; HC Containers, LCL Cargo shall be delivered at Nhava Sheva (JNPT-INNSA1) &amp; Break-bulk Cargo at Mumbai (MPT - INBOM1).</li> <li>4. For Air consignments, the terms of delivery shall be FCA at BHEL nominated Airport. In case of CIP, delivery shall be at Mumbai ACC (INBOM4).</li> <li>5. The number of detention free days and destination charges payable to shipping line should be mentioned on the Bill of Lading. Offer received on FOB basis may be considered on an exceptional basis. BHEL will load freight, marine insurance &amp; shipping line port handling charges etc. to work out landed cost at Sea Port.</li> <li>6. In case of CIP/CFR/CIF, the shipping line should be ready to move the containers to consignee's nominated CFS (Container Freight Station) yard and Indian agent of shipping line should issue Cargo Arrival Notice (CAN) 7 days in advance.</li> <li>7. In case of CIF/CFR contract, bidder to supply the material through a Certified Sea worthy vessel.</li> <li>8. The invoices issued by shipping lines must be in the name of BHEL. Otherwise, BHEL will recover loss of Input Credit on GST from the vendor.</li> <li>9. If cargo is stuffed in container, then the same should be allowed to be moved to CFS of importer's choice without any additional charges.</li> <li>10. Load port charges shall be settled by the supplier and not be passed on to BHEL in any form of destination charges.</li> <li>11. 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 all penalties, detention and demurrages / wharfages, if any paid by BHEL (for stated reasons).</li> </ol>																					
<b>C</b>	<ul style="list-style-type: none"> <li>• <u>Port congestion charges or any additional charges claimed by shipping line except charges levied at destination port shall be to the Seller's account.</u></li> </ul>																					
<b>D</b>	<p><b>Bidder's particulars &amp; logistics information (Bidder to give details against each of the provisions)</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">Sl. No.</th> <th style="width: 55%;">Description</th> <th style="width: 35%;">Details to be filled by Bidder</th> </tr> </thead> <tbody> <tr> <td>5.D.1</td> <td>Name of bidder's executive to deal with this tender / project</td> <td></td> </tr> <tr> <td>5.D.2</td> <td>E-mail address of contact person</td> <td></td> </tr> <tr> <td>5.D.3</td> <td>Telephone number of contact person</td> <td></td> </tr> <tr> <td>5.D.4</td> <td>Name &amp; location from where goods shall be offered for inspection and dispatch</td> <td></td> </tr> </tbody> </table>	Sl. No.	Description	Details to be filled by Bidder	5.D.1	Name of bidder's executive to deal with this tender / project		5.D.2	E-mail address of contact person		5.D.3	Telephone number of contact person		5.D.4	Name & location from where goods shall be offered for inspection and dispatch							
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5.E.6	Approximate distance (in km) from bidder's works to Port of Loading (Sea port / Airport)																					
<b>6</b>	<b>Force Majeure</b>																					
<b>A</b>	"Force Majeure" shall mean circumstance which is:																					



Rev  
-04

## GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS

a) beyond control of either of the parties to contract,  
 b) either of the parties could not reasonably have provided against the event before entering into the contract,  
 c) having arisen, either of the parties could not reasonably have avoided or overcome, and  
 d) is not substantially attributable to either of the parties  
 And  
 Prevents the performance of the contract,  
 Such circumstances include but shall not be limited to:  
 i) War, hostilities, invasion, act of foreign enemies.  
 ii) Rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war.  
 iii) Riot, commotion or disorder by persons other than the contractor's personnel and other employees of the contractor and sub-contractors.  
 iv) Strike or lockout not solely involving the contractor's personnel and other employees of the contractor and sub-contractors.  
 v) Encountering munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the contractor's use of such munitions, explosives, radiation or radio-activity.  
 vi) Natural catastrophes such as earthquake, tsunami, volcanic activity, hurricane or typhoon, flood, fire, cyclones etc.  
 vii) Epidemic, pandemic etc.

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

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

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

**E.** Delay or non-performance by either party hereto caused by the occurrence of any event of Force Majeure shall not  
 i) Constitute a default or breach of the Contract.  
 ii) Give rise to any claim for damages or additional cost expense occasioned thereby, if and to the extent that such delay or non-performance is caused by the occurrence of an event of Force Majeure.

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

**7 LD / Penalty for delayed performance.**

i) Penalty for late delivery shall be 0.5% per week of delay or part thereof of the contract value (excluding taxes) of the goods/service received beyond scheduled delivery date, subject to a maximum of 10% of the contract value of the goods/service (excluding taxes) received beyond scheduled delivery date owing to delayed delivery.

**Illustrative Example for Calculation of LD:**

Purchase Order No. "XXXXXXX" is placed by BHEL Jhansi on Supplier "A" for a total quantity of 30 Nos. at a unit price of Rs. 100/- each, with lot-wise scheduled delivery as indicated in the table below. Considering the actual delivery against each lot, the consequent LD computation will be as follows:

Lot	PO Qty. (Lot-wise)	PO Delivery (Scheduled)	Actual Delivery	Delay (Days / Weeks)	Penalty Rate (% / week)	LD Calculated (Rs.)
Lot 1	10 Nos. @ Rs. 100/- Total Item Value: Rs. 1,000/-	01-04-2026	On or before 01-04-2026	NIL	—	Rs. 0/-
Lot 2A	5 Nos. @ Rs. 100/- Total Item Value: Rs. 500/-	01-05-2026	On or before 01-05-2026	NIL	—	Rs. 0/-



Rev  
-04

JHS 2055A

## GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS

Lot 2B	5 Nos. @ Rs. 100/- Total Item Value: Rs. 500/-	01-05-2026	22-05-2026	21 days = 3 weeks	0.5%	3 x 0.5% x Rs. 500/- = 1.5% x Rs. 500/- = Rs. 7.50/-
Lot 3	10 Nos. @ Rs. 100/- Total Item Value: Rs. 1,000/-	01-07-2026	24-07-2026	23 days = 3 weeks + 2 days = 4 weeks (part thereof)	0.5%	4 x 0.5% x Rs. 1,000/- = 2% x Rs. 1,000/- = Rs. 20/-
Total PO Value: Rs. 3,000/-   Value of Delayed Goods: Rs. 1,500/-   Total LD Levied: Rs. 27.50/-						
<p><i>Note: LD is levied exclusively on the value of goods received beyond the scheduled delivery date, and never on the total PO value. In this example, although the total PO value is Rs. 3,000/-, Penalty for Late Delivery is levied only on Rs. 1,500/-, being the aggregate value of delayed lots (Lot 2B: Rs. 500/- and Lot 3: Rs. 1,000/-). For Lot 2B, LD is computed for 3 weeks (21 days exact); for Lot 3, since the delay of 23 days includes a part week beyond 3 complete weeks, it is treated as 4 weeks under the "part thereof" provision, resulting in LD of Rs. 20/-. No penalty for late delivery is levied on timely delivered Lots 1, 2A. The total LD levied is Rs. 27.50/- (Rs. 7.50/- + Rs. 20/-).</i></p> <p>ii) MTS (Material to Site) cases: In case of BOP/BOI items (such as Oil, NIFPS, DGA, Radiator, Bushings, etc. which are required to be supplied directly to the Project Site from the Vendor's works) as per site requirement, penalty for delay shall be applicable:            (a) For delay in manufacturing / successful completion of inspection of goods as per QP/ PO /spec, etc beyond the contractual period/BHEL requirement whichever is later from the date of Manufacturing Clearance issued by BHEL, LD shall be levied as per clause (i) above            (b) For delay in delivery beyond the contractual delivery period from the date of Dispatch Clearance to receipt of material at the respective site, penalty for delay shall be applicable as per Clause (i) above.</p> <p>iii) Wherever Erection &amp; Commissioning (E&amp; C) is called for, the vendor is provided a stipulated period from date of site readiness. LD shall be applicable (as per clause (i) above) for any delay beyond the stipulated period mentioned in the PO from the date of call of commissioning.</p> <p>iv) However, in case of Capital items item where services of installation /erecting &amp; commissioning /supervision are desired with supply (Milestone delivery terms), the LD clause as per Capital General Terms &amp; Conditions or as specified in particular tender /Special terms and condition (STC) /Additional terms and conditions (ATC) will be applicable for the same.</p> <p>v) In case of any amendment / revision, the LD shall be linked to the amended / revised PO value.</p> <p>vi) Any loading on LD clause shall be to the extent to which it is not agreed to by the bidder ( at offered value). However, no deviation shall be acceptable for 0.5% per week or part thereof as mentioned in clause (i) above</p> <p style="padding-left: 40px;">Example – If any bidder agrees for maximum LD 4% instead of 10 %, loading of 6% on quoted price will be considered for evaluation purpose.</p> <p>In case a supply is rejected after receipt of the material at BHEL Jhansi and the same is replaced at a later date, the date of replacement of accepted supply shall be reckoned for calculation of LD.</p> <p>However, where a supply has initially been accepted at BHEL Jhansi and is rejected at a later stage, LD shall be levied as per Clause (i) above if the replacement supply is received beyond the scheduled delivery date as per the original Purchase Order, with the date of rejection intimation to the Supplier reckoned as the start date and the date of receipt of replacement supply at BHEL Jhansi reckoned as the end date for calculation of such LD.</p>						
<b>B</b>	In case the contractually agreed delivery date falls on a holiday in BHEL Jhansi, the next working day shall be taken as contractual delivery date for compliance and applicability of LD / penalty.					
<b>C</b>	In case of Ex works Delivery terms for Indigenous supplies, the date of LR shall be reckoned for LD deduction. In case of FOR Delivery terms, the date of entry in BHEL Jhansi shall be reckoned for LD deduction. In case of material to be delivered directly to site instead of BHEL Jhansi the date of receipt of material ( <i>site certification for receipt of materials</i> ) at site shall be reckoned for LD deduction.					



Rev  
-04

## GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS

JHS 2055A

	<p>In case of FCA Delivery terms / Ex Works Delivery terms of Foreign supplies , the date Invoice / Packing List / Test Certificate, whichever date is later, shall be reckoned for LD deduction.</p> <p>In case of FOB / CIF / CFR / CIP Delivery terms, the date of Bill of Lading/HAWB , shall be reckoned for LD deduction.</p>
<b>8</b>	<b>Indian Agents and Agency commission</b>
<b>A</b>	<p>BHEL prefers to deal directly with Foreign vendor, wherever required, for procurement of Goods. However if the Foreign Principal desires to avail services of an Indian Agent, then the Principal should ensure compliance to “regulatory guidelines” which will require submission of an agency agreement. The agency agreement should specify the precise relationship between the foreign OEM / foreign Principal and their Indian Agent. Any payment which the Indian agent receives in India or abroad from the OEM, whether as commission or as a general retainer fee, should be brought on record in the agency agreement.</p>
<b>B</b>	<p>The CFR/CIF price quoted will be deemed to be inclusive of Indian Agency commission. Agency commission as disclosed by the bidder in his quoted CFR/CIF price will be paid in Indian Rupees on receipt &amp; acceptance of Materials or it's installation at destination, as the case may be. The lower of the TT selling rate prevailing on the date of (a) technical bid opening, or (b) price bid opening, or (c) date of invoice, shall be considered for computation of Agency commission.</p>
<b>C</b>	<p>Be it a case of a Foreign / Indigenous Principal or OEM, 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. In case both submit a bid in the tender, then the bid of OEM only shall be opened</p>
<b>D</b>	<p>Be it a case of a Foreign / Indigenous Principal or OEM, If an agent submits Bid on behalf of the Principal / OEM, the same agent shall not submit bid on behalf of another Principal / OEM in the Tender, for the same Item / Product.</p>
<b>9</b>	<b>Documentation:</b>
<b>A</b>	<b>Indigenous Purchase</b>
	<p>The Supplier shall upload all required details and copies of documents on the BHEL portal (<a href="https://suvidha.bhel.in/suvidha/">https://suvidha.bhel.in/suvidha/</a>) immediately after dispatch of the goods. In case the requisite details/documents are not uploaded on the portal, the material shall not be permitted entry into the BHEL factory premises.</p> <p><b>It is advisable to upload digitally signed GST compliant invoice for seamless processing of payment.</b></p> <p>The following documents shall be mandatorily submitted at the BHEL entry gate at the time of material receipt:</p> <ul style="list-style-type: none"><li>• GST-compliant Invoice (Original + 2 duplicates)</li><li>• Original LR + 3 photocopies</li><li>• Challan / Dispatch Advice Note / Packing List, etc. + 1 photocopy</li><li>• Test Certificate and Guarantee/Warranty Certificate (as per PO) – 1 set</li><li>• PVC calculation sheet, if applicable, along with supporting documents – 1 set</li><li>• E-way bill (wherever required)</li></ul> <p>In addition to the above documents, the following documents related to vehicle/driver shall also be submitted at the material gate:</p> <ul style="list-style-type: none"><li>• Copy of RC</li><li>• Original Driving Licence to be produced at the gate + 1 photocopy for submission</li><li>• Vehicle Fitness Certificate</li><li>• Insurance copy</li></ul> <p><i>In case any other documents are required, the distribution of such documents will be specified in the Purchase order.</i></p>
<b>B</b>	<b>Foreign Purchase – Imports</b>
	<p>Seller shall send 1 set of following documents, in English, within 7 days of B/L date / 1 day of AWB date by courier to the Purchaser:</p> <ol style="list-style-type: none"><li>1. Original “Clean on board” Bill of Lading / AWB.</li><li>2. One set of Commercial Invoice, Packing List indicating container-wise Gross Weight, Net Weight, CBM Volume, No. of packages with dimensions of each package.</li><li>3. Original Certificate of Country of Origin (COO) issued by Chamber of Commerce. COO shall be as per requisite format where duty concession is available under Preferential Trade / Comprehensive Economic Partnership / Free</li></ol>



Rev  
-04

## GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS

JHS 2055A

	<p>Trade Agreement. Customs Tariff Heading (CTH) / Harmonized System of Nomenclature (HSN) code of material should be mentioned on invoice and COO in all such cases.</p> <ol style="list-style-type: none"><li>4. One set of Original Test Certificates and O&amp;M Manual where called for.</li><li>5. Fumigation / Phyto-Sanitary Certificate wherever cargo is packed in wooden packing or packing of plant origin material is used.</li><li>6. In addition to supplier should additionally forward scanned copy of documents mentioned at point nos. 1 to 5 to the e-mail to the Purchaser given in the PO with one copy to be mailed mssea@bhel.in (for Sea shipment) or msair@bhel.in (for Air shipment).</li></ol> <p>Other documents, as required, will be separately indicated in the Purchase Order. Additional expenditure, if any, incurred by the Purchaser by way of detention / demurrage, resulting out of delay attributable to the Seller in providing Negotiable documents, will be recovered from the Seller.</p> <p>In case any discrepancy is raised by the Bankers / BHEL with respect to the documents submitted, vendor to facilitate clearance of goods through Delivery Order.</p> <p>Additionally, following requirements to be taken care of by the bidder during PO execution stage:</p> <ol style="list-style-type: none"><li>i) IEC (0588138690), GSTIN (09AAACB4146P2ZC) and email ID of BHEL dealing executive shall be clearly mentioned on B/L or AWB.</li><li>ii) In case of CAD payment terms, Supplier shall send documents to BHEL's bank within 5 days of shipment. One set of original may be sent to any one of ROD and MM, copy may be marked to the others.</li><li>iii) For Air shipments through non-CONSOL (i.e., not through BHEL ROD's contract), Delivery Order (DO) should be given to BHEL without insisting for Bank Release Order (BRO). AWB to be drawn with BHEL Jhansi as consignee.</li><li>iv) It must be ensured that original shipping / commercial documents, if not provided to BHEL outside banking channel, should reach BHEL's bank at least 10 days prior to cargo arrival at port.</li><li>v) Part shipment and trans-shipment to be avoided to the extent possible especially where it is not possible to split shipping &amp; commercial documents. Part shipment shall be strictly avoided for Air shipments</li></ol>
<b>C</b>	In case of incomplete documentation, the communication shall be provided to supplier. The delays in submission of documentation by the supplier shall be reckoned while releasing payments to the Supplier
<b>10</b>	<b>General:</b> <ol style="list-style-type: none"><li>1. For Hazardous chemicals, the materials safety data sheet (MSDS) is to be submitted.</li><li>2. All certificates as called must be sent. BHEL may test any goods supplied and their decision is final irrespective of Supplier's certificates. If test certificate and guarantee certificate are not received along with the document and stipulated in these specifications, BHEL reserves the right to get the material tested and recover the expenses from the supplier without awaiting supplier's confirmation</li><li>3. Goods shall be properly packed to avoid transit damage. Suitable markings shall be provided to identify the goods with that of the PO No. and the consignee details.</li><li>4. Goods shall be consigned to Manager (CRX), BHEL, Jhansi - 284120, India, unless otherwise specified in the PO.</li></ol>
<b>11</b>	<b>Pricing Terms</b> <p>Prices once quoted shall remain firm within the validity or any extension thereof for placement of order, till complete execution of the order, without any escalation/increase for any reason, whatsoever, unless specifically provided for in the Enquiry &amp; PO. In case of foreign vendors, the quoted price shall be taken as inclusive of Third Party Inspection and testing charges as called for in the NIT.</p>
<b>12</b>	<b>Price Validity :</b> <p>Unless stated otherwise in the enquiry, offer shall be valid for a period of 120 days from the date of Techno- commercial (Part-I) bid opening date.</p> <p>The prices quoted for spare parts of the main equipment shall be kept valid for a period of 180 days from the date of placement of PO for the main equipment.</p>



Rev  
-04

## GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS

<b>13</b>	<b>Taxes &amp; Duties - Indigenous Purchase</b>
<b>A</b>	<p>The Taxes and duties as applicable shall be payable extra which may include GST against Gate pass- The Seller shall clearly indicate extent of taxes as applicable in his techno commercial bid. In the event of vendor failing to furnish valid GST invoices with appropriate HSN Code , amount corresponding to GST will be disallowed by BHEL while making payments.</p> <p>Bidders to ensure applicability of IGST / CGST/SGST based on the Inter / Intrastate movement of goods.</p> <p>GST Registration Number (GSTIN) should be clearly mentioned on the vendor's quotation.</p> <p>Please quote our GST registration number 09AAACB4146P2ZC in all invoices raised for supply of goods and services under GST regime and also ensure filing of timely return and payment of tax and compliance of other applicable provisions on supplier under GST regime.</p> <p>In the event of any disallowance of input credit or applicability of interest or any other financial liability arises on BHELJhansi due to any default of supplier under GST such implication shall be to supplier's account.</p> <p>In case of directly dispatchable items to Customer's Site, Supplier to bill to BHEL Jhansi at its GST Account number 09AAACB4146P2ZC and ship to the respective Customer</p> <p>Since, input credit of GST will be available to BHEL-Jhansi only after correct filing of return and payment of applicable GST by supplier, reimbursement of GST shall be made by BHEL-Jhansi on matching of vendor inputs at GST portal and after ensuring availability of input credit to BHEL-Jhansi. Payment of tax shall be done only after availing matching ITC, in all cases where bills are submitted directly to BHEL-Jhansi or through bank or under LC or through any other mode.</p> <p>Other statutory declaration forms are also to be submitted in time, as mentioned in the relevant Laws. BHEL reserves the right to withhold the payment due to the vendor equivalent to BHEL's tax and related liability thereon.</p> <p>In case of any changes in statutory laws w.r.t. taxes and duties, the same shall be applicable at the given point of time</p>
<b>B</b>	<p><i>Wherever GST is not applicable, the tax and duty structure , as applicable, is to be complied by the seller.</i></p>
<b>C</b>	<p><b>RCM (Reverse Charge Mechanism):</b> In respect of cases where the liability to discharge GST is on BHEL under reverse charge mechanism, bidders have to ensure timely submission of invoices and delivery of material / services to BHEL, so that there is no mismatch on both activities. In case there is any additional financial liability on BHEL on account of default on the part of the bidder on submission or delivery of material / services the same shall be passed on to them.</p>
<b>D</b>	<p>With reference to section 51 of CGST act 2017 read with notification no 50/2018 – Central tax dated 13.09.2018; BHEL will be liable to deduct TDS under GST with effect from 01.10.2018. Deduction shall be made @ 2% (1% CGST + 1% SGST) or 2% IGST (as applicable) of the payment made or the amount credited. Bidder to generate &amp; submit invoices as per above.</p> <p>The amount of TDS shall be deposited to the Government account and BHEL shall issue TDS certificate to deductees, TDS deposited in the Government account will be reflected in the electronic cash ledger of the deductee who will be able to use the same for payment of tax or any other amount.</p> <p>Deduction of TCS along with additional TDS will be as per prevailing Government guidelines.</p>
<b>E</b>	<p>The Supplier/Vendor shall pay all (save the specific exclusions as enumerated in this clause) taxes, fees, license, charges, deposits, duties, tools, royalty, commissions, other charges, etc. which may be levied on the input goods &amp; services consumed and output goods &amp; services delivered in course of his operations in executing the contract. In case BHEL is forced to pay any of such taxes/duties, BHEL shall have the right to recover the same from his bills or otherwise as deemed fit along with the applicable overheads @5% and interest on the total value (i. e. amount paid by BHEL + overhead) However, provisions regarding GST on output supply (goods/service) and TDS/TCS as per Income Tax Act shall be as per following clauses.</p>
<b>F</b>	<p>GST as applicable on output supply (goods/services) are excluded from Supplier/Vendor's scope; therefore, contractor's price/rates shall be exclusive of GST. Reimbursement of GST is subject to compliance of following terms and conditions.</p>



Rev  
-04

## GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS

	BHEL shall have the right to deny payment of GST and to recover any loss to BHEL on account of tax, interest, penalty etc. for non-compliance of any of the following condition
<b>G</b>	The admissibility of GST, taxes and duties referred in this chapter or elsewhere in the contract shall be limited to direct transactions between BHEL & its Supplier/Vendor. BHEL shall not consider GST on any transaction other than the direct transaction between BHEL & its Supplier/Vendor.
<b>H</b>	Supplier/Vendor has to submit GST registration certificate of the concerned state. Supplier/Vendor also needs to ensure that the submitted GST registration certificate should be in active status during the entire contract period.
<b>I</b>	Supplier/Vendor has to submit GST compliant invoice within the due date of invoice as per GST Law. In case of delay, BHEL reserves the right of denial of GST payment if there occurs any hardship to BHEL in claiming the input thereof. In case of goods, Supplier/Vendor has to provide scan copy of invoice & GR/LR/RR to BHEL before movement of goods starts to enable BHEL to meet its GST related compliances. Special care should be taken in case of month end transactions.
<b>J</b>	Supplier/Vendor has to ensure that invoice in respect of such services which have been provided/completed on or before end of the month should not bear the date later than last working day of the month in which services are performed.
<b>K</b>	Subject to other provisions of the contract, GST amount claimed in the invoice shall be released on fulfilment of all the following conditions by the Supplier/Vendor: - a) Supply of goods and/or services have been received by BHEL. b) Original Tax Invoice has been submitted to BHEL. c) Supplier/Vendor has submitted all the documents required for processing of bill as per contract/ purchase order/ work order. d) In cases where e-invoicing provision is applicable, Supplier/Vendor is required to submit invoice in compliance with e-invoicing provisions of GST Act and Rules made thereunder. e) Supplier/Vendor has filed all the relevant GST return (e.g. GSTR-1, GSTR-3B, etc.) pertaining to the invoice submitted and submit the proof of such return along with immediate subsequent invoice. In case of final invoice/ bill, contractor has to submit proof of such return within fifteen days from the due date of relevant return. f) Respective invoice has appeared in BHEL's GSTR - 2A for the month corresponding to the month of invoice and in GSTR-2B of the month in which such invoices has been reported by the contractor along with status of ITC availability as "YES" in GSTR-2B. Alternatively, BG of appropriate value may be furnished which shall be valid at least one month beyond the due date of confirmation of relevant payment of GST on GSTN portal or sufficient security is available to adjust the financial impact in case of any default by the Supplier/Vendor. g) Supplier/Vendor has to submit an undertaking confirming the payment of all due GST in respect of invoices pertaining to BHEL.
<b>L</b>	TDS as applicable under GST law shall be deducted from Supplier/Vendor's bill.
<b>M</b>	Supplier/Vendor shall comply with the provisions of e-way bill wherever applicable. Further wherever provisions of GST Act permits, all the e-way bills , road permits etc. required for transportation of goods needs to be arranged by the contractor.
<b>N</b>	Supplier/Vendor shall be solely responsible for discharging his GST liability according to the provisions of GST Law and BHEL will not entertain any claim of GST/interest/penalty or any other liability on account of failure of Supplier/Vendor in complying the provisions of GST Law or discharging the GST liability in a manner laid down thereunder.
<b>O</b>	In case declaration of any invoice is delayed by the vendor in his GST return or any invoice is subsequently amended/altered/deleted on GSTN portal which results in any adverse financial implication on BHEL, the financial impact thereof including interest/penalty shall be recovered from the Supplier/Vendor's due payment.
<b>P</b>	Any denial of input credit to BHEL or arising of any tax liability on BHEL due to non-compliance of GST Law by the Supplier/Vendor in any manner, will be recovered along with liability on account of interest and penalty (if any) from the payments due to the Supplier/Vendor
<b>Q</b>	In the event of any ambiguity in GST law with respect to availability of input credit of GST charged on the invoice raised by the contractor or with respect to any other matter having impact on BHEL, BHEL's decision shall be final and binding on the Supplier/Vendor.



Rev  
-04

## GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS

<b>R</b>	<b>Variation in Taxes &amp; Duties:</b> <p>Where Input Tax Credit (ITC) on the GST charged by the Supplier / Vendor is available and admissible to BHEL under the applicable GST law, the entire GST amount charged shall be reimbursed by BHEL at actual. Where ITC is not available to BHEL, the following provisions on variation in taxes and duties shall apply:</p> <p>Any upward variation in GST shall be considered for reimbursement provided supply of goods and services are made within schedule date stipulated in the contract or approved extended schedule for the reason solely attributable to BHEL. However downward variation shall be subject to adjustment as per actual GST applicability.</p> <p>In case the Government imposes any new levy/tax on the output service/goods after price bid opening, the same shall be reimbursed by BHEL at actual. The reimbursement under this clause is restricted to the direct transaction between BHEL and its Supplier/Vendor only and within the contractual delivery period only.</p> <p>In case any new tax/levy/duty etc. becomes applicable after the date of Bidder's offer but before opening of the price Bid, the Bidder/ Supplier/Vendor must convey its impact on his price duly substantiated by documentary evidence in support of the same before opening of price bid. Claim for any such impact after opening the price bid will not be considered by BHEL for reimbursement of tax or reassessment of offer.</p>
<b>S</b>	<b>Income Tax:</b> <p>TDS/TCS as applicable under Income Tax Act, 1961 or rules made thereunder shall be deducted/collected from Supplier/Vendor's bill.</p>
<b>14</b>	<b>Taxes &amp; Duties - Foreign Purchase – Imports</b>
<b>A</b>	The offered prices shall be inclusive of all the Taxes and duties as applicable in the country of bidder / country of dispatch for the quoted FCA / CFR/CIF price.
<b>15</b>	<b>Payment Terms-</b>
<b>A</b>	<b>Indigenous:</b> 100 % payment (including taxes) within 90 days ( 45 days for MSE / NSIC registered suppliers as per relevant act in force ) from the date of receipt of material and submission of clear and admissible bill, subject to acceptance of material at BHEL , on direct presentation of the documents..  Payments to vendors claiming benefits under the MSME Act shall be considered only upon submission of a valid UDYAM Registration Certificate. MSE benefits shall be extended only to MSE manufacturers for items manufactured by them and offered against the NIT.  For the purpose of payment, the MSME status of the vendor as on the date of issuance of the PO shall be applicable for supplies made during the contractual period, subject to any change in status in accordance with prevailing statutory guidelines and the MSE Act.  It is hence in the interest of the vendor that they validate the status of Udyam Registration Certificate regularly with BHEL.  In case of despatch of material to site directly, site certification for receipt of materials is required unless otherwise provided for in the PO.  Any deviation from the above payment terms, if accepted (by BHEL), shall be loaded @ Repo rate ( as on date of Part I bid opening) + 4%, for the purpose of bid evaluation.
	All documents as called for in the PO have to be submitted by the Supplier at the time of receipt of material and this should include the Invoice of the Supplier - Original copy of the Buyer and Duplicate for Transporter. On receipt of Invoice, the same shall be acknowledged by BHEL. Any clarifications on the bill submitted by the supplier shall be sought generally within 30 days ( 15 days for MSE / NSIC registered suppliers as per relevant act in force ) of receipt of bill at BHEL. While it would be in the interest of the Supplier to provide the reply immediately to the clarifications sought , the Supplier is to respond at least within 7 days from the date of clarifications sought by BHEL. Wherever clarifications are sought by BHEL, the date of receipt of clarifications from the supplier shall be considered as date of submission of clear and admissible bill.
<b>B</b>	<b>Foreign:</b> 100% against irrevocable, unconfirmed LC, payable within 120 days of the bill of lading (BL)/House Air Way Bill(HAWB) date. In case BHEL considers any deviation in payment terms i.e. early payment based on vendor's request, then bids shall be evaluated with loading of Repo rate ( as on date of Part I bid opening) plus 4%, for the credit period short of 120 days. The LC shall be established 2 month prior to shipment date, valid for period of 120 days, unless agreed otherwise.



Rev  
-04

## GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS

JHS 2055A

	<p>Payment terms of CAD payable on 120<sup>th</sup> day of BL / HAWB date shall be preferred.</p> <p><b>Documents to be submitted as per UCP600 and should reach BHEL/ BHEL's bank at least 7 days prior to vessel arrival.</b></p>
<b>C</b>	<p>While there could be exceptional situations wherein the payment may be delayed beyond the stipulated time mentioned above, it is clarified that BHEL shall not pay any interest on such delays</p>
<b>D</b>	<p>Staggered Payment terms in case of Capital items /Balance of plant (BOP) item where services of installation /erecting &amp; commissioning /supervision is desired with supply of items /goods will be separately mentioned in particular tender remarks /Special terms &amp; condition /Additional terms and condition</p>
<b>E</b>	<p>BHEL Jhansi is registered with (TReDS) platform. MSME bidders are requested to get registered with (TReDS) platform to avail the facility as per the GOI guidelines.</p>
<b>F</b>	<p>In case of any disagreement between BHEL and the Supplier on any part of the bill, such part shall be severed from the rest and payment against agreed and admissible part shall be processed as per laid down procedure, while the disputed part shall be dealt as per contract provisions viz. conciliation, dispute resolution, arbitration, etc.</p>
<b>16</b>	<p><b>Inspection of Goods</b></p>
<b>A</b>	<p>The Seller shall give adequate notice of 1 week or as mutually agreed period, in writing to the Purchaser or BHEL appointed TPIA (Third Party Inspection Agency) about the date and place at which the goods will be ready for inspection/ testing, as provided for in the contract.</p>
<b>B</b>	<p>Purchaser or his authorized representative shall be entitled to carry out inspection of material and workmanship at Seller's premises or at his sub-contractor's premises at all reasonable times during execution of contract; Such inspection, examination and testing, if made, shall not absolve the Seller from his obligations under the contract.</p> <p>Wherever required, BHEL reserves the right to carry out testing of the supplied material at BHEL's testing laboratory or any other approved laboratory. In case the material is found not conforming to the contractual specifications during such testing, the Supplier shall, at its own cost, arrange for replacement and/or rectification of the rejected material within the stipulated time.</p> <p>In the event BHEL undertakes any rectification, rework or any corrective action on such rejected or non-conforming material, the cost incurred towards the same shall be recovered from the Supplier's bills or any other dues payable to the Supplier. Where non-conforming material is used by BHEL, a suitable amount shall be recovered from the Supplier's bills or any other dues payable to the Supplier</p>
<b>C</b>	<p>All costs related to inspections and re-inspections shall be borne by the Bidder. In case of inspection by BHEL and / or BHEL's customer, the cost of to &amp; fro passage and Boarding &amp; Lodging shall be borne by the BHEL / BHEL's customer, unless otherwise specifically agreed. In case of foreign bidders, the cost of third-party inspection, where called for, shall be deemed to be included in the quoted price. Bidder shall be responsible to provide assistance such as labour, materials, electricity, fuels, stores, apparatus, instruments at his cost, as may be required and as may be reasonably demanded to carry out such tests effectively.</p>
<b>D</b>	<p>The Supplier shall ensure, prior to dispatch of material, that the supplies fully conform to the applicable BHEL drawings, specifications and Purchase Order requirements. The Supplier shall also ensure that all inspection and testing activities, including those specified in the Quality Plan (wherever applicable), have been duly completed and that test results meet the specified parameters.</p>
<b>E</b>	<p><b>REJECTION:</b></p> <p>If any goods are rejected, BHEL shall be at liberty to take action as per following:</p> <p>a) Allow the supplier, wherever mutually agreed, to rectify the rejected goods at BHEL's works within reasonable time as fixed by BHEL.</p> <p>Or</p> <p>b) Allow the supplier to make free replacement within a specified period. Rejected goods shall be lifted by the supplier thereafter.</p> <p>Or</p>



Rev  
-04

## GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS

c) In case payment has been done, allow supplier to refund equivalent value of rejected material by NEFT / RTGS or furnish Bank Guarantee for same amount before lifting the rejected goods. Fresh replacement shall be regulated as per terms and condition of the original Purchase Order. In case payment has not been done, at instructions from BHEL, supplier has to rectify the rejected goods at supplier's works within reasonable time as fixed by BHEL.

Or

d) Terminate the contract either in part or in whole at the discretion of BHEL and invoke Breach of Contract clause, if any, from the supplier.

Or

e) Any goods rejected by BHEL must be removed by the supplier after making payment through NEFT / RTGS within 30 days after receipt of the intimation of rejection. If bidder fails to lift or allow despatch of rejected material at his cost within 90 days from the intimation of rejection, his claim on rejected material shall cease.

**F** Material despatched one month prior to the date of despatch shall not be permitted inside BHEL, unless there are instructions otherwise from BHEL.

Material entry will only be allowed in cases beyond 8 weeks from the lot contractual date of delivery where vendor has taken approval from BHEL before despatch.

### **17 Warranty , Corresponding Repairs / Replacement of Goods, and Deductions**

**A** Goods shall comply with the specifications for material, workmanship and performance.

The warranty shall be for a period of 24 months from the date of receipt at BHEL, Jhansi

However, wherever erection & commissioning also is in the scope of the bidder, the warranty shall be for a period of 24 months from the date of supply or 18 months from the date of commissioning, whichever is later.

In case any other terms are to be specified for warranty, the same shall be specified in the specific enquiry

Normally deviation shall not be accepted for the criteria of warranty period. The offers of bidders, who offer deviation to the warranty terms mentioned in the NIT, are liable to be rejected.

If the item supplied is found non-compliant during the warranty period, leading to rejection, the Seller shall arrange free replacement / repair of goods, within one month from the date of intimation or any mutually agreed period. The rejected goods shall be taken away by the Seller at his cost and replaced on Delivered Duty Paid (DDP) (FOR - BHEL Stores/ designated destination basis) within such period. In the event of the Seller's failure to comply, Purchaser may take action as appropriate.

In case the defects attributable to Seller are detected during processing of the goods at purchaser's/ his subcontractor's works, the Seller shall be responsible for free replacement/ repair of the goods as required by the purchaser.

### **18 Evaluation and Loading Criteria:**

Evaluation of the tender 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, inter alia, Customs Duty and CENVAT/ VAT/ CST/GST/Service Tax/Entry Tax or any other tax as applicable). Exchange rate (TT selling rate of State Bank of India) applicable on the date of Part-I bid opening shall be considered for evaluation of foreign bids. If the relevant day happens to be a bank holiday in India, then the FOREX rate as on the previous bank working day shall be taken for evaluation.

Foreign suppliers shall ensure that the benefits as applicable under Free Trade Agreement (FTA) with Government of India are disclosed in the bid & relevant documents such as Certificate of Country of Origin, issued by the appropriate authority in the country of Export, is provided by the vendor along with dispatch documents. Bids shall be evaluated with such applicable benefits. In the event of Seller failing to provide appropriate documents for Purchaser to avail disclosed concessional duty benefits in India, the cost incurred owing to consequent delays, detention and demurrage thereof, will be to the Seller's account.



Rev  
-04

## GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS

NOTE: Deviations (Commercial as well as Technical) from the tender specifications and conditions are generally not acceptable. However, deviation if any, shall be brought out clearly with proper justification in the offer. The deviation, if considered by BHEL shall be loaded for comparison, while evaluating the offer. If a bidder unconditionally withdraws any deviation before price bid opening, the same shall not be loaded.

To arrive at the Delivered Cost, the quoted price shall be suitably loaded, the details of which are mentioned in this annexure / special remarks of the enquiry. In case of any additional techno commercial deviations, for which the loading criterion is required to be framed after opening of techno commercial bid, such criteria shall be communicated to all qualified bidders before price bid opening.

### 19 Recovery / deductions of amount from supplier

- Any amount on account of recovery from consignor / supplier under any condition shall be liable to be adjusted against any amount payable to the consignor/supplier against bills.
- For any deficiency in supplies where deduction is involved, an amount as decided by BHEL, shall be deducted from supplier's bills.

### 20 Safety clause for purchase orders

20.1 The Supplier shall ensure that all safety precautions as specified under the Factories Act, 1948 (Chapter IV, Sections 21 to 41) are complied with in respect of equipment and test setups offered for inspection and tests.

20.2 The Supplier shall maintain and ensure all necessary safety measures required for inspection and tests, including but not limited to HV Test, Pneumatic Test, Hydraulic Test, Spring Test, Bend Test and similar tests. If any test equipment is found not complying with the requisite safety requirements, the Inspection Agency may withhold inspection until the desired safety requirements are fully met by the Supplier.

20.3 The Supplier shall comply with the following statutory requirements applicable to the nature of goods supplied / services rendered under this contract:

- The Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989 and the Amendment Rules, 2000 issued thereunder, as notified by the Central Government.
- The Motor Vehicles Act and applicable Motor Vehicle Rules, 1989, for transportation of Hazardous Chemicals, Oils and Industrial Gases.
- The Gas Cylinders Rules, 1981 (as amended from time to time), wherever applicable to the goods being supplied.

20.4 For all chemicals supplied, the Supplier shall mandatorily furnish a Material Safety Data Sheet (MSDS) indicating all safety precautions to be observed during handling, storage and use of such chemicals. The MSDS shall accompany the dispatch documents and a copy shall be kept inside the packing.

### 21 Non-Disclosure Agreement

All Drawing and technical documents 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. 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. Patterns and tools supplied by BHEL will remain BHEL's property which shall be returned by the bidder on demand to BHEL. Bidder shall in no way share or use such intellectual property of BHEL to promote his own business with others. BHEL reserves the right to claim damages from the bidder, or take appropriate penal action as deemed fit against the bidder, for any infringement of the provisions contained herein.

22 **RIGHT OF REJECTION /NON- PLACEMENT OF PO:** BHEL reserves the right to accept the offers in part or in full, or cancel the Tender enquiry without assigning any reason whatsoever / non placement of PO or contract.

### 23 Performance Security

Wherever Performance Security Deposit (covering contract performance) is called for in the Tender /NIT , the Performance Bank Guarantee (PBG) or Security Deposit (SD), hereafter referred as performance security is to be submitted by the successful bidder awarded the contract should deposit of the amount as called in the NIT, as performance security towards fulfilment of all contractual obligations, including warranty obligations.

#### Modes of deposit:

- Performance security may be furnished in the following forms:



Rev  
-04

## GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS

	<p>i) Local cheques of Scheduled Banks (subject to realization)/ Pay Order/ Demand Draft/ Electronic Fund Transfer in favour of BHEL and payable at BHEL Jhansi.</p> <p>ii) Bank Guarantee from Scheduled Banks / Public Financial Institutions as defined in the Companies Act. The Bank Guarantee format should be in the prescribed format of BHEL.</p> <p>iii) Fixed Deposit Receipt issued by Scheduled Banks / Public Financial Institutions as defined in the Companies Act (FDR should be in the name of the Contractor, a/c BHEL).</p> <p>iv) Securities available from Indian Post offices such as National Savings Certificates, Kisan Vikas Patras etc. (held in the name of Contractor furnishing the security and duly endorsed/ hypothecated/ pledged, as applicable, in favour of BHEL).</p> <p>v) Insurance Surety Bond.</p> <p>(Note: BHEL will not be liable or responsible in any manner for the collection of interest or renewal of the documents or in any other matter connected therewith)</p> <p>b) In case of Global Tender Enquiry, the performance security should be in the same currency as the contract and must conform to Uniform Rules for Demand Guarantees (URDG 758) - an international convention regulating international securities.</p> <p>c) Performance Security is to be furnished by a specified date (generally 14(fourteen) days after notification of the award) and it should remain valid for a period of 60 (sixty) days beyond the date of completion of all contractual obligations of the supplier, including warranty obligations.</p> <p><b>Forfeiture of Performance Security:</b></p> <p>The performance security will be forfeited and credited to BHEL's account in the event of a breach of contract by the Supplier as provided herein or elsewhere in the Contract/PO.</p> <p>Performance security shall be refunded to the contractor without interest, after he duly performs and completes the contract in all respects but not later than 60 (sixty) days of completion of all such obligations including the warranty under the contract.</p> <p>The Performance Security shall not carry any interest.</p> <p>There is no exemption of Performance Security deposit submission for MSE Vendors.</p>
	Wherever the contract is for supply of Goods processed on labor basis/mixed basis from BHEL supplied materials, the materials shall be issued against a suitable Bank guarantee as specified in the particular Enquiry/STC/ATC/Annexures.
	Wherever PBG (covering equipment / system / work performance guarantee) is called for in the Notice Inviting Tender (NIT) deviation shall not be accepted
	Bank Guarantee wherever called for, shall be in the BHEL prescribed format. In case the order is to be placed in foreign currency, the BG must also be in Foreign currency, so specified by the Purchaser
	Wherever Security Deposit (covering contract performance) is called for in the NIT, deviation shall not be accepted.
<b>24</b>	<b>Benefits earmarked for Purchase from Micro &amp; Small Enterprises (MSEs) – Indigenous Purchase</b>
<b>A</b>	<p><b>Statutory Compliance:</b></p> <p>Benefits to Micro and Small Enterprises (MSEs) shall be governed by the provisions of the MSMED Act, 2006, the Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012, relevant Government of India Office Memoranda, and amendments issued from time to time.</p> <p>The guidelines prevailing as on the date of Technical Bid Opening (Part-I in case of two-part bid) shall be applicable to the subject enquiry.</p> <p>The applicability of MSE benefits shall be subject to the condition that the bidder meets all techno-commercial requirements of the tender.</p>
<b>B</b>	<b>Eligibility and Documentary Requirements:</b>



Rev  
-04

## GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS

	<p>Bidders seeking benefits under MSE category shall submit, along with their offer, a self-attested copy of valid Udyam Registration Certificate and other documents as per extant provisions.</p> <p>In case of e-procurement, the required documents shall be mandatorily uploaded on the e-procurement portal within the stipulated time.</p> <p>The deemed validity of MSE status for evaluation of the tender shall be reckoned as on the Technical Bid Opening Date (Part-I in case of two-part bid).</p> <p>Non-submission or deficiency of required documents prior to opening of the Price Bid shall result in:</p> <p>(a) Consideration of the bid at par with non-MSE bidders; and</p> <p>(b) Non-applicability of any MSE benefits for the subject enquiry.</p>
<b>C</b>	<p><b>Exclusion of Traders / Agents</b></p> <p>MSE benefits shall be extended only to MSE manufacturers for items manufactured by them and offered against the NIT.</p> <p>No benefits under MSE category like EMD exemption, tender fee exemption, price preference or payment preference etc. shall be extended to traders, dealers, stockists, authorized agents or representatives offering items not manufactured by themselves.</p> <p>This provision shall be governed by the provisions of the MSMED Act, 2006, the Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012, relevant Government of India Office Memoranda, and amendments issued from time to time.</p>
<b>D</b>	<p><b>Tender Fee and Earnest Money Deposit (EMD)</b></p> <p>Eligible MSEs shall be issued tender documents free of cost.</p> <p>Eligible MSEs shall be exempted from payment of Earnest Money Deposit (EMD), wherever applicable.</p>
<b>E</b>	<p><b>Price Preference and Procurement Target</b></p> <p>In cases where L1 bidder is other than an MSE, MSE bidders quoting within a price band of L1 + 15% shall be permitted to match the L1 price.</p> <p>Upon matching L1 price, such eligible MSE(s) may collectively be allowed to supply up to twenty-five percent (25%) of the total tendered value.</p> <p>In case of more than one eligible MSE matching the L1 price, the quantity may be distributed proportionately.</p> <p>In case of tender item cannot be split or divided, etc. the MSE quoting a price within the band L1+15% may be awarded for full/ complete supply of total tendered value to MSE, considering the spirit of the Policy for enhancing Govt. Procurement from MSEs.</p> <p><b>Sub-Targets within MSE Procurement</b></p> <p>1. Out of the 25% procurement earmarked for MSEs:</p> <p>(a) A sub-target of 6.25% shall be reserved for MSEs owned by SC/ST entrepreneurs, subject to submission of valid documentary evidence. In the event of non-participation, non-qualification, or inability to match L1 price by such SC/ST MSEs, the shortfall shall be met from other eligible MSEs.</p>



Rev  
-04

## GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS

(b) A minimum of 3% shall be reserved for MSEs owned by women entrepreneurs, subject to submission of valid documentary evidence. In case of non-participation, non-qualification, or inability to match L1 price by women-owned MSEs, the shortfall shall be met from other eligible MSEs.

Any Bidder falling under MSE category shall furnish the following details & submit documentary evidence/ Govt. Certificate etc. in support of the same along with their techno-commercial offer.

### MSME CATEGORY DECLARATION

Type under MSE	SC/ST Owned	Women Owned	Others (excluding SC/ST & Women Owned)	Supplier's Confirmation
Micro				<input type="checkbox"/> Enclosed
Small				<input type="checkbox"/> Enclosed

Note: If the bidder does not furnish the above in the tender, offer shall be processed construing that the bidder is not falling under MSE category.

(Signature of the Supplier with Name)

**F** If an enterprise registered as MSE under the MSMED Act graduates to a higher category or ceases to fall within the purview of the Act, it shall continue to avail non-tax benefits of its original category for a period of three (3) years from the date of such graduation, as per Government of India guidelines.

An enterprise reverse-graduated (e.g., Medium → Small) continues in its current (higher) category till closure of that financial year and gets the benefit of the changed (lower) category only from 1st April of the following financial year.

**G** MSE bidders as defined by the MSMED Act as amended from time to time can avail the intended benefits only if they submit, self-attested copies of Udyam Registration certificate, along with the offer. No benefits shall be applicable for the enquiry if any deficiency in the above required documents are not submitted before price bid opening.

#### **Change in MSE Status**

It shall be the responsibility of the bidder to promptly intimate any change in its MSE status during the tendering process.

**H** In the event it is subsequently found that the bidder has failed to disclose such change and has obtained the order under the premise of MSE status, BHEL reserves the right to:

- (a) Reject the bid; or
- (b) Cancel the order; and/or
- (c) Initiate action including suspension of business dealings in accordance with prevailing BHEL guidelines available on [www.bhel.com](http://www.bhel.com) or <https://bhel.com/guidelines-suspension-business-dealings-supplierscontractors>

#### **Reserved Items under Public Procurement Policy**

In case all items covered under the enquiry fall under the reserved category as defined in the Public Procurement Policy for MSEs, 2012 (and amendments issued from time to time):

- I**
- (a) If one or more MSE bidders are found techno-commercially qualified, Price Bids of only such MSE bidders shall be opened.
  - (b) If no MSE bidder is techno-commercially qualified, Price Bids of all techno-commercially qualified bidders shall be opened.

**J** Any subsequent amendment, clarification, or policy revision issued by the Government of India, Ministry of MSME or any other competent authority shall apply this GTC, and the same shall supersede the relevant provisions of the GTC without requiring any formal amendment.

#### **25 Benefits earmarked to suppliers for Purchase under 'MAKE IN INDIA'**

For this procurement, Public Procurement (Preference to Make in India), Order 2017 Dtd 15.06.2017 and subsequent orders issued by both DPIIT and the respective nodal ministries shall be applicable.



Rev  
-04

## GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS

For this procurement, the local content to categorise a supplier as a Class I local supplier/ Class II local Supplier / Non-Local supplier is as defined in Public Procurement (Preference to Make in India), Order 2017 and subsequent orders issued by both DPIIT and the respective nodal ministries shall be applicable. In case of subsequent orders issued by the nodal ministry changing the definition of local content for the items of the NIT, the same shall be applicable even if issued after issue of this NIT, but before opening of Part-II bids against this NIT.

The local supplier, at the time of tender submission, shall be required to provide certification that the item offered meets the minimum local content and shall give details of the location(s) at which the local value addition is made. The certification is to be provided in the format as below:

### DECLARATION OF LOCAL CONTENT AS PER PREFERENCE TO MII ORDER-2017\*

To,

Bharat Heavy Electricals Limited

Khailar, Jhansi, U.P.-284120

Subject: - Certification regarding Local Content

Reference: Tender enquiry NO. ....

Name of items: .....

Dear Sir,

We hereby certify that the quoted items offered by us against above Enquiry is having local content of .....

Further, to certify that the local content % certified above is in line with definition of

Local content given in point no. 2 Of Public Procurement (Preference to Make in India), Order 2017 (and subsequent orders issued by both DPIIT and the respective nodal ministries if any) and we qualify as (Class-I/Class- II/Non-Local supplier — fill in one which is applicable) local supplier.

We further confirm that details of location at which the local value addition is made will be at.....

I hereby declare that the details furnished above are true and correct to the best of my knowledge and belief and I undertake to inform you of any changes therein, immediately. In case any of the above information is found to be false, untrue, misleading, or misrepresenting, I am aware that I may be held liable for it.

(Signature of the Supplier with Name)

*\*This is a guiding format. In case the bidder submits the certificate in a format different from the above, the same may be considered provided it meets the intent and purpose, as may be ascertained by BHEL.*

*In cases of procurement for a value in excess of Rs. 10 crores, the 'Class-I local supplier' 'Class-II local supplier' shall be required to provide a certificate from the statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of local content.*

<b>26</b>	<b>RESTRICTION UNDER RULE 144 (xi) OF THE GENERAL FINANCIAL RULES 2017: As per latest government guidelines</b>
<b>A.</b>	Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the competent authority. The Competent Authority for the purpose of this Clause shall be the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade (DPIIT).
<b>B.</b>	"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



Rev  
-04

## GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS

	companies) every artificial juridical person not falling in any of the description of bidders stated hereinbefore, including any agency, branch or office controlled by such person, participating in procurement process.
<b>C.</b>	Bidder from a country which shares a land border with India” for the purpose of this Clause 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 beneficial owner 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.
<b>D.</b>	The beneficial owner for the purpose of (iii) above will be as under: 1. In case of company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has a controlling ownership interest or who exercises control through other means. Explanation – 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 shareholder’s 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.
<b>E.</b>	An Agent is a person employed to do any act for another, or to represent another in dealings with third person.
<b>F.</b>	Model certificate for Tenders <i>“I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India; I certify that this bidder is not from such a country / has been registered with the Competent Authority (attach valid registration by the Competent Authority, i.e., the Registration Committee constituted by the Dept. for Promotion of Industry and Internal Trade (DPIIT). I hereby certify that we fulfil all requirements in this regard and is eligible to be considered.”</i>  <i>(Signature, Date &amp; Seal of Authorized Signatory of the Bidder)</i>  <i>Note: Bidders to note that in case above certification given by a bidder, whose bid is accepted, is found to be false, then this would be a ground for immediate termination and for taking further action in accordance with law and as per BHEL guidelines.</i>
<b>G.</b>	Registration of the bidder with Competent Authority should be valid at the time of submission of bids and at the time of acceptance of the bids.
<b>27</b>	<b>Fraud Prevention</b>
	The Bidder along with its associate/ collaborators/ sub-contractors/ sub-vendors/ consultants/ service providers shall strictly adhere to BHEL Fraud Prevention Policy displayed on BHEL website <a href="http://www.bhel.com">http://www.bhel.com</a> and shall immediately bring to the notice of BHEL Management about any fraud or suspected fraud as soon as it comes to their notice
<b>28</b>	<b>Breach of contract, Remedies and Termination</b>
	<b>28.1 BREACH OF CONTRACT:</b> The following shall amount to breach of contract: <b>i.</b> Non-supply of material/ non-completion of work by the Supplier/Vendor within scheduled delivery/ completion period as per contract or as extended from time to time. <b>ii.</b> The Supplier/Vendor fails to perform as per the activity schedule and there are sufficient reasons even before expiry of the delivery/ completion period to justify that supplies shall be inordinately delayed beyond contractual delivery/ completion period. <b>iii.</b> The Supplier/Vendor delivers equipment/ material not of the contracted quality. <b>iv.</b> The Supplier/Vendor fails to replace the defective equipment/ material/ component as per guarantee clause. <b>v.</b> Withdrawal from or abandonment of the work by the Supplier/Vendor before completion as per contract.



Rev  
-04

## GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS

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

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

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

### 28.2 REMEDIES IN CASE OF BREACH OF CONTRACT.

- i. Wherein the period as stipulated in the notice issued under clause 28.1 has expired and Supplier/Vendor has failed to remedy the breach, BHEL will have the right to terminate the contract on the ground of "Breach of Contract" without any further notice to contractor.
- ii. Upon termination of contract, BHEL shall be entitled to recover an amount equivalent to 10% of the Contract Value for the damages on account of breach of contract committed by the Supplier/Vendor. This amount shall be recovered by way of encashing the security instruments like performance bank guarantee etc available with BHEL against the said contract. In case the value of the security instruments available is less than 10% of the contract value, the balance amount shall be recovered from other financial remedies (i.e. available bills of the Supplier/Vendor, retention amount, from the money due to the Supplier/Vendor etc. with BHEL) or the other legal remedies shall be pursued.
- iii. Wherever the value of security instruments like performance bank guarantee available with BHEL against the said contract is 10% of the contract value or more, such security instruments to the extent of 10% contract value will be encashed. In case no security instruments are available or the value of the security instruments available is less than 10% of the contract value, the 10% of the contract value or the balance amount, as the case may be, will be recovered in all or any of the following manners:
- iv. In case the amount recovered under sub clause (iii) above is not sufficient to fulfil the amount recoverable then; a demand notice to deposit the balance amount within 30 days shall be issued to Supplier/Vendor.
- v. If Supplier/Vendor fails to deposit the balance amount within the period as prescribed in demand notice, following action shall be taken for recovery of the balance amount:
  - a. From dues available in the form of Bills payable to defaulted Supplier/Vendor against the same contract.
  - b. If it is not possible to recover the dues available from the same contract or dues are insufficient to meet the recoverable amount, balance amount shall be recovered from any money(s) payable to Supplier/Vendor under any contract with other Units of BHEL including recovery from security deposits or any other deposit available in the form of security instruments of any kind against Security deposit or EMD.
  - c. In-case recoveries are not possible with any of the above available options, Legal action shall be initiated for recovery against defaulted supplier/Vendor.
- vi. It is an agreed term of contract that this amount shall be a genuine pre-estimate of damages that BHEL would incur in completion of balance contractual obligation of the contract through any other agency and BHEL will not be required to furnish any other evidence to the Supplier/Vendor for the purpose of estimation of damages.
- vii. In addition to the above, imposition of liquidated damages, debarment, termination, de-scoping, short-closure, etc., shall be applied as per provisions of the contract.



Rev  
-04

## GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS

**Note:**

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

**29 Settlement of Dispute**

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

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

**30 CONCILIATION**

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

**Note:**

Ministry of Finance has issued OM reference No. 1/2/24 dated 03.06.2024 regarding "Guidelines for Arbitration and Mediation in Contracts of Domestic Public Procurement. In the said OM it has been recommended that Government departments/ Entities/agencies are to encourage mediation under the Mediation Act. 2023. The said Act has not yet been notified by the Government. Therefore, the clause "Settlement of Disputes" shall be modified accordingly as and when the Mediation Act 2023 gets notified.

**31 ARBITRATION**

- 31.1 Except as provided elsewhere in this Contract, in case Parties are unable to reach amicable settlement (whether by Conciliation to be conducted as provided in Clause 30 herein above or otherwise) in respect of any dispute or difference; arising out of the formation, breach, termination, validity or execution of the Contract; or, the respective rights and liabilities of the Parties; or, in relation to interpretation of any provision of the Contract; or, in any manner touching upon the Contract (hereinafter referred to as the 'Dispute'), then, either Party may, refer the disputes to Arbitral Institution "IIAC" (India International Arbitration Centre), Delhi for Jhansi Unit and such dispute to be adjudicated by Sole Arbitrator appointed in accordance with the Rules of said Arbitral Institution.
- 31.2 A party willing to commence arbitration proceeding shall invoke Arbitration Clause by giving notice to the other party in terms of section 21 of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as the 'Notice') before referring the matter to arbitral institution. The Notice shall be addressed to the Head of the Unit, BHEL, Jhansi executing the Contract and shall contain the particulars of all claims to be referred to arbitration with sufficient detail and shall also indicate the monetary amount of such claim including interest, if any.
- 31.3 After expiry of 30 days from the date of receipt of aforesaid notice, the party invoking the Arbitration shall submit that dispute to the Arbitral Institutions IIAC, Delhi ( to be identified by the contract issuing agency) and that dispute shall be adjudicated in accordance with their respective Arbitration Rules. The matter shall be adjudicated by a Sole Arbitrator who shall necessarily be a Retd Judge having considerable experience in commercial matters to be appointed/nominated by the respective institution. The cost/expenses pertaining to the said Arbitration shall also be governed in accordance with the Rules of the respective Arbitral Institution. The decision of the party invoking the Arbitration for reference of dispute to a specific Arbitral institution for adjudication of that dispute shall be final and



Rev  
-04

## GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS

	<p>binding on both the parties and shall not be subject to any change thereafter. The institution once selected at the time of invocation of dispute shall remain unchanged.</p> <p>31.4 The fee and expenses shall be borne by the parties as per the Arbitral Institutional rules.</p> <p>31.5 The Arbitration proceedings shall be in English language and the seat and venue of Arbitration shall be IIAC New Delhi.</p> <p>31.6 Subject to the above, the provisions of Arbitration &amp; Conciliation Act 1996 and any amendment thereof shall be applicable. All matters relating to this Contract and arising out of invocation of Arbitration clause are subject to the exclusive jurisdiction of the Court(s) situated at New Delhi.</p> <p>31.7 Notwithstanding any reference to the Designated Engineer or Conciliation or Arbitration herein, a. the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree. Settlement of Dispute clause cannot be invoked by the Contractor, if the Contract has been mutually closed or 'No Demand Certificate' has been furnished by the Contractor or any Settlement Agreement has been signed between the Employer and the Contractor.</p> <p>31.8 It is agreed that Mechanism of resolution of disputes through arbitration shall be available only in the cases where the value of the dispute is less than Rs. 10 Crores.</p> <p>31.9 In case the disputed amount Claim, Counter claim including interest is Rs. 10 crores and above, the parties shall be within their rights to take recourse to remedies other than Arbitration, as may be available to them under the applicable laws after prior intimation to the other party. Subject to the aforesaid conditions, provisions of the Arbitration and Conciliation Act, 1996 and any statutory modifications or re-enactment thereof as amended from time to time, shall apply to the arbitration proceedings under this clause.</p> <p>31.10 In case, multiple arbitrations are invoked (whether sub-judice or arbitral award passed) by any party to under this contract, then the cumulative value of claims (including interest claimed or awarded) in all such arbitrations shall be taken in account while arriving at the total claim in dispute for the subject contract for the purpose of clause 31.9. Disputes having cumulative value of less than 10 crores shall be resolved through arbitration and any additional dispute shall be adjudicated by the court of competent jurisdiction.</p> <p>31.11 In case of Contract with Public Sector Enterprise (PSE) or a Government Department, the following shall be applicable:</p> <p>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 &amp; Excise Departments), such dispute or difference shall be taken up by either party for resolution through AMRCD (Administrative Mechanism for Resolution of CPSEs Disputes) as mentioned in DPE OM No. 05/0003/2019-FTS-10937 dated 14-12-2022 as amended from time to time.</p>
<b>32</b>	<b>NO INTEREST PAYABLE TO CONTRACTOR</b>
	<p>Notwithstanding anything to the contrary contained in any other document comprising in the Contract, no interest shall be payable by BHEL to Contractor on any moneys or balances including but not limited to the Security Deposit, EMD, Retention Money, RA Bills or the Final Bill, or any amount withheld and/or appropriated by BHEL. etc., which becomes or as the case may be, is adjudged to be due from BHEL to Contractor whether under the Contract or otherwise.</p>
<b>33</b>	<b>OVER RUN CHARGES</b>
	<p>No overrun charges are applicable.</p>
<b>34</b>	<b>Applicable Laws and Jurisdiction of Courts</b>
	<p>This contract shall be governed by the Law for the time being in force in the Republic of India. The Civil Court having original Civil Jurisdiction at Jhansi, shall alone have exclusive jurisdiction in regard to all matters in respect of the Contract except Arbitration matter.</p>
<b>35</b>	<b>Treatment of cases regarding conflict of interest</b>
	<p>The bidder notes that a conflict of interest would said to have occurred in the tender process and execution of the resultant contract, in case of any of the following situations:</p> <p>i) If its personnel have a close personal, financial, or business relationship with any personnel of BHEL who are directly or indirectly related to the procurement or execution process of the contract, which can affect the decision of BHEL directly or indirectly;</p>



Rev  
-04

## GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS

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

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

### 36 Preventive checks to eliminate suspected cartel formation between suppliers

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

The following Declaration has to be submitted by the Bidders

We declare that the following family firms or sister concern affiliates/ subsidiary firms are participating in the tender No \_\_\_\_\_

1.0 \_\_\_\_\_

2.0 \_\_\_\_\_

3.0 \_\_\_\_\_

I \_\_\_\_\_ hereby declare on behalf of M/s \_\_\_\_\_ and family firms or sister concern affiliates/ subsidiary firms listed above that we are not indulging in cartel formation for Enquiry No \_\_\_\_\_.

(\_\_\_\_\_)

For M/s \_\_\_\_\_

Seal and Sign

### 37 Grievance Redressal Mechanism

To promote transparency and ensure fair treatment of all bidders, a structured Grievance Redressal Mechanism is in place to address any concerns or issues arising during the tendering process or in subsequent business dealings with the company.

Suppliers/Contractors are requested to follow the below escalation process for grievance resolution:

1. **First Level:** Any grievance should initially be addressed to the designated Dealing Officer, whose contact details are provided in the Notice Inviting Tender (NIT)/Contract.
2. **Second Level:** If the issue remains unresolved, it may be escalated by lodging a formal grievance through the SUVIDHA Portal: <https://suvidha.bhel.in/suvidha/>. Responses will be provided in accordance with the defined escalation matrix.



JHS 2055A

Rev  
-04

## GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS

<b>38</b>	Note
	<ul style="list-style-type: none"><li>• In case of placement of order these conditions will become part of Purchase Order (P.O) unless the deviations are specifically agreed by BHEL</li><li>• You shall have to observe all work quality, safety regulations, general technical guide lines as stipulated in relevant clauses tender specification.</li><li>• All other terms &amp; conditions not covered here shall be as per those specified in the tender document (NIT) along with Technical Specification, Specific Conditions of Contract &amp; General Conditions of Contract</li><li>• In the event of any change as notified by Govt. of India same will supersede the relevant GTC clause.</li></ul>