

REF. 20253558H1

BHEL MATERIAL CODE AND RESPECTIVE SPECIFICATION (AS APPLICABLE)

BHEL MATERIAL CODE: HW1201828961

COPPER SHEETS AND PLATE-ANNEALED (INDUSTRIAL GRADE)

SPEC: AA12028 REV: 06

SIZE: **15X130x390 MM or its multiples.**

ENQUIRED QUANTITY- 55 KG

QUANTITY TOLERANCE OF +/- 5% IS ACCEPTABLE ON ENQUIRED QUANTITY.

QUALITY REQUIREMENTS: INSPECTION BY BHEL / BHEL NOMINATED INSPECTION AGENCY INTERTEK AS PER BHEL SQP "QA/BI/QP/326 REV. 02". VENDORS TO CONFIRM THE SAME. ALSO, VENDORS TO ENDORSE THE SQP ALONG WITH OFFERS.

BHEL reserves the right to inspect the material during manufacturing and also to get tested the material under dispatch from third party. The test results of third-party test shall be final and binding on the Supplier/Vendor. BHEL will reserve the right to inspect/test the material during/after manufacturing at suppliers' works, and/or at BHEL Works/Site. In case of rejection at any stage, Supplier/Vendor shall be liable to replace the materials at his own cost.

Test Certificates / CQIR (as per quality requirements / respective specification) and Guarantee Certificate to be provided by seller(s) along with material supply.

Unregistered vendors at BHEL Haridwar for the enquired item(s) may avail the soft copies of relevant specification / drawing by submitting the endorsed copy of attached 'Non-Disclosure Agreement' to either of the following e-mail IDs: (sharad.pathak@bhel.in) and (skumars@bhel.in); Bid should be free from correction, overwriting, using corrective fluid, etc. Any interlineation, cutting, erasure or overwriting shall be valid only if they are attested under full signature(s) of person(s) signing the bid else bid shall be liable for rejection. In the event of any Technical or Commercial queries, the same may please be addressed to the following BHEL concerned e-mail IDs: (sharad.pathak@bhel.in) and (skumars@bhel.in) before Part I opening.

Bidder to submit Techno- Commercial offer along with bid.

PRE- QUALIFICATION CRITERIA: Bidder to provide the documents as per attached Pre-qualification conditions / requirements (PQR). Bidder who fails to qualify Pre-qualification conditions / requirement, their offer will not be considered for technical evaluation and price bid opening (part -2 of this tender).

SCOPE OF SUPPLY & PRICE BASIS:

OFFERED RATES (INR per KG) ON THE GeM PORTAL SHOULD BE ON ALL-INCLUSIVE BASIS i.e. INCLUDING Cu. / Brass METAL RATES, FABRICATION RATES, APPLICABLE GST/ALL TAXES & DUTIES, LOCAL LEVIES/TRANSPORTATION/MATERIAL LOADING, PACKING & FORWARDING CHARGES ETC. - **UPTO FOR- HEEP BHEL HARIDWAR.**

Sign and stamped by bidder

PVC (PRICE VARIATION CLAUSE) (FOR MAT. CODE HW1201828961 Cu. SHEET/PLATE)

PVC for Price Comparison:

- a) Vendor(s) to quote their total rates in INR per KG i.e. 'BME Copper Billet Prices + Fabrication price (which are inclusive of Freight charges, P&F charges (if any) + Applicable inclusive GST'.

Vendor(s) will take BME Copper Billet Metal rate i.e. INR 1359.863 / Kg in their total quoted rates. Vendor(s), who do not confirm this clause, their offer shall liable to be rejected on commercial grounds.

- b) Item wise Evaluation shall be done on the basis of delivered cost (i.e. total landed cost to BHEL, Haridwar). BME Copper Billet Prices shall be taken prevalent of the enquiry issue date for evaluation and comparison purpose.

PVC for Billing:

- a) BME Copper Billet Prices, 30 days prior to the PO scheduled delivery date shall be applicable for billing of PVC.
- b) If PO schedule delivery date is less than 30 days then BME Copper Billet Prices shall be taken 10th day from PO date. In this case Serial no. (a) of PVC (for billing) shall not be applicable.

TRANSIT INSURANCE: Transit Insurance of material is in Supplier/Vendor's scope. Supplier/Vendor shall insure the material at their cost for transportation.

Delivery period: Bidder to quote their best delivery period in weeks considering 07 working days for arranging inspection by BHEL at vendor works from date of email for inspection / online inspection call. Bidders are requested to quote the best delivery meeting the delivery requirements. BHEL reserves the right to reject the offers not meeting BHEL's GeM enquiry delivery requirement.

Bidder to inform % of **INCLUSIVE GST**- _____% as mentioned on Gem portal while quoting their bid on Gem Portal.

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.

Supplier/Vendor shall obtain prior written consent of BHEL before billing the amount towards such taxes. Where the GST laws permit more than one option or methodology for discharging the liability of tax/levy/duty, BHEL shall have the right to adopt the appropriate one considering the amount of tax liability on BHEL/Client as well as procedural simplicity with regard to assessment of the liability. The option chosen by BHEL shall be binding on the Contractor for discharging the obligation of BHEL in respect of the tax liability to the Supplier/Vendor. Supplier/Vendor has to submit GST registration certificate of the concerned state. Supplier/Vendor also needs to ensure that the

Sign and stamped by bidder

REF. 20253558H1

submitted GST registration certificate should be in active status during the entire contract period.

Supplier/Vendor has to issue Invoice/Debit Note/Credit Note indicating HSN/SAC code, Description, Value, Rate, applicable tax and other particulars in compliance with the provisions of relevant GST Act and Rules made thereunder.

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.

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.

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.

Any financial loss arises to BHEL on account of failure or delay in submission of any document as per contract/purchase order/work order at the time of submission of Tax invoice to BHEL, shall be deducted from Supplier/Vendor's bill or otherwise as deemed fit.

TDS as applicable under GST law shall be deducted from Supplier/Vendor's bill.

Supplier/Vendor shall comply with the provisions of e-way bill wherever applicable. Further wherever provisions of GST Act permit, all the e-way bills, road permits etc. required for transportation of goods needs to be arranged by the contractor.

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.

Sign and stamped by bidder

REF. 20253558H1

In case declaration of any invoice is delayed by the vendor in his GST return or any invoice is subsequently amended/altere/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.

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.

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.

No interest shall be payable on the security deposit or any other money due to the contractor". However, GST amount shall be reimbursed in line with compliance of 'GST' clause as mentioned above.

Variation in Taxes & Duties: 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. 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. 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.

Income Tax: TDS/TCS as applicable under Income Tax Act, 1961 or rules made thereunder shall be deducted/collected from Supplier/Vendor's bill.

PAYMENT TERM:

"100% payment shall be made within 45 / 60 / 90 days (as applicable for MSE, Medium and Non- MSME respectively) from the material entry date in HEEP- BHEL subject to submission of non-discrepant documents by the vendor and the acceptance of material by HEEP- BHEL.

Note: This is in supersession of 10 days' time as provided in Clause 12 of GeM GTC and also 45 days from CRAC as provided in the standard format of GeM Bid under Payment Timelines.

MICRO AND SMALL ENTERPRISES (MSE): 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.

Sign and stamped by bidder

| Type under MSE | SC/ST owned | Women owned | Others (excluding SC/ ST & Women Owned) |
|----------------|-------------|-------------|---|
| Micro | | | |
| Small | | | |

Note: If the bidder does not furnish the above, offer shall be processed construing that the bidder is not falling under MSE category. a) MSE suppliers can avail the intended benefits in respect of the procurements related to the Goods and Services only (Definition of Goods and Services as enumerated by Govt. of India vide Office Memorandum F. No. 21(8)/2011-MA dated 09/11/2016 office of AS & DC, MSME) only if they submit along with the offer, attested copies of either Udyam Registration. Date to be reckoned for determining the deemed validity will be the last date of Technical Bid submission. Non-submission of supporting document in GeM portal will lead to consideration of their bids at par with other bidders. No benefits shall be applicable for this enquiry if the above required documents are not uploaded at the time of bid submission. Documents submitted by the bidder shall be verified by BHEL for rendering the applicable benefits.

Breach of contract, Remedies and Termination: The following shall amount to breach of contract:

- I. 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.
- II. 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.
- III. The Supplier/Vendor delivers equipment/ material not of the contracted quality.
- IV. The Supplier/Vendor fails to replace the defective equipment/ material/ component as per guarantee clause.
- V. Withdrawal from or abandonment of the work by the Supplier/Vendor before completion as per contract.
- 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,

Sign and stamped by bidder

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.

Remedies in case of Breach of Contract: **i)** Wherein the period as stipulated in the notice issued as mentioned above 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 as mentioned 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.

vi) In-case recoveries are not possible with any of the above available options, Legal action shall be initiated for recovery against defaulted supplier/Vendor.

vii) 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.

viii) 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.

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.

LD against delay in executed supply in case of Termination of Contract: LD against delay in executed supply shall be calculated in line with LD clause mentioned below, for the delay attributable to Supplier/Vendor. For limiting the maximum value of LD, contract value shall be taken as Executed Value of supply till termination of contract. Method for calculation of "LD against delay in executed supply in case of termination of contract" is given below. **i.** Let the time period from scheduled date of start of supply till termination of contract excluding the period of Hold (if any) not attributable to contractor = T1 **ii.** Let the value of executed supply till the time of termination of contract= X **iii.** Let the Total Executable Value of supply for which inputs/fronts were made available to Supplier/Vendor and were planned for execution till termination of contract = Y **iv.** Delay in executed supply attributable to Supplier/Vendor i.e. $T2 = [1 - (X/Y)] \times T1$ **v.** LD shall be calculated in line with LD clause of the Contract for the delay attributable to Supplier/Vendor taking "X" as Contract Value and "T2" as period of delay attributable to Supplier/Vendor.

LIQUIDATED DAMAGE: Liquidated Damages, wherever referred under this Tender/Agreement, shall mean and refer to the damages, not in the nature of penalty, which the contractor agrees to pay in the event of delay in delivery of supplies, breach of contract etc. as the case may be. Liquidated Damages leviable upon the Supplier/Vendor is a sum which is agreed by the parties as a reasonable and genuine pre-estimate of damages which will be suffered by BHEL on account of delay/breach on the part of the Supplier/Vendor.

If the Seller/Service Provider fails to deliver any or all of the Goods/Services within the original/re-fixed delivery period(s) specified in the contract/PO, the Buyer/BHEL will be entitled to deduct/recover the Liquidated Damages for the delay, unless covered under Force Majeure conditions aforesaid, @ 0.5% of the contract value of delayed quantity per week or part of the week of delayed period as pre-estimated damages not exceeding 10% of the contract value of delayed quantity without any controversy/dispute of any sort whatsoever.

Action against Bidders / vendor / supplier / contractor in case of default: In order to protect the commercial interests of BHEL, BHEL shall take action against supplies / contractors by way of suspension of business dealings, who either fail to perform or are

Sign and stamped by bidder

in default without any reasonable cause, cause loss of business/ money/ reputation, indulge in malpractices, cheating, bribery, fraud or any other misconduct or formation of cartels so as to influence the bidding process or influence the price etc.

Suspension of Business Dealings with Suppliers / Contractors: The offers of the bidders who are under suspension as also the offers of the bidders, who engage the services of the banned firms / principal / agents, shall be rejected. The list of banned firms is available on BHEL web site www.bhel.com. If any bidder / supplier / contractor during pre-tendering / tendering / post tendering / award / execution / post-execution stage indulges in any act, including but not limited to, malpractices, cheating, bribery, fraud or and other misconduct or formation of cartel so as to influence the bidding process or influence the price or tampers the tendering process or acts or omits in any manner which tantamount to an offence punishable under any provision of the Indian Penal Code, 1860 (Bhartiya Nyaya Samhita 2023) or any other law in force in India, or does anything which is actionable under the Guidelines for Suspension of Business dealings, action may be taken against such bidder / supplier / contractor as per extant guidelines of the company available on www.bhel.com and / or under applicable legal provisions. Guidelines for suspension of business dealings is available in the webpage: http://www.bhel.com/vender_registration/vender.php.

Treatment of cases regarding conflict of interest:

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:

- 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;
- 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 Authorized 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.

Sign and stamped by bidder

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.

PUBLIC PROCUREMENT (PREFERENCE TO MAKE IN INDIA): "For this procurement, the local content to categorize a supplier as a Class I local supplier/ Class II local Supplier and purchase preference to Class I local supplier, is as defined in Public Procurement (Preference to Make in India), Order 2017 dated 19.07.2024 issued by DPIIT. In case of subsequent orders issued by the nodal ministry, changing the definition of local content for the items of the NIT, the same shall be applicable even if issued after issue of this NIT, but before opening of Part-II bids against this NIT".

Compliance to Restrictions under Rule 144 (xi) of GFR 2017: I. 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). II. "Bidder" (including the term 'tenderer', 'consultant' or 'service provider' in certain contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by such person, participating in a procurement process. III. "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. IV. The beneficial owner for the purpose of (III) above will be as under: **1.** In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together or through one or more juridical person, has a controlling ownership interest or who exercises control through other means. 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 shareholders agreements or voting agreements. **2.** In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership. **3.** In case of an unincorporated

association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person has ownership of or entitlement to more than fifteen percent of the property or capital or profits of the 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. **V.** An Agent is a person employed to do any act for another, or to represent another in dealings with third person. **Note: (i)** The bidder shall provide undertaking for their compliance to this Clause, in the format provided (as attached). **(ii)** 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.

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.

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 provided in - "Procedure for conduct of conciliation proceedings" (as available in 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.

Sign and stamped by bidder

ARBITRATION: Except as provided elsewhere in this Contract, in case Parties are unable to reach amicable settlement (whether by Conciliation to be conducted as provided 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 (e.g. "IIAC" (India International Arbitration Centre) (or shall be identified by the contract issuing agency- HEEP- BHEL Haridwar) and such dispute to be adjudicated by Sole Arbitrator appointed in accordance with the Rules of said Arbitral Institution. 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 Region, Unit, BHEL, 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. 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 (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 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.

The fee and expenses shall be borne by the parties as per the Arbitral Institutional rules. The Arbitration proceedings shall be in English language and the seat and venue of Arbitration shall be (identified by the contract issuing agency)- HEEP- BHEL Haridwar. Subject to the above, the provisions of Arbitration & 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 HEEP- BHEL Haridwar. 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. 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. 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. In case, multiple arbitrations are invoked (whether sub-judice or arbitral award passed) by any party to

Sign and stamped by bidder

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. 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.

JURISDICTION: Subject to as mentioned above of this bid / contract, the Civil Court having original Civil Jurisdiction shall alone have exclusive jurisdiction in regard to all matters in respect of the Contract.

GOVERNING LAWS: The bid / contract shall be governed by the Law for the time being in force in the Republic of India.

Force Majeure:

"Force Majeure" shall mean circumstance which is: **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.

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.

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. 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. Delay or non-performance by either party hereto caused by the occurrence of any event of Force Majeure shall not v) Constitute a default or breach of the Contract. vi) 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. BHEL at its discretion may consider short closure of contract after 1 year of imposition of Force Majeure in line with extant guidelines. In any case,

Sign and stamped by bidder

REF. 20253558H1

Supplier/Vendor cannot consider deemed short-closure after 1 year of imposition of Force Majeure.

Cartel Formation: 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.

Fraud Prevention Policy: Bidder along with its associate /collaborators /sub-contractors /sub-vendors / consultants / service providers shall strictly adhere to BHEL Fraud Prevention Policy displayed on BHEL website <http://www.bhel.com> and shall immediately bring to the notice of BHEL Management about any fraud or suspected fraud as soon as it comes to their notice.

In the event of any ambiguity or conflict between the Tender Documents, the order of precedence shall be in the order below:

- a. Amendments/Clarifications/Corrigenda/Errata etc. issued in respect of the tender documents by BHEL.
- b. Buyer Added GeM Bid Specific ATC
- c. GeM Bid Technical Conditions of Bid/Contract (TCC)
- d. GeM GTC

NOTE: **1.** In the event of our customer order covering this tender being cancelled /placed on hold /otherwise modified, BHEL would be constrained to accordingly cancel / hold / modify the tender at any stage of execution. **2.** BHEL may negotiate the L1 rate, if not meeting our budget / estimated cost. BHEL may re-float the tender opened, if L1 price is not acceptable to BHEL even after negotiation. Any deviation from the conditions specified in TECHNO-COMMERCIAL TERMS AND CONDITIONS, will lead to rejection of offer. **3.** Any change in applicable rates of Tax or any other statutory levies (Direct / Indirect) or any new introduction of any levy by means of statute and its corresponding liability for the deliveries beyond the agreed delivery date for reasons not attributable to BHEL will be to vendors account. BHEL will not reimburse the same and any subsequent claim in this respect will be summarily rejected. **4.** BHEL reserves its right to reject an offer due to unsatisfactory past performance by the respective Vendor in the execution of any contract to any BHEL project / Unit. **5.** The offers of the bidders who are under suspension and also the offers of the bidders, who engage the services of the banned firms /principal/agents, shall be rejected. The list of banned firms is available on BHEL web site www.bhel.com. **6.** Recovery / deduction as applicable as per Direct and Indirect taxes as notified by Govt. Of India from time to time will be made and information/certificate for such deduction/recoveries shall be provided by BHEL to the vendor.

Sign and stamped by bidder

BHEL will deal directly with the manufacturers / principal vendors and no correspondence with the agents will be entertained. The agents will not be permitted to visit / interact with BHEL on behalf of their principals. Subsequently also, no correspondence of any type will be made with any agent. (All individuals / companies - representing / Advisor / retainer ship basis or claimed to be part time employees for many OEMs / claiming to be channel or business partner for BHEL work / stockiest not registered specifically etc. are Agents). Communications with only those agents who have submitted agency agreement with their respective principal may be done. The suppliers or their authorized person may be allowed to attend the tender opening, if duly authorized by their principals, through a specific letter for a particular enquiry for specific price bid opening on that particular day. General authorization letter is not acceptable. However, in case of e-tender, vendor should see the tenders of others on the opening date only. Thereafter, the respective window will get closed.

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.

If a re-visit of BHEL appointed TPIA is required at vendor's works due to:

- a. Complete material not being offered during inspection (whilst physical visit of Inspection Engineer at Supplier's work) with respect to offered quantity mentioned in raised inspection call.
- b. Lapses on account of supplier has led to rejection of offered material (as per approved QAP/Technical specification/other pertinent requirement while carrying out inspection).

Additional visit charges to be paid by BHEL to TPIAs shall be deducted from supplier's bills as penalty.

Sign and stamped by bidder

“For goods / works / services on Indian Suppliers / Contractors: Irrespective of the value of the invoice amount, the supplier/ contractor should necessarily upload the invoice details on **BHEL SUVIDHA portal** at <https://suvidha.bhel.in/suvidha/>, prior to despatch/raising invoice. All documents as per contract checklist, along with additional documents (if any), must be uploaded on the portal. It is mandatory that tax invoices with a net amount (including taxes) exceeding Rs. five lakhs uploaded on the portal are digitally signed using a Class 3 Digital Signature Certificate (DSC) issued by a licensed Certifying Authority. Submission of invoice document in hard copy is allowed for invoices with a net amount (including taxes) equal to and up to Rs. five lakhs in case the requirement for digitally signed invoice is not explicitly mentioned in the contract checklist.

The Invoice will not be accepted in absence of the above.”

The bid(s) received from same IP address shall be outrightly rejected and shall not be considered for further evaluation.

“The tender enquiry has been issued on GeM and BHEL portals for wider circulation. However, the offer is to be submitted through GeM portal only. Also, all future corrigendum/corrigenda, addendum/addenda, amendments, time extensions, clarifications, etc. against the published GeM bid shall be issued on GeM portal only. Hence, the bidders are advised to check GeM portal only for latest updates/amendments/communications issued by BHEL against the current tender.”
