

Annexure-1				
Items Detail				
Ref no:T/T206/25/0036E/1				
SI No	Material Code	Description	Qty	Unit
1	W97311422329	POSITION TRANSMITTER 21142211010	1	no
2	W97312313019	POSITION TRANSDUCER 41231301039	25	no
3	W97313335148	POSITION TRANSMITTER 21333511002	12	no
4	W97313336209	CONTROL ARM AS PER TYPE BTL2- GS10-0250-A 31333612002	4	no
5	W97313336136	CONTROL ARM AS PER TYPE BAM GM-XA-02-D10-M0300 31333612002	8	no
6	W97313336217	CALIBRATION DEVICE TYPE 'BTL7-A-CB01-USB-S32' AS PER DRG. NO. 41333611101 41333611101	2	no

To receive drawings & specifications, submit Non-Disclosure agreement (attached as Annexure 03 of this document)

Terms & conditions of this tender shall be as per the latest GTC of GeM & Custom Bid ATC.

You are requested to essentially submit following documents along with your offer:

- i)Duly filled and endorsed copy of PQR.
- ii)Supporting documents against each point in PQR in sequential manner.
- iii)Filled & endorsed copy of ATC.

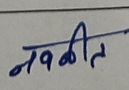
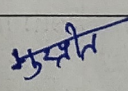
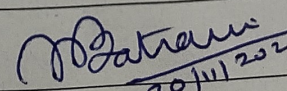
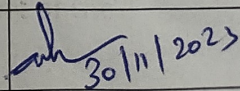
Pre-Qualification requirement Position Feedback Transmitter

Position Feedback transmitter is very critical component in Governing assemblies as the same is used for feedback & triggering action based on measurement.

Sl. No.	Pre-qualification requirements	Vendor's response
1.0	a. The vendor should be a regular manufacturer or supplier with authorization from OEM or manufacturer & supplier with technology collaboration from OEM for supply of Position transmitter.	Yes/No
2.0	a. Bidder to confirm that the Position transmitter is capable of calibration with Balluff make calibration device model BTL7-A-CB01-USB-S32. b. Bidder to furnish the test certificate/proof w.r.t. calibration.	Yes/No
3.0	The vendor to submit the following supporting documents, if applicable:- i. Authorization certificate from OEM for providing services after sales through authorized service center and providing necessary technical assistance in case of any requirement. ii. Technology collaboration agreement from OEM for support in manufacturing, supply & sales after services.	Document enclosed: Yes/ No
4.0	In case vendor is authorized supplier or licensed manufacturer, the vendor to submit evidence/confirmation from OEM for the followings: - a. OEM shall provide necessary technical support to Licensee for manufacturing of the product in India. b. OEM shall provide guarantee towards quality of the product manufactured at India. c. Guarantee certificates & test certificates for the Position transmitter manufactured by licensee in India shall be validated by OEM.	Yes/No Document enclosed: Yes/ No
5.0	Bidder should have executed 3 nos. of purchase orders for Manufacturing/Supply of Position Transmitter to Power plant operator/manufacturer during last 10 years from the date of issuance of enquiry. The bidder shall have to furnish 3 no. unpriced purchase order (PO) copy in support of the experience details.. However, in case customer was BHEL, only 3 nos. of Purchase order no. to be provided.	Document enclosed: Yes/ No

Notes:

- Against vendor's replies, BHEL reserves the right to ask for more information/ documents/clarifications.
- Vendor's offer shall not be considered if vendor fails to furnish the document/ information/ clarifications as mentioned above or vendor doesn't meet the acceptance criteria (mentioned above from sl. no. 1 to 5).
- In case information furnished by the vendor found false/incorrect, BHEL reserves the right to reject their offer.

	STE		CIE	
Reviewed By	Nawnit Nirala		Gurpreet Kaur	
Approved By	Maneesh Batrani	 30/11/2023	Vinod Kumar	 30/11/2023

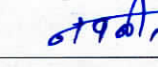
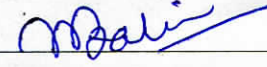
Pre-Qualification requirement Position transducer (Mat. code W97312313019)

Description: - Position Feedback transducer is very critical component in position transmitter mounting for Hydraulic speed governor and Electro Hydraulic Converter (Gov.) as the same is used for feedback & triggering action based on measurement.

Sl. No.	Pre-qualification requirements	Vendor's response
1.0	Vendor should have the status of either as OEM or the authorized dealer of an OEM for Position transducer (Valid Agency agreement with the OEM shall be submitted by the authorized dealer).	Yes/No
2.0	a. Vendor to confirm that the Position transducer shall be of type SS207 of M/s CURTISS WRIGHT USA or equivalent with threads 2-56UNC-3A as per ASA B1.1-1960. A suiting nut shall be supplied with the remote Position Transmitter. b. The Vendor must have conducted the following test and furnish the test certificate for the same: - i. Dielectric strength, 500VDC ii. Null voltage, Null position, scale factor (Sensitivity), Phasing linearity, Calibration for output voltage V/S stroke, response time and measurement tolerance.	Yes/ No Document enclosed: Yes/No
3.0	Vendor to furnish the following documentary evidence w.r.t. Supply of Position transducer with similar dimensions vis-à-vis enquiry item in last 7 years from the date of enquiry (In case of dealer/non-manufacturer, documentary evidence to be submitted from principal facility):- A. Three nos. of Unpriced Purchase Order Copies B. Dispatch documents of Supplies (corresponding to one P.O.)..... However, in case, customer was BHEL, only Purchase order nos. of three P.Os. to be provided.	Document enclosed: Yes/ No Yes/ No
4.0	Vendor shall have necessary service after sales arrangement or tie-up for providing services after sales in India through authorized service center. Supplier to furnish necessary supporting documents for the same.	Document enclosed: Yes/ No
5.0	End User Certificate: Vendor to furnish at least one Certificate from the Power plant operator certifying that the Position Transducer supplied by the vendor has been in successful operation for at least 1 year in the Power plant. The End User Certificate should be pertaining to any one of the above Purchase Orders. Or Vendor to provide the document that they are approved vendor of Position transducer for the OEMs of Power Plant (Thermal, Hydro, Nuclear etc.) or Power Plant Operators and at least two Purchase orders must have been executed to that Customer (Supporting Documents: Approved Vendor of OEM and 2 number Purchase Order copy from same OEM).	Document enclosed: Yes/ No

Notes:

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- Vendor's offer shall not be considered if vendor fails to furnish the document/ information/ clarifications as mentioned above or vendor doesn't meet the acceptance criteria (mentioned above from sl. no. 1 to 5).
- In case information furnished by the vendor found false/incorrect, BHEL reserves the right to reject their offer.

	STE		CIE	
Prepared By	Leelpat Singh		Gurpreet Kaur	
Reviewed By	Nawnit Nirala		Vinod Kumar	
Approved By	Maneesh Batrani			

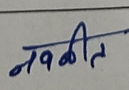
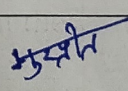
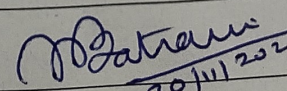
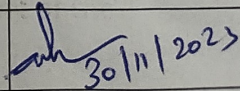
Pre-Qualification requirement Position Feedback Transmitter

Position Feedback transmitter is very critical component in Governing assemblies as the same is used for feedback & triggering action based on measurement.

Sl. No.	Pre-qualification requirements	Vendor's response
1.0	a. The vendor should be a regular manufacturer or supplier with authorization from OEM or manufacturer & supplier with technology collaboration from OEM for supply of Position transmitter.	Yes/No
2.0	a. Bidder to confirm that the Position transmitter is capable of calibration with Balluff make calibration device model BTL7-A-CB01-USB-S32. b. Bidder to furnish the test certificate/proof w.r.t. calibration.	Yes/No
3.0	The vendor to submit the following supporting documents, if applicable:- i. Authorization certificate from OEM for providing services after sales through authorized service center and providing necessary technical assistance in case of any requirement. ii. Technology collaboration agreement from OEM for support in manufacturing, supply & sales after services.	Document enclosed: Yes/ No
4.0	In case vendor is authorized supplier or licensed manufacturer, the vendor to submit evidence/confirmation from OEM for the followings: - a. OEM shall provide necessary technical support to Licensee for manufacturing of the product in India. b. OEM shall provide guarantee towards quality of the product manufactured at India. c. Guarantee certificates & test certificates for the Position transmitter manufactured by licensee in India shall be validated by OEM.	Yes/No Document enclosed: Yes/ No
5.0	Bidder should have executed 3 nos. of purchase orders for Manufacturing/Supply of Position Transmitter to Power plant operator/manufacturer during last 10 years from the date of issuance of enquiry. The bidder shall have to furnish 3 no. unpriced purchase order (PO) copy in support of the experience details.. However, in case customer was BHEL, only 3 nos. of Purchase order no. to be provided.	Document enclosed: Yes/ No

Notes:

- Against vendor's replies, BHEL reserves the right to ask for more information/ documents/clarifications.
- Vendor's offer shall not be considered if vendor fails to furnish the document/ information/ clarifications as mentioned above or vendor doesn't meet the acceptance criteria (mentioned above from sl. no. 1 to 5).
- In case information furnished by the vendor found false/incorrect, BHEL reserves the right to reject their offer.

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Reviewed By	Nawnit Nirala		Gurpreet Kaur	
Approved By	Maneesh Batrani	 30/11/2023	Vinod Kumar	 30/11/2023

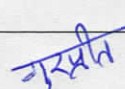
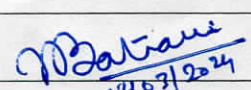
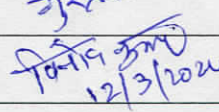
Pre-Qualification requirement Position Feedback Transmitter accessories (Calibration device, Control arm, Magnet etc)

Position Feedback transmitter is very critical component in Governing assemblies as the same is used for feedback & triggering action based on measurement.

Sl. No.	Pre-qualification requirements	Vendor's response
1.0	The vendor should be a regular manufacturer or supplier with authorization from OEM or manufacturer & supplier with technology collaboration from OEM for supply of Position transmitter or its accessories viz. Calibration device, control arm, magnet etc.	Yes/No
2.0	Bidder to confirm that the Position transmitter accessories are compatible with Profile type Position transmitter of Balluff make or equivalent.	Yes/No
3.0	In case vendor is authorized supplier or licensed manufacturer, the vendor to submit the following supporting documents:- i. Authorization certificate from OEM for providing services after sales through authorized service center and providing necessary technical assistance in case of any requirement. ii. Technology collaboration agreement from OEM for support in manufacturing, supply & sales after services.	Yes/ No/NA Document enclosed: Yes/ No/NA
4.0	In case vendor is authorized supplier or licensed manufacturer, the vendor to submit evidence/confirmation from OEM for the followings:- a. OEM shall provide guarantee towards quality of the product supplied by authorized supplier. b. OEM shall provide necessary technical support to Licensee for manufacturing of the product in India. c. Guarantee certificates & test certificates for the Position transmitter manufactured by licensee in India shall be validated by OEM.	Yes/No/NA Document enclosed: Yes/ No/NA
5.0	Bidder should have executed 3 nos. of purchase orders for Manufacturing/Supply of Position Transmitter or its accessories to Power plant operator/manufacturer during last 10 years from the date of issuance of enquiry. The bidder shall have to furnish 3 no. unpriced purchase order (PO) copy in support of the experience details. However, in case customer was BHEL, Haridwar, only 3 nos. of Purchase order no. to be provided.	Document enclosed: Yes/ No

Notes:

- Against vendor's replies, BHEL reserves the right to ask for more information/ documents/clarifications.
- Vendor's offer shall not be considered if vendor fails to furnish the document/ information/ clarifications as mentioned above or vendor doesn't meet the acceptance criteria (mentioned above from sl. no. 1 to 5).
- In case information furnished by the vendor found false/incorrect, BHEL reserves the right to reject their offer.

	STE		CIE	
Reviewed By	Nawnit Nirala		Gurpreet Kaur	
Approved By	Maneesh Batrani	 12/03/2024	Vinod Kumar	 12/3/2024

ONE SIDED**NON DISCLOSURE AGREEMENT**

THIS NON DISCLOSURE AGREEMENT (this "**Agreement**") entered into on this day of June, 20.. (the "**Effective Date**")

By and Between

Bharat Heavy Electricals Limited (a Public Sector Undertaking of Government of India), a company incorporated under the Companies Act, 1956 and having its registered office at having its registered office at "BHEL House", Siri Fort, New Delhi - 110 049, India (hereinafter referred to as "**BHEL**" of which the expression shall unless repugnant to the context or the meaning thereof be deemed to include its successors and permitted assigns) (hereinafter referred to as "BHEL"),

And

ABC, a Company incorporated under the laws of and having its registered office at (hereinafter referred to as "ABC").

The party who is receiving information would be referred as Receiving Party and the party who is disclosing information would be referred as Disclosing Party, as the context requires.

WHEREAS

- (A) The Disclosing Party and The Receiving Party wish to explore and discuss the potential of certain mutually advantageous business relationships for _____, for the purpose ofproducts in India ('the Purpose');
- (B) The Disclosing Party, in furtherance of such business relationship, will disclose certain information, including but not limited to, scientific, development, financial, marketing, sales or other proprietary information;
- (C) The Receiving Party and the Disclosing Party wish to protect and preserve the confidentiality of such information provided by the Disclosing Party to the Receiving Party by preventing its unauthorized disclosure and use, in accordance with the terms of this Agreement; and
- (D) The Receiving Party agrees to hold such information in strict confidence and not to disclose or to use, directly or indirectly, for any purpose other than the performance of this Agreement

NOW, THEREFORE and in consideration of the promises made herein, their mutual and individual interests, and other good and valuable consideration, the receipt and sufficiency of all of which is hereby acknowledged, the Parties agree as follows:

1. **PURPOSE:** Purpose to ne mentioned here.
2. **DISCLOSING PARTY.** means a Party that discloses the confidential information to the other party under this agreement.
3. **RECEIVING PARTY** means a Party that receives the confidential information from the other party under this agreement.
4. **Confidential Information**
 - (a) Subject to the provisions of this Agreement, all information disclosed by the Disclosing Party to the Receiving Party, shall be deemed to be "Confidential Information" for the purposes of this Agreement.
 - (b)
 - (i) It is clarified that Confidential Information shall include, but is not limited to, any trade secret, technique, strategy, component, concept, program, report, study, memorandum, correspondence, documentation, information, manual, record, data, technology, product, plan, design, procedure, method, invention, sample, notes, summaries, analyses, compilations and other writings, producing any such sample, medium, test data relating to any research project, work in progress, future development, engineering, manufacturing, marketing, pricing, billing, servicing, financing, personnel matter, its present or future products, sales, suppliers, clients, customers, employees, investors, or any other information which the Disclosing Party provides to the Receiving Party whether in oral, written, graphic or electronic form and whether or not such information is identified as such by an appropriate stamp or marking. The Confidential Information shall also include all reports, notes or other material prepared by the Receiving Party based on the Confidential Information and/ or any discussion thereon.
 - (ii) Confidential Information includes information disclosed by the Disclosing Party or by any individual, firm or corporation controlled by, controlling, or under the common control of the Disclosing Party.
 - (c) Confidential Information shall not include any information which the Receiving Party can demonstrate to the Disclosing Party:
 - (1) is now, or has become, through no act or failure to act on the part of the Receiving Party, generally known or available to the public;
 - (2) is known by the Receiving Party at the time of receiving such information as evidenced by its records;
 - (3) is discovered/independently developed by the Receiving Party independent of any disclosures by the Disclosing Party; or

- (4) is hereafter furnished to the Receiving Party by a third party, as a matter of right and without restriction on disclosure.

- (d) Notwithstanding any other provision of this Agreement, the Receiving Party shall be permitted to disclose Confidential Information if such disclosure is in response to a valid order of a court or other governmental body, provided, however, that the Receiving Party shall be required to give prior notice in writing to the Disclosing Party so that the Disclosing Party may seek an appropriate protective order including that the Confidential Information so disclosed be used only for the purposes for which the order was issued;

5. **Disclosure**

In consideration of the disclosure of Confidential Information by, the Recipient hereby agrees to:

- (a) Shall treat as confidential and safeguard all information disclosed and/or its Affiliates in connection
- (b) to hold the Confidential Information in strict confidence and to take all necessary precautions to protect such Confidential Information (including, without limitation, all precautions the Recipient employs with respect to its own confidential materials);
- (c) limit disclosure of any Confidential Information to its concerned directors, officers and employees, (collectively "Representatives") strictly only to who have a need to know such Confidential Information in connection with the Transaction between the parties to which this Agreement relates, and only for that purpose;
- (d) advise its Representatives of the proprietary nature of the Confidential Information and of the obligations set forth 2 in this Agreement and require in writing such Representatives to keep the Confidential Information confidential;
- (e) shall keep all Confidential Information strictly confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information;
- (f) not disclose any Confidential Information received by it to any third party; and
- (g) not to copy or reverse engineer any such Confidential Information.
- (h) not to use the Confidential Information for any purpose other than the Transaction.
- (i) not use the information for any scientific research or any other research.
- (j) Confidential information does not include information:
 - a. Which is generally available to the public other than as a result of a breach of this Agreement; or
 - b. Which is already in the possession of Recipient without restriction prior to any disclosure hereunder: or

- c. Which is or has been lawfully disclosed to Recipient by someone who is free lawfully to disclose the same without confidentiality restrictions; or
 - d. Which is independently developed by Recipient or its Affiliates and no Confidential information disclosed hereunder has been used directly or indirectly in such development; or
 - e. Whose applicable period of confidentiality pursuant hereto, or such other period specifically agreed to in writing by the parties, has ended
- (k) This agreement is not intended to, and does not, oblige either party to enter into any further agreements or to proceed with the transaction, any possible relationship or other transaction. Recipient acknowledges that Discloser makes no representation or warranty whether express or implied, as to the accuracy or completeness of Confidential information, and Discloser disclaims any and all liability unless contained in any definitive agreement.

Each Party will comply with all applicable data protection laws and regulations. Where applicable in particular if one Party receives access to and processes personal data on behalf of the other party in connection with this Agreement and such processing agreement, the Parties will enter into any required data processing of other data protection agreement

6. Restriction on Use

- (a)** The Receiving Party and its Representatives shall hold the Confidential Information received from the Disclosing Party in confidence, and shall not, directly or indirectly:
 - (i) disclose the Confidential Information to any third party; or
 - (ii) use the Confidential Information for any purpose other than the permitted Purpose.
- (b)** The Receiving Party shall not use the Confidential Information for any purpose or in any manner, which would constitute a violation of any applicable laws or regulations, directly or indirectly.
- (c)** The Confidential Information shall be the property of the Disclosing Party. No rights, licenses or interests including, but not limited to, trademarks, inventions, copyrights or patents are implied, transferred or granted in relation to the Confidential Information provided by the Disclosing Party to the Receiving Party under this Agreement.
- (d)** The Receiving Party shall not reproduce the Confidential Information in any form except as needed for the Purpose of the Agreement as set out above or with the prior written consent of the Disclosing Party.

(e) All the title and rights in the Confidential Information shall be reserved with the respective Discloser and/or its licensors and no rights or obligations other than those expressly set out in this Agreement are granted or to be implied from this Agreement. In particular no license is granted to the Recipient, directly or indirectly, by this Agreement relating to any invention, discovery, patent, copyright or other industrial or intellectual property right now or in the future.

7. Protection of Confidential Information

- (a) The Receiving Party represents and warrants that it shall protect the Confidential Information received with utmost care and diligence.
- (b) All Confidential Information shall be promptly returned to the Disclosing Party after the Receiving Party's need for it has expired, or upon request of the Disclosing Party, and in any event, upon completion or termination of this Agreement.

8. No Further Warranties

The Confidential Information shall be disclosed on an "**as is**" basis only and without any warranties of any kind, including but not limited to, warranties of merchantability or fitness for a particular purpose.

9. No Further Business Arrangement

Nothing contained herein shall be construed to obligate either Party to enter into any further agreements with each other. This Agreement does not create any other business arrangement, including but not limited to any partnership, agency or joint venture, between the Parties.

10. Term

The term of this Agreement shall commence on the Effective Date and valid for the period of two (2) years. The Disclosing party shall have a right to terminate this Agreement by giving a written notice of 30 days to the Receiving Party. However, the Receiving Party obligation to protect and restrict the use of Confidential Information under this Agreement shall continue until such time as the Disclosing Party discloses it to the public or when it otherwise becomes part of the public domain through no action of the Receiving Party.

11. Injunctive remedy

The Recipient acknowledges that the Confidential Information to be disclosed hereunder is commercially sensitive of a unique and valuable character, and that the unauthorized dissemination of the Confidential Information would destroy or diminish the value of such information. The damages that would result from the unauthorized dissemination of the

Confidential Information would be impossible to calculate. Therefore, Recipient hereby agrees that the affected Discloser shall be entitled to injunctive relief preventing the dissemination of any Confidential Information in violation of the terms hereof. Such injunctive relief shall be in addition to any other remedies available hereunder, whether at law or in equity. The affected Discloser shall be entitled to recover all its damages, costs and fees, including reasonable attorneys' fees, incurred in obtaining any such relief. Further, in the event of litigation relating to this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and expenses.

12. Return of Confidential Information

Recipient shall immediately return and redeliver to the respective Discloser all tangible material embodying the Confidential Information provided hereunder and all notes, summaries, memoranda, drawings, manuals, records, excerpts or derivative information deriving there from and all other documents or materials ("Notes") (and all copies of any of the foregoing, including "copies" that have been converted to computerized media in the form of image, data or word processing files either manually or by image capture) based on or including any Confidential Information, in whatever form of storage or retrieval, upon the earlier of (i) the completion or termination of the dealings between the parties contemplated hereunder; (ii) the termination of this Agreement; or (iii) any breach of this agreement, in which case the party in breach shall also be liable towards the Disclosers under the law and this Agreement or (iv) at such time as the respective Discloser may so request; provided however that the Recipient may retain such of its documents as is necessary to enable it to comply with its document retention policies. Alternatively, the Recipient, with the written consent of the respective Discloser may immediately destroy any of the foregoing embodying Confidential Information (or the reasonably non-recoverable data erasure of computerized data) and, upon request, certify in writing such destruction by an authorized officer of the Recipient supervising the destruction).

13. Notice of Breach

Recipient shall notify the Disclosers immediately upon discovery of any unauthorized use or disclosure of Confidential Information by Recipient or its Representatives, or any other breach of this Agreement by Recipient or its Representatives, and will cooperate with efforts by the Discloser regain possession of Confidential Information and prevent its further unauthorized use.

14. Survival

The provisions of Clauses 8, 9 & 10 of this Agreement, and the rights and obligations contained there under shall not terminate upon termination of this Agreement.

15. Governing Law & Dispute Resolution

The contract shall be governed by the Law for the time being in force in the Republic of India. Civil Court having original Civil Jurisdiction at (name of Place) shall alone have exclusive jurisdiction in regard to all matters in respect of this agreement.

Except as provided elsewhere in this Contract, in case amicable settlement is not reached between the Parties, in respect of any dispute or difference; arising out of the formation, breach, termination, validity or execution of the Contract; or, the respective rights and liabilities of the Parties; or, in relation to interpretation of any provision of the Contract; or, in any manner touching upon the Contract, then, either Party may, by a notice in writing to the other Party refer such dispute or difference to arbitration. The arbitration shall be conducted by three arbitrators, one to be appointed by each of the Parties and a third arbitrator to be appointed by the mutual consent of the two arbitrators so appointed by the Parties.

The Arbitrator shall pass a reasoned award and the award of the Arbitrator shall be final and binding upon the Parties. Subject as aforesaid, the provisions of Arbitration and Conciliation Act 1996 (India) or statutory modifications or re-enactments thereof and the rules made thereunder and for the time being in force shall apply to the arbitration proceedings under this clause. The seat of arbitration shall be _____(the place from where the contract is issued)

16. No Publication

Neither Party shall disclose, publicise or advertise in any manner the discussions or negotiations contemplated by the Agreement without the prior written consent of the other Party, except as may be required by law.

17. Miscellaneous

- (a) This Agreement constitutes the entire understanding between the parties and supersedes any and all prior or contemporaneous understandings and agreements, whether oral or written, between the parties, with respect to the subject matter hereof. This Agreement can only be modified by a written amendment signed by the party against whom enforcement of such modification is sought.
- (b) Any failure by a Discloser to enforce the Recipient's strict performance of any provision of this Agreement will not constitute a waiver of its right to subsequently enforce such provision or any other provision of this Agreement.

- (c) Although the restrictions contained in this Agreement are considered by the parties to be reasonable for the purpose of protecting the Confidential Information, if any such restriction is found by a court of competent jurisdiction to be unenforceable, such provision will be modified, rewritten or interpreted to include as much of its nature and scope as will render it enforceable. If it cannot be so modified, rewritten or interpreted to be enforceable in any respect, it will not be given effect, and the remainder of the Agreement will be enforced as if such provision was not included.
- (d) Any notices or communications required or permitted to be given hereunder may be delivered by hand, deposited with a nationally recognized overnight carrier, electronic-mail, or mailed by certified mail, return receipt requested, postage prepaid, in each case, to the address of the other party first indicated above (or such other addressee as may be furnished by a party in accordance with this paragraph). All such notices or communications shall be deemed to have been given and received (a) in the case of personal delivery or electronic-mail, on the date of such delivery, and (b) in the case of delivery by a nationally recognized overnight carrier, on the third business day following dispatch.
- (e) Parties shall not directly or indirectly assign or transfer it by operation of law or otherwise without the prior written consent of the Disclosers, which consent will not be unreasonably withheld. All obligations contained in this Agreement shall extend to and be binding upon the parties to this Agreement and their respective successors, assigns and designees.
- (f) Paragraph headings used in this Agreement are for reference only and shall not be used or relied upon in the interpretation of this Agreement.

18. Notices

All notices, documents, consents, approvals or other communications (a 'Notice') to be given hereunder shall be in writing and shall be transmitted by first class registered or recorded delivery mail to the person at the address specified herein below, or by telex, facsimile or other electronic means in a form generating a record copy to the party being served at the relevant address for that party shown herein below. Any Notice sent by mail shall be deemed to have been duly served on receipt of delivery confirmation. Any Notice sent by telex facsimile or other electronic means shall be deemed to have been duly served at the time of transmission.

Notice if to:

BHEL, then to,

Phone :

Fax :

E-mail :

ABC, then to,

(Name)_____

(Designation)_____

Phone :

Fax :

E-mail :

19. Counterparts, Telefax Signatures

This Agreement may be signed in two counterparts, each of which is to be considered an original, and taken together as one and the same document.

IN WITNESS WHEREOF, of their Agreement to the terms and conditions contained herein, the undersigned have caused this Agreement to be executed by their duly authorized representatives:

For Bharat Heavy Electricals Limited	For ABC
Signature: Name: Designation:	Signature: Name: Designation:
Signature: Name: Designation:	Signature: Name: Designation:

BOTH SIDED

NON-DISCLOSURE AGREEMENT

THIS AGREEMENT (the "Agreement") is entered into at _____ on this ____ day of _____ ("Effective Date") by and between;

M/s ABC, a company incorporated under the Laws of Companies Act 1956 and having their registered office at New Delhi – (the "**Discloser**" or "ABC"), which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successor in interest, designates, and permitted assigns.

AND

M/S XYZ _____, a company incorporated under the laws of _____ and having its principle place of business _____ and registered office at _____ represented by its _____ (the "**Recipient**" or "_____"), which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successor in interest, designates, and permitted assigns

Where appropriate, the **Discloser**, the **Recipient** shall individually / neutrally be referred to as "**Party**", and both together as **Parties**. WHEREAS....

- A) In connection with (describe transaction/cooperation) or any successor or replacement transaction (the Transaction), the Parties may have exchanged and wish further to exchange certain information on a confidential basis
- B) The Parties wish to define their rights and obligations with regard to such information and protect its confidentiality

1. Definition of Confidential Information

- (a) For purposes of this Agreement, "Confidential Information" means the information as well as any data or information that is proprietary of the Discloser and not generally known to the public, whether in tangible or intangible form, whenever and however disclosed, including, but not limited to: (i) any scientific or technical information, invention, design, process, procedure, formula, improvement, technology or method; (ii) any concepts, reports, data, know-how, works-in-progress, designs, development tools, specifications, computer software, source code, object code, flow charts, databases, inventions, information and trade secrets; (iii) any marketing strategies, plans, financial information, or projections, operations, sales estimates, business plans and performance results relating

to the past, present or future business activities of such party, its affiliates, subsidiaries and affiliated companies; (iv) plans for products or services, and customer or supplier lists. Confidential Information need not be novel, unique, patentable, copyrightable or constitute a trade secret in order to be designated Confidential Information. The Recipient acknowledges that the Confidential Information is proprietary to the respective Discloser and that the Discloser regards all of its Confidential Information as secrets.

- (b) Notwithstanding anything in the foregoing to the contrary, Confidential Information shall not include information which: (i) was known to the Recipient without a duty of confidentiality prior to receiving the Confidential Information from the respective Discloser; (ii) becomes rightfully known to the Recipient from a third-party source not known (after diligent inquiry) by the Recipient to be under an obligation to the respective Discloser to maintain confidentiality; (iii) is or becomes publicly available through no fault of or failure to act by the Recipient in breach of this Agreement; (iv) is required to be disclosed in a judicial or administrative proceeding, or is otherwise requested or required to be disclosed by law or regulation, but only to the extent of any such disclosure, although the requirements of paragraph 4 hereof shall apply prior to any disclosure being made; and (v) is or has been independently developed by the Recipient without violation of the terms of this Agreement or reference or access to any Confidential Information.

2. Disclosure of Confidential Information

In consideration of the disclosure of Confidential Information by, the Recipient hereby agrees to:

- (l) treat as confidential and safeguard all information disclosed and/or its Affiliates in connection
- (m) hold the Confidential Information in strict confidence and to take all necessary precautions to protect such Confidential Information (including, without limitation, all precautions the Recipient employs with respect to its own confidential materials);
- (n) limit disclosure of any Confidential Information to its concerned directors, officers and employees, (collectively "Representatives") strictly only to who have a need to know such Confidential Information in connection with the Transaction between the parties to which this Agreement relates, and only for that purpose;
- (o) advise its Representatives of the proprietary nature of the Confidential Information and of the obligations set forth 2 in this Agreement and require in writing such Representatives to keep the Confidential Information confidential;

- (p) shall keep all Confidential Information strictly confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information;
- (q) not disclose any Confidential Information received by it to any third party; and
- (r) not to copy or reverse engineer any such Confidential Information.
- (s) not to use the Confidential Information for any purpose other than the Transaction.
- (t) not use the information for any scientific research or any other research.
- (u) Confidential information does not include information:
 - a. Which is generally available to the public other than as a result of a breach of this Agreement; or
 - b. Which is already in the possession of Recipient without restriction prior to any disclosure hereunder: or
 - c. Which is or has been lawfully disclosed to Recipient by someone who is free lawfully to disclose the same without confidentiality restrictions: or
 - d. Which is independently developed by Recipient or its Affiliates and no Confidential information disclosed hereunder has been used directly or indirectly in such development; or
 - e. Whose applicable period of confidentiality pursuant hereto, or such other period specifically agreed to in writing by the parties, has ended
- (v) This agreement is not intended to, and does not, oblige either party to enter into any further agreements or to proceed with the transaction, any possible relationship or other transaction. Recipient acknowledges that Discloser makes no representation or warranty whether express or implied, as to the accuracy or completeness of Confidential information, and Discloser disclaims any and all liability unless contained in any definitive agreement.
- (w) Each Party will comply with all applicable data protection laws and regulations. Where applicable in particular if one Party receives access to and processes personal data on behalf of the other party in connection with this Agreement and such processing agreement, the Parties will enter into any required data processing of other data protection agreement.

3. Use of Confidential Information

The Recipient agrees to use the Confidential Information solely for the Transaction and not for any purpose other than as authorized by this Agreement without the prior express written consent of an authorized representative of **parties**. No other right or license, whether expressed or implied, in the Confidential Information is granted to the Recipient hereunder. Nothing contained herein is intended to modify the parties' existing agreement of the Transaction.

All the title and rights in the Confidential Information shall be reserved with the respective Discloser and/or its licensors and no rights or obligations other than those expressly set out in this Agreement are granted or to be implied from this Agreement. In particular no license is granted to the Recipient, directly or indirectly, by this Agreement relating to any invention, discovery, patent, copyright or other industrial or intellectual property right now or in the future.

4. Term

This Agreement will terminate (i) 5 (five) years after its effective date or (ii) upon effectiveness of a Transaction related agreement provided that such agreement contains confidentiality/non-disclosure provisions- whichever occurs earlier.

Notwithstanding the foregoing, the Recipient's and Discloser's duty to hold in confidence Confidential Information that was disclosed during such term as above.

5. Remedies

The Recipient acknowledges that the Confidential Information to be disclosed hereunder is commercially sensitive of a unique and valuable character, and that the unauthorized dissemination of the Confidential Information would destroy or diminish the value of such information. The damages that would result from the unauthorized dissemination of the Confidential Information would be impossible to calculate. Therefore, Recipient hereby agrees that the affected Discloser shall be entitled to injunctive relief preventing the dissemination of any Confidential Information in violation of the terms hereof. The affected Discloser shall be entitled to recover all its damages and costs.

6. Return of Confidential Information

Recipient shall immediately return and redeliver to the respective Discloser all tangible material embodying the Confidential Information provided hereunder and all notes, summaries, memoranda, drawings, manuals, records, excerpts or derivative information deriving there from and all other documents or materials ("Notes") (and all copies of any of the foregoing, including "copies" that have been converted to computerized media in the form of image, data or word processing files either manually or by image capture) based on or including any Confidential Information, in whatever form of storage or retrieval, upon the earlier of (i) the completion or termination of the dealings between the parties contemplated hereunder; (ii) the termination of this Agreement; or (iii) any breach of this agreement, in which case the party in breach shall also be liable towards the Disclosers under the law and this Agreement or (iv) at such time as the respective Discloser may so request; provided however that the Recipient may retain such

of its documents as is necessary to enable it to comply with its document retention policies. Alternatively, the Recipient, with the written consent of the respective Discloser may immediately destroy any of the foregoing embodying Confidential Information (or the reasonably non-recoverable data erasure of computerized data) and, upon request, certify in writing such destruction by an authorized officer of the Recipient supervising the destruction).

7. Notice of Breach

Recipient shall notify the Disclosers immediately upon discovery of any unauthorized use or disclosure of Confidential Information by Recipient or its Representatives, or any other breach of this Agreement by Recipient or its Representatives, and will cooperate with efforts by the Discloser regain possession of Confidential Information and prevent its further unauthorized use.

8. No Binding Agreement for Transaction

The parties agree that neither party will be under any legal obligation of any kind whatsoever with respect to the Transaction by virtue of this Agreement, except for the matters specifically agreed to herein.

9. Applicable Law and Disputes

This Agreement shall be governed by and interpreted in accordance with the laws of India. Any dispute or difference arising out of or in relation to this Agreement, which cannot be resolved through negotiation, would be settled through arbitration in accordance with the Arbitration & Conciliation Act, 1996 time being in force, by appointing sole arbitrator with mutual consent. The seat of arbitration shall be New Delhi. The language of be used in the arbitral proceedings shall be English.

Any dispute or difference arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination or the legal relationships established by this Agreement, which cannot be settled amicably within sixty (60) calendar days from the notification by one Party to the other Party of such dispute, shall be resolved by appointing sole arbitrator with mutual consent. The parties shall choose a retired judge of High court of Delhi from the panel list of Delhi International Arbitration Center, High Court of Delhi with mutual consent within 30 days from the date of failure of settlement. The fee of the arbitrator shall be shared by both the parties. The parties however shall bear the cost of arbitration its own.

This NDA shall be governed, construed and interpreted in accordance with the laws of India.

Courts at shall alone have exclusive jurisdiction over any matter arising out of or in connection with this NDA.

10. Miscellaneous

- (g) This Agreement constitutes the entire understanding between the parties and supersedes any and all prior or contemporaneous understandings and agreements, whether oral or written, between the parties, with respect to the subject matter hereof. This Agreement can only be modified by a written amendment signed by the party against whom enforcement of such modification is sought.
- (h) Any failure by a Discloser to enforce the Recipient's strict performance of any provision of this Agreement will not constitute a waiver of its right to subsequently enforce such provision or any other provision of this Agreement.
- (i) Although the restrictions contained in this Agreement are considered by the parties to be reasonable for the purpose of protecting the Confidential Information, if any such restriction is found by a court of competent jurisdiction/arbitral tribunal to be unenforceable, such provision will be modified, rewritten or interpreted to include as much of its nature and scope as will render it enforceable. If it cannot be so modified, rewritten or interpreted to be enforceable in any respect, it will not be given effect, and the remainder of the Agreement will be enforced as if such provision was not included.
- (j) Any notices or communications required or permitted to be given hereunder may be delivered by hand, deposited with a nationally recognized overnight carrier, electronic-mail, or mailed by certified mail, return receipt requested, postage prepaid, in each case, to the address of the other party first indicated above (or such other addressee as may be furnished by a party in accordance with this paragraph). All such notices or communications shall be deemed to have been given and received (a) in the case of personal delivery or electronic-mail, on the date of such delivery, and (b) in the case of delivery by a nationally recognized overnight carrier, on the third business day following dispatch.
- (k) Parties shall not directly or indirectly assign or transfer it by operation of law or otherwise without the prior written consent of the Disclosers, which consent will not be unreasonably withheld. All obligations contained in this Agreement shall extend to and be binding upon the parties to this Agreement and their respective successors and permitted assigns, and designees.
- (l) Paragraph headings used in this Agreement are for reference only and shall not be used or relied upon in the interpretation of this Agreement.

For Recipient: _____

<<<Mr. _____, designation (_____)>>>

For Discloser : _____

<<<Mr. _____, designation (_____)>>>

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

Witness 1: _____

Witness 2: _____