

**DEFINITION OF TERMS**

Throughout the Tender Documents including the Enquiry Letter, the following words shall have the meanings assigned to them herein, unless the subject matter or the context requires otherwise.

1. The Purchaser shall mean M/s Bharat Heavy Electricals Limited (A Public Sector Undertaking) incorporated under the Companies Act 1956 acting through its Electroporcelains Division, Bangalore – 560 012, which expression shall include its successors and assigns. It may also be referred to as BHEL.
2. The Owner shall mean the Customer or Client for whose project, the enquiry has been issued by the purchaser and shall include his successors and assigns as well as authorized officer(s)/representative(s), which may also be referred as Customer or Owner/ Customer.
3. The Consultant shall mean the agency appointed by the Owner or Purchaser to provide consultancy services for the project and shall include his successors and assigns as well as authorized officer(s)/representative(s).
4. The Tenderer shall mean the Firm/Company/Organization, which quotes against the Tender Enquiry issued by the purchaser. It may also be referred as bidder or vendor.
5. Acceptance of offer shall mean issue of letter of intent/award or memorandum or detailed order/Contract communicating the acceptance of offer, to the successful tenderer.
6. The Order/Contract shall mean and include the general conditions, bidding conditions, specific conditions, specifications, schedules, drawings, form of tender, covering letters, schedule of prices and quantities, letter of intent/award of the Purchaser, “Integrity Pact (IP) (as and when applicable) “ any special conditions applicable to the particular Order/Contract and subsequent amendments mutually agreed upon. It may also be referred as order or contract/order or purchase order or contract.
7. The Seller/Contractor shall mean the firm/company/organization with whom the Order/Contract is made and shall be deemed to include his successors, representatives, heirs, executors, administrators and permitted assigns, as the case may be. It may also be referred as contractor, seller or supplier.
8. The Sub-contractor shall mean the person/firm/company/organization to whom any part of the work has been sub-contracted by the Seller/Contractor.
9. The Engineer shall mean officer of the purchaser as may be duly appointed and authorized in writing by the purchaser to act as the engineer on his behalf for the purpose of the order/Contract.
10. The Specification shall mean the specifications contained in the Tender Documents and any subsequent modifications thereof and the drawings, schedules etc. attached thereto, if any.
11. The Site shall mean and include the land and place on, into or through which the power station and the related facilities are to be constructed and any adjacent land, path, street or reservoir which may be allocated or used by the owner or Seller/Contractor in the performance of the Order/Contract.
12. Tests on completion shall mean such tests as are prescribed by the specifications and/or tests mutually agreed upon by the purchaser and the Seller/Contractor, to be performed by the Seller/Contractor after erection of the equipment to establish satisfactory operation as required by the specifications.
13. Commissioning shall mean successful completion of trial operations and readiness of the contracted/ordered plant and materials for commercial use. This will include all consumables and inputs required for pre-commissioning.
14. Initial operation or Trial operation or Reliability run shall mean continuous integrated operation of the contracted/ordered plant and materials under varying loads to furnish proof of satisfactory operation, for a specified period.

15. Temporary work shall mean all temporary works of every kind required in or for the execution, completion or maintenance of the works.
16. Approved means approved in writing including subsequent written confirmation of previous verbal approval and approval means approval in writing including as aforesaid.
17. Inspection Agency (IA) shall mean any person(s), who may be duly authorized by the purchaser /owner to inspect the stores included in the Order/Contract, at the contractor's/sub-contractor's works. List of zone-wise inspection agencies is given in Annexure – V. Vendors to raise inspection call on BHEL – CQS web site.
18. Month shall mean calendar month and week shall mean 7 days.
19. Consignee shall mean the official(s)/person(s) to whom the stores are required to be delivered in the manner indicated in the Order/Contract.
20. Plant/Equipment/Stores shall mean the goods, machinery, components, parts, spares, etc. required to be supplied by the Seller/Contractor as per Order/Contract.
21. Contract Engineer (CE) shall mean the official who has signed the Order/Contract on behalf of the Purchaser.
22. Site Engineer shall mean officer of the purchaser / owner as may be duly appointed and authorized in writing by the purchaser to act as the Site Engineer on his behalf for the purpose of receipt & verification of in-coming stores and issue of Material Receipt Certificate (MRC)/Stores Receipt Voucher (SRV).
23. Site Inspection Agency (Site IA) shall mean any person(s), who may be duly authorized by the purchaser / owner to inspect the stores/works included in the Order/Contract, at the Project Site.

#### 24. GENERAL

The words incorporating singular shall include plural and vice-versa, in the words importing masculine gender shall include feminine and vice-versa and the words importing persons shall include bodies; corporate, limited liability companies, partnership and other legal entities.

#### 25. ABBREVIATIONS

<b>CIF</b>	Cost Insurance Freight
<b>CQ</b>	Corporate Quality
<b>CVD</b>	Countervailing Duty
<b>E&amp;C</b>	Erection and Commissioning
<b>LC</b>	Letter of Credit
<b>MDCC</b>	Material Despatch Clearance Certificate
<b>MRC</b>	Material Receipt Certificate
<b>MSMED</b>	Micro Small and Medium Enterprises Development
<b>NIT</b>	Notice Inviting Tender
<b>QS</b>	Quality Surveillance.
<b>SAD</b>	Special Additional Duty
<b>SCC</b>	Special Conditions of Contract
<b>SDPBG</b>	Security Deposit cum Performance Bank Guarantee

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**1.0 GENERAL INSTRUCTIONS**

1.1 Tenderers are advised to study all the tender documents carefully. Any submission of tender by the tenderer shall be deemed to have been done after careful study and examination of the tender documents and with the full understanding of the implications thereof. The specifications and terms and conditions shall be deemed to have been accepted unless otherwise specifically commented upon in the deviation sheets by the tenderer in his offer. Non-compliance with any of the requirements and instructions of the Tender Enquiry may result in the rejection of the tender.

1.2 All commercial terms and conditions except price should be submitted as part of techno-commercial offer which may be opened first. The price part (Part-II) is to be submitted in a separate sealed cover along with techno-commercial offer (Part-I). Purchaser reserves the right to open both the parts at the same time.

1.3 A declaration as per Annexure III must be sent before opening of Price Bids / Online Sealed Bid.

**2.0 PROCEDURE FOR SUBMISSION & OPENING OF TENDERS**

2.1 Tenders shall be submitted in two parts as described below on or before the due date by 2 p.m.

*PART - I: TECHNO-COMMERCIAL BID* - Containing Technical offer, Annexure-I & II, Commercial Terms & Conditions and Un priced Copy of Price Bid.

*PART-II: PRICE BID* - Containing Prices, to be submitted in Two sets strictly as per enclosed Price Schedule Format (One original + one copy of the original), for complete scope of the Tender Enquiry.

NOTE: Any changes in the specified price format, if made, other than those specified and accepted in the un priced format, the offer is liable to be rejected.

2.1.1 PART-I (techno-commercial bid) may be opened on the due date and time as specified in the Enquiry Letter, in the presence of tenderers who may like to attend. Incomplete offers are liable to be rejected. Purchaser reserves the right to open both the parts i.e. Part-I and Part-II together.

2.1.2 PART-II containing prices shall be submitted along with Part-I, but in a separate sealed cover. Any corrections/amendments shall be properly and fully authenticated. If not done so, the offer is liable to be rejected.

2.1.3 In case it becomes necessary for the tenderer to make any changes in his original price bid (Part-II) on account of technical/commercial confirmations/clarifications, against the changes raised by the purchaser, to bring the offer in line with the requirement of the specifications, the impact of such changes on price shall be submitted. Revised price bid only if requested by the purchaser shall be submitted, in a separate sealed cover. Impact/discount/revised price bid shall be duly super scribed as:

DISCOUNT/IMPACT /REVISED PRICE BID (PART-II) (DELETE WHICHEVER IS NOT APPLICABLE), REVISION NO \_\_\_\_ AGAINST TENDER ENQ. NO.  
\_\_\_\_\_ DATED \_\_\_\_\_”.

2.1.4 However if any bidder on his own offers price discount or reduce prices. The same would be acceptable. Other bidders in such a case would also be informed and can submit reduced prices, if so desired by them. No price increase is acceptable till the validity of offer.

2.2 After the tenders have been technically & commercially examined and the necessary clarifications etc. obtained, Part-II containing FINAL REVISED PRICE BID, if submitted, otherwise, the original Price Bid along with price impact and discount, if any, shall be opened, for which the date and time shall be intimated to the technically and commercially acceptable tenderers only, in case of public opening.

NOTE: BHEL also reserves the right to open the earlier price bids, if any, submitted by the bidders, if required.

2.3 No correspondence shall be entertained from the tenderers after the opening of Part-II (Price bid) of the tender.

2.4 Not more than two representatives will be permitted to be present for the tender opening.

2.5 Purchaser may negotiate the tender, if the quoted rates/terms are found to be unreasonable or in the unacceptable range.

2.6 MARKING ON ENVELOPES

2.6.1 The following shall be super scribed on the envelopes which shall be addressed to:-

**AGM/ MM**  
**Bharat Heavy Electricals Ltd**  
**Electro Porcelains Division**  
**PB No: 1245, Science Institute Post**  
**Bangalore - 560 012**

- PART-I: 1. TENDER ENQUIRY (RFQ) NO. AND ITEM DESCRIPTION  
2. **DUE DATE** FOR OPENING  
3. "TECHNO-COMMERCIAL BID".

- PART -II: 1. TENDER ENQUIRY (RFQ) NO AND ITEM DESCRIPTION  
2. **DUE DATE** FOR OPENING  
3. "PRICE BID".

2.6.1a Impact/discount through e-mail or letter without proper superscription on the envelope is not acceptable.

2.6.2 Both Parts - I & II shall be submitted in separate sealed covers duly super scribed as indicated above and shall be enclosed further in a main cover duly sealed and super scribed as:

"TENDER FOR \_\_\_\_\_ AGAINST TENDER ENQ. NO. \_\_\_\_\_ DUE  
ON \_\_\_\_\_  
CONTAINING PART-I & PART-II BIDS".

2.6.3 Envelope not marked with tender enquiry number is liable to be ignored and may not be opened.

## 2.7 BID SUBMISSION

2.7.1 The tenders shall be addressed to the official inviting Tenders by name and designation and sent at the following address:

AGM/MM  
Bharat Heavy Electricals Ltd.  
Electroporcelains Division  
Bangalore – 560 012

2.7.2 Tenders can either be delivered in person or sent at the above mentioned address by COURIER/REGISTERED POST, to the official inviting tender(s). It shall be the responsibility of the bidder to ensure that the tender is delivered in time as tenders received after the Due Date and Time of submission are liable to be rejected.

2.8 Unsolicited tenders shall not be entertained.

2.9 Order/Contract when finalized will be issued in the name of the successful bidder only and consideration for change of name during tender evaluation and after submission of the tender is subject to the discretion of BHEL /Owner.

## 3.0 PART-I (TECHNO-COMMERCIAL BID) - CONTENTS & CHECKLIST

3.1 The tender shall be submitted in specified number of copies in separate sections for main equipment, recommended spares, etc., as per scope defined.

3.2 Technical offer for main equipment shall contain:

- a) Technical specifications/write-ups.
- b) Scope of supply & bill of material.
- c) Schedule of mandatory spares (to be given separately) giving only description of each item and quantity, as per given format if any.
- d) Optional items as per BHEL price schedule format.

- e) Recommended list of spare parts for three years operation as applicable.
- f) Schedule of supervision for erection & commissioning services, if required.
- g) Listing of technical deviations
- h) Listing of exceptions & assumptions
- i) Services and materials to be provided by the purchaser.
- j) Names of main sub-vendors/contractors.
- k) Quality plans.
- n) All other details/documents as listed in tender documents.

3.3 Commercial offer shall contain:

- a) Agreed terms & conditions (Annexure-II)
- b) Listing of commercial Deviations, if any w.r.t. GCC & SCC.
- c) Unpriced copy of the Price Bid (Part-II), indicating the BOQ as per the Technical Specifications.
- d) Delivery schedules
- e) Validity of offer
- a) Agreed terms & conditions (Annexure-II).

#### **4.0 PART II (PRICE BID) - CONTENTS AND CHECK LIST**

4.1 The BEST offer with FIRM prices (or with PVC as specified in NIT) in the given PRICE SCHEDULE FORMAT shall be submitted in specified number of copies in separate sections for main equipment, O&M spares and supervision of erection and commissioning offer, as per scope defined.

4.2 In case any bidder insists for price variation clause (PVC where NIT specifies firm price) the offer should contain:-

- a/ PVC Formula
- b/ Ceiling for PVC.
- c/ Base date and applicable indices for base date.

Open ended PVC formula is not acceptable. Indices shall be based on Government of India/RBI publications / IEEMA/LME etc. However, BHEL reserves the right to accept/reject the offer with PVC.

4.3 Price Bid for MAIN EQUIPMENT shall cover basic equipment price including packing with excise duty, sales tax, freight etc, as per format enclosed.

4.4 Price Bid for recommended spares shall cover Item-wise Ex-works including packing rate and total value, excise duty, sales tax, freight, etc. as per format enclosed.

4.5 Offer for supervision of erection & commissioning/offer for E&C shall cover the following (if applicable):-

- a) Scope of work.
- b) Schedule of tools & plants, civil work, consumables, control & instrumentation, manpower requirement (to be provided by the purchaser in case of supervision offer).
- c) Supervision charges on man-day basis and total period in man-months of supervision required, indicating services and facilities to be provided by the tenderer.

OR

Erection and commissioning lump sum charges/unit-wise charges for elements of Main equipment as applicable.

Note – The total Erection and commissioning charges should be minimum 10% of the total quoted price of the package failing which break up of prices shall be adjusted accordingly for evaluation & ordering.

4.6 Authority of person signing the tender on behalf of the tenderer:

A person signing the tender or any other document in respect of the Order/Contract on behalf of the tenderer, without disclosing his authority to do so shall be deemed to warrant that he has authority to bind the tenderer. If it is discovered at any time that the person so signing had no authority to do so, the purchaser may, without prejudice to any other right or remedy, cancel the Order/Contract and make or authorize the purchase of the stores at the risk and cost of such person and hold such person liable to the purchaser for all costs and damages arising from the cancellation of the Order/Contract including any loss which the purchaser may sustain on account of such purchase.

- a) All bids of Indian origin shall be in Indian Rupees only.
- b) The authorized representative / agent can only represent one bidder for the given package.

## **5.0 CLARIFICATIONS REQUIRED BY BIDDERS**

Technical and commercial clarifications required, if any, before submission of tender, should be given separately in duplicate addressed to the official inviting the tenders.

## **6.0 TECHNICAL SPECIFICATIONS**

6.1 The tenderer is advised to study the technical specifications, schedules and data sheets carefully and submit all required information in his tender including scope of supply, bill of materials etc.

## **7.0 DEVIATIONS - LISTING**

7.1 Tenders shall be submitted strictly in accordance with the requirements of tender documents. Deviations (Technical as well as Commercial), if any, shall be listed out separately. Technical deviations and Commercial deviations shall be furnished in separate sheets under the headings "TECHNICAL DEVIATIONS" and "COMMERCIAL DEVIATIONS" respectively, along with reasons for taking such deviations. Deviation(s) mentioned elsewhere but not included in the Schedule of Deviations as above, shall not be accepted.

7.2 Deviations from the specifications will not ordinarily be allowed. In case the tenderer offers alternative/nearest equivalent equipment/specifications, the alternate offer shall be submitted by the tenderer in a separate sealed cover. The tenderer shall guarantee the performance of the store(s) for the same conditions and ensure as specified in the technical specifications.

## **8.0 ASSUMPTIONS - LISTING**

If the tenderer has made any assumptions while making technical offer, the same shall be listed separately under the heading "ASSUMPTIONS".

## **9.0 DELIVERY/COMPLETION SCHEDULE**

9.1 ZERO DATE: The date of LOI/Order/Contract whichever is earlier shall be treated as the Zero Date for contractual purpose.

9.2 DELIVERY PERIOD & PACKING OF MATERIAL

9.2.1 The delivery of Plant/Equipment/Stores as per scope of the Order/Contract shall be quoted by the bidders as per N.I.T.

9.3 In case of E & C packages the completion of Erection & Commissioning including successful completion of Performance Guarantee (PG)/Demonstration Test(s), as per scope of the Order/Contract shall be quoted by the bidders as per N.I.T.

9.4 In case of long lead time and involving more than one consignment, delivery schedule quoted shall be for sequential supplies as per erection & commissioning requirements.

9.5 The mandatory and recommended spares shall not be packed along with the main equipment and shall be packed separately.

## **10.0 VALIDITY OF OFFER**

Offer shall be submitted with following validity periods:

- i/ Original offer shall be valid for six months from part-I opening.
- ii/ If revised price/impact is being asked the validity of the same shall be two months from the date of price bid opening.
- iii/ Valid till successful completion of contract for Recommended spares and Mandatory Spares (wherever it is optional item).
- iv/ Unit prices for scope addition/deletion: to be kept valid till successful Completion of contract.

NOTE:

- a) Discount offered, if any, shall be for the full duration of validity. Offers of shorter validity or discount for shorter duration are liable to be rejected.
- b) Any conditional discount shall not be considered for evaluation and ordering.

## **11.0 LANGUAGE & CORRECTIONS**

- a/ The tenderer shall quote the rates in Hindi/English language and international numerals only. The rates shall be entered in figures as well as in words. For the purpose of tender, the metric system of units shall be used.
- b/ All entries in the tender shall either be typed or written legibly in ink. Erasurement and over-writings are not permitted and may render such tenders liable for rejection.
- c/ Tenderer's offer, remarks and deviations, shall be with reference to sections and clause numbers given in the tender documents.
- d/ All cancellations and insertions shall be duly attested by the tenderer.

## **12.0 CHANGE OF TERMS & CONDITIONS/PRICE**

12.1 Any revision or changes in quoted prices and/or conditions of offer made after tender opening, which will give benefit to the tenderer over others, may result in rejection of the tender.

12.2 Under no circumstances, tenderer shall alter his quoted Prices/Rates during the validity period after tenders have been opened. Any tenderer who does so, resulting into re-calling of tenders by the purchaser or additional expenditure to the purchaser, shall run the risk of being black-listed by the purchaser, who reserves the right to recover the damages resulting therefrom.

**13.0 TENDERER TO INFORM HIMSELF FULLY**

13.1 The tenderer shall closely peruse all the clauses, specifications and drawings etc., indicated in the tender documents, before quoting. Should the tenderer have any doubt about the meaning of any portion of the tender specifications or find discrepancies or omissions in the drawings or the tender documents issued are incomplete or shall require clarifications on any of the technical aspect, scope of work etc. he shall at once contact the official inviting the tender, for clarifications, before submission of the tender.

13.2 The tenderer shall make independent enquiries as to the conditions and circumstances affecting his tender estimates and to the possibility of executing the supplies/works as described. In assessing the tender, the tenderer shall be deemed to have inspected and examined the site and its surroundings and to have satisfied himself (as far as practicable) as to the form and nature of the site, the quantities and materials necessary for the completion of the work and other circumstances which may influence or affect the execution of the Order/Contract.

13.3 It is the responsibility of the tenderer to keep himself informed of the correct rates of customs and other duties and taxes leviable for the materials/services as prevailing at the time of tendering. If the rates assumed by the tenderer are less than the tariff rates prevailing at the time of tendering, the tenderer will be himself responsible for such under quotations.

**14.0 REVERSE AUCTION**

BHEL/EPD reserve the right to go for reverse auction by BHEL appointed service provider instead of opening the submitted sealed bid which will be decided after techno-commercial evaluation.

**15.0 REJECTION OF TENDER AND OTHER CONDITIONS**

15.1 BHEL/EPD reserves the right to reject any bidder if the past performance is found unsatisfactory.

15.2 The acceptance of tender will rest with the purchaser and does not bind him to accept the lowest or any tender and reserves to itself full rights for the following without assigning any reasons, whatsoever :

- a) To reject any or all the tenders.
- b) To split up the work amongst two or more tenderers. (Applicable for the contract where E&C is not in the scope of tenderers)
- c) To award the work in part. (Applicable for the contract where E&C is not in the scope of tenderers)
- d) To increase or decrease the quantities.
- e) To reject any commercial or technical deviation given in offer.

15.3 Standard pre-printed conditions of the tenderer attached to the offer will not be accepted and only those mentioned in the body of his offer will be considered.

15.4 Purchaser will not be bound by any power of attorney granted by the tenderer or by changes in the composition of the firm made subsequent to the award of the Order/Contract. Purchaser may, however, recognize such power of attorney and changes after obtaining proper legal advice, the cost of which will be chargeable to the Seller/Contractor concerned.

15.5 If the tenderer deliberately gives wrong information in his tender, purchaser reserves the right to reject such a tender at any stage or to cancel the Order/Contract, if awarded and forfeit the security deposit and Bank Guarantee.

## **16.0 LOADING FOR DEVIATIONS & TENDER EVALUATION**

### **16.1 LOADING FOR DEVIATIONS**

16.1.1 Deviations (Commercial as well as Technical) from the Tender Specifications are generally not acceptable. However, if any deviation is considered by the Purchaser, the same shall be loaded for comparison, while evaluating the offer.

16.1.2 Loading/loading criteria in respect of the deviation(s) shall be as specified in part-B of this GCC. If a bidder unconditionally withdraws any deviation before Price Bid opening, the same shall not be loaded.

16.1.3 Interest Rate for loading other than specified in Annexure - VI will be taken as double the Prime Lending Rate of State Bank of India (prevailing on the date of NIT) plus 2% for Administrative Charges.

16.1.4 In case of deviation from BHEL G.C.C., the tenderer shall separately quote the price for withdrawal of such deviations in Sealed Cover.

## **17.0 PRICE DISCREPANCY**

The following shall be considered for evaluation and ordering.

- a) If there is a discrepancy between the unit price and the total price, which is obtained by multiplying the unit price and quantity, or between subtotals and the total price, the corrected calculated price shall be considered for evaluation and ordering.
- b) If there is a discrepancy between words and figures, the correct calculated price shall be considered for evaluation and ordering.
- c) Unit prices quoted only shall be considered as correct for evaluation and ordering.
- d) Taxes and duties if not specified clearly as extra shall be considered as included in the basic price & therefore shall not be reimbursed.

## **18.0 DISCOUNTS**

Discount offered by any bidder, against the present Tender Enquiry, which is also indicated to be applicable to any other Enquiry, shall be considered against the present Tender Enquiry only. In case only percentage discount is indicated, the same shall be applicable for optional prices also.

## **19.0 EVALUATION CRITERIA**

Tenders will be evaluated on the basis of total landed cost to BHEL (for overall package) i.e. total cost to the purchaser, taking into consideration loadings, if any, all available financial advantages, including those available from the Owner, taxation, etc.

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**1.0 CONTRACT**

The Contract between the Purchaser and Seller/Contractor is merely a Contract only and shall not be treated as a partnership between the parties to the Contract.

**2.0 PRICES**

Basic prices shall be for the entire scope of work in line with all instructions, specifications and terms and conditions specified in the Tender Documents. The unit rate of supply for all equipment and services quoted by the bidder shall be firm.

### **3.0 TAXES AND DUTIES**

#### **3.1 EXCISE DUTY**

3.1.1 Seller/Contractor is required to ensure that excise duty including surcharge if any is quoted as per the existing tariff on the date of the offer and all benefits as per existing rules have been considered.

3.1.2 Excise duty actually incurred by Seller/Contractor on self manufactured items alone shall be reimbursed at actual against requisite documentary evidence.

3.1.3 The invoice cum Excise duty gate pass (Excise Invoice) should contain the name of ultimate consignee as specified in the Order/Contract. If excise duty is paid under protest or dispute, it shall not be reimbursed until and unless the dispute has been finally settled.

3.1.4 No excise duty shall be payable by purchaser on inputs, bought out items, raw materials and components consigned directly to site from sources other than Seller/Contractor's factory/works.

3.1.5 If required by purchaser, the seller / contractor will provide a certificate stating that CENVAT benefit has been availed of on the inputs and the same has been passed on to the purchaser.

3.1.6 If the Seller/Contractor claims/obtains any refund of the excise duty paid and gets reimbursed, the same shall be refunded to the purchaser immediately.

3.1.7 Excise duty shall be paid at actuals against documentary evidence but restricted to the amount and percentage shown in the Order/Contract.

3.1.8 No statutory variations shall be permissible beyond the contractual delivery period.

#### **3.2 SALES TAX/VALUE ADDED TAX**

3.2.1 Central Sales Tax / Value Added Tax shall be reimbursed only if the same is payable by the Seller / Contractor to the respective Govt. authorities meeting all statutory requirements and availing all exemptions/concessions under the respective Central Sales Tax / Value Added Tax Acts. The offer should clearly indicate CST/VAT percentage and the total amount along with concessional form/s if any.

3.2.3 Central Sales Tax/Value Added Tax on direct sales by the Seller/Contractor to the purchaser shall be reimbursed, as per tariff applicable on the approved items, but restricted to the percentage and amount shown in the Order/Contract. If it is shown as included in the quoted price, it will not be eligible for reimbursement by the purchaser.

3.2.5 If documents are submitted through bank, issuance of Form "C" shall not be insisted upon at the time of retirement of document(s).

3.2.6 VAT (if applicable) invoice, in proper format prescribed by respective state sales tax act has to be submitted in the name of nodal agency specified in SCC.

### 3.3 SERVICE TAX:

Service tax paid by the seller/contractor to the Govt. Authorities directly shall only be reimbursed at actuals but restricted to the rate and amount mentioned in the order/contract. The offer should clearly indicate the percentage and the total amount.

### 3.4 OTHER TAXES & LEVIES

All other taxes and levies other than ED, Sales tax, service tax shall be deemed to be included in the basic prices unless specified otherwise by bidder in price bid. No variation in other taxes and duties shall be payable by purchaser.

### 3.5 CUSTOMS DUTY

3.5.1 The customs duty element for imported items as per SCC shall be included in the basic prices. No variation in customs duty and exchange rate for imported items shall be payable by purchaser.

3.5.2 Seller/Contractor shall arrange for his own import license, if required, since purchaser will not provide any import license. Therefore, Seller/Contractor alone shall be responsible for any delay in getting import license or non-availability of the same or completion of other related formalities. Purchaser shall not be responsible for any financial liability, whatsoever, on this account.

3.5.3 Essentiality or Project Authority (PA) certificate as per Import Policy, if required, to avail concessional customs duty, shall be clearly specified in the offer. The import contents (CIF) in terms of as list of items, quantity (CIF value in rupees), foreign currency, country of origin, etc., shall be submitted as part of Price bid. For details refer SCC.

### 3.6 DIRECT TAX

3.6.1 Purchaser shall not be liable towards income tax of whatever nature including variations thereof, arising out of this Order/Contract, as well as tax liability of the Seller/Contractor and his personnel.

3.6.2 Deductions of tax at source at the prevailing rates shall be effected by the purchaser before release of payment, as a statutory obligation, if applicable. TDS certificate will be issued by the Purchaser as per provision in Govt. Rules.

## 4.0 STATUTORY VARIATIONS

4.1 If the rates for taxes and duties in respect of the quoted materials and/or services assumed by the Seller/Contractor are less than the tariff rates prevailing at the time of tendering, Seller/Contractor will be responsible for such under quotations. However, if the rates assumed are higher than the correct rates prevailing at the time of tendering, the difference will be to the credit of the Purchaser.

4.2 Statutory variations in Excise Duty, Service Tax and central Sales Tax/Value Added Tax only on self manufactured items/services rendered by vendor himself on the rates prevailing at the time of delivery in comparison to the date of offer, will be to the account of the purchaser. No other variations such as on customs duty, exchange rate, minimum wages, prices of controlled commodities, any other input etc., shall be payable by the

purchaser.

4.3 Notwithstanding the above, where the actual completion of the supply occurs beyond the period stipulated in the Order/Contract or any extension thereof, variations referred to above, will be limited to the rates prevailing on the dates of such agreed completion periods only. For variations after the agreed completion periods, the Seller/Contractor alone shall bear the impact for the upward revisions and for downward revisions; purchaser shall be given the benefit of reduction in taxes/duties. This will be without prejudice to the levy of penalty for delay in delivery/completion schedule.

## **5.0 VARIATION**

The prices shall remain firm (or with PVC as specified in NIT) for any increase or decrease in the Order/Contract value up to plus or minus 30% unless specified otherwise in technical specification /price format. The purchaser shall have the right to increase or decrease quantities and scope up to the above extent of value and Seller/Contractor shall be bound to accept the same at the contracted prices without any escalation.

## **6.0 SECURITY DEPOSIT CUM CONTRACT PERFORMANCE BANK GUARANTEE**

### **6.1 TIME FOR SUBMISSION**

6.1.1 The successful tenderer shall submit security deposit-cum-contract performance bank guarantee as per format given in Annexure-IV, within 30 days of LOI/Order/Contract to cover the due performance of the LOI/Order/Contract and to fulfill the guarantee conditions stipulated in the Order/Contract.

### **6.2 VALUE**

The value of bank guarantee shall be 10% of the Order/Contract value excluding taxes, duties and freight charges. If the value of the Order/Contract gets enhanced at any time, the Seller/Contractor shall submit the Bank Guarantee correspondingly to the enhanced value at the time of claiming first payment after Contract amendment, failing which the purchaser shall recover the equivalent amount from the payments due to the Seller/Contractor. For the packages like all types of cables, cable trays, cabling materials, lighting package etc, initially BG is to be submitted for 10% of order value excluding taxes & duties & freight. However BG value can be proportionately reduced after completion of Guarantee period lot-wise as applicable.

Note: No SD-cum-PBG shall be required for order/contract value (excluding taxes, duties and freight) up to Rs.10.0 Lacs. However, vendor to submit Corporate Guarantee in lieu of SD-cum-PBG

### **6.3 VALIDITY**

6.3.1 For supply Order/Contract, the validity of the bank guarantee shall be up-to the contractual delivery period, initially. It shall be later extended to cover the entire guarantee period, two months before expiry of its validity period.

6.3.2 For Order/Contract inclusive of erection and commissioning (E&C), the validity of

bank guarantee shall be up-to the contractual E&C completion period, initially. It shall be later extended to cover the entire guarantee period, two months before expiry of its validity period.

6.3.3 The validity of the bank guarantee will be for a period of 24 months from the date of receipt of material at BHEL EPD STORES along with claim period of 3 months from the date of validity period of PBG.

6.4 The purchaser shall reserve the right and it shall be lawful on its part to forfeit and en-cash the bank guarantee, in the event of any default, failure or neglect on the part of the Seller/Contractor, in fulfillment of performance of the Order/Contract.

6.5 The Security deposit-cum-contract performance bank guarantee shall be revalidated by the seller/contractor, whenever it is warranted, till the complete fulfillment of the contractual obligations. The bank guarantee shall be extended by the seller/contractor at his cost, for a period not less than three months at a time, on the same terms for full value of the Order/Contract, before expiry of the bank guarantee.

6.6 Equivalent amount shall be recovered from the payments due to the Seller/Contractor before releasing any payment, in the absence of a valid Bank Guarantee.

6.7 The BG should be from Public Sector Banks/Consortium Banks and shall be directly furnished by bank to BHEL/EPD, BANGALORE. The BGs from Co-operative Banks are not acceptable. However, BG of other than consortium bank/ public sector bank can be accepted subject to an overall exposure limit (at the unit/region level) of Rs. 10 Crores for banks with net worth of more than Rs.500 Crores as on the last balance sheet date and Rs.5.0 Crores for banks with net worth between Rs.350-500 Crores (a certificate and a copy latest balance sheet to be given by the bank to the purchaser with BG.

6.7.1 In case of private sector banks, a clause to be incorporated in the text of BG that it can be enforceable by being presented at any branch of the bank.

6.7.2 In case of foreign vendors our consortium bank in India should confirm the BG issued by foreign banks.

6.7.3 In case of BGs given by non-Consortium banks (Private sector or Public sector), the BGs are to be enforceable in the town / city in which the purchaser is located.

6.7.4 The genuineness of the said BG has to be confirmed with the issuing bank.

## **7.0 TERMS OF PAYMENT**

7.1 100% on 30 days credit after receipt & acceptance of material at BHEL-EPD Stores subject to submission of 10% PBG before supply of material. Commissioning charges will be paid on certification basis.

7.2 DOCUMENTS TO BE SUBMITTED FOR CLAIMING DESPATCH PAYMENTS.

**7 SETS – (1 Set consisting of following documents):-**

- a. Invoice
- b. LR
- c. Packing List
- d. MDCC
- e. CQIR Report
- f. Test certificate and Guarantee certificates

**3 SETS - (1 Set consisting of following documents):**

- a) Invoice – Original + 2 copies
- b) LR – Original + 2 copies / receipted LR as applicable
- c) Packing list - clearly showing number of packages, gross weight net wet
- d) MDCC – (BHEL/Customer as applicable) – as per SCC.
- e) Guarantee certificates
- f) Insurance intimation
- g) CQIR Report
- h) PVC Calculation and copy of all applicable indices, if PVC applicable.
- i) Duty drawback documents (original excise invoice, original disclaimer certificate, original certificate from excise authority for payment of excise duty)
- j) Proof of approval of drawing and document from engineering department to establish contractual delivery date for the purpose of LD & for claiming initial 5% payment.
- k) Proof of submission of final documents including as built drawings, O&M Manual as applicable.

**DOCUMENTS FOR CLAIMING MRC & FREIGHT PAYMENT**

- a. Invoice in duplicate
- b. Copy of MRC
- c. Original money receipt from transporter for freight payment if required as per P.O.

**7.3 MODE OF PAYMENT**

7.3.1 The payment shall be made directly to the Seller/Contractor, by E-transfer. Seller/Contractor to provide necessary information for the same as per annexure V.

7.3.2 No interest shall be payable by the purchaser on the security amount, bank guarantee amount or balance which may be lying with the purchaser or any money which may become due owing to difference or misunderstanding or any dispute between the purchaser and the contractor, or any delay on the part of purchaser in making periodical or final payment or any other aspects incidental thereto.

**8.0 RECOVERY OF OUTSTANDING AMOUNT**

In the event of any amount of money being outstanding at any point in time against the Seller/Contractor, due to excess payment or any other reason. Whatsoever, in the present order/contract or any other order/contract, the outstanding amount shall be recovered from the payments due to the seller/contractor or at any other appropriate time and manner/mode as deemed fit by the Purchaser at its sole discretion.

## **9.0 DELIVERY/COMPLETION SCHEDULE**

9.1 Supply shall be within 3 months from the date of CAT-A drawing approval. Drawings shall be submitted within 2 weeks from the date of PO.

9.2 The Seller/Contractor shall so organize his resources and perform the Order/Contract so as to complete it as per stipulated delivery/completion schedule.

9.3 Supply of plant/equipment/stores shall not be considered complete until they have been inspected and accepted at the place and destination specified for delivery, by the time stipulated under the terms & conditions of the Order/Contract. Mere payment by itself shall not constitute acceptance of the goods or materials in any manner, whatsoever.

9.4 Supply of plant/equipment/stores shall adhere to the quality and specifications as per Order/Contract and shall be delivered at the destination specified in the Order/Contract.

9.6 Terms of delivery shall be FOR dispatch station.

## **10.0 INSPECTION AND TESTING AT CONTRACTOR'S PREMISES**

10.1 Inspection Agency, BHEL/End customer unless specified otherwise in the contract shall have, at all reasonable times, access to the Seller/Contractor's premises or works, and shall have the power at all reasonable times to inspect drawings of any portion of the work or examine the materials and workmanship of the stores during its manufacture, and if part of the stores is being manufactured at other premises, the Seller/Contractor shall obtain from the Inspection Agency, permission to inspect, examine and test as if the store is being manufactured on the Seller/Contractor's premises.

An inspection call is to be raised by the Seller/Contractor to BHEL. Such inspection, examination and testing by itself shall not relieve the Seller/Contractor from any obligation under the Order/Contract.

Non-conformance from the contract specifications shall be reported by the Seller/Contractor as per part – I.

10.2 The Seller/Contractor shall give the Inspection Agency, reasonable notice of any material being ready for testing, and the Inspection Agency shall (unless the inspection of tests is voluntarily waived), on giving reasonable notice to the Seller/Contractor, attend at the Seller/Contractor's premises within fifteen (15) days of the date on which the material is notified as being ready. All standard shop tests, physical and chemical tests required by the standards or as may be prescribed or approved as per Order/Contract, shall be conducted by the Seller/Contractor. The Inspection Agency reserves the right to waive any of the above tests requirements and to prescribe new tests, if found necessary, to complete the work so as to conform to the best practices. The Seller/Contractor shall forthwith forward to the Inspection Agency, duly certified

copies of the test certificates in quadruplicate, for approval. Further copies of the shop test certificates shall be bound with the instruction manuals referred to in "Seller/Contractor's documents, drawings and instruction manuals".

10.3 Where the Order/Contract provides for tests/inspections at the premises or works of the Seller/Contractor or any sub-contractor, the Seller/Contractor, except specified otherwise, shall provide free of charge, such assistance, labour, materials, electricity, fuel, water, stores, apparatus, measuring instruments and test equipment including any other facilities as may be reasonably required to carry out such tests efficiently.

#### 10.4 INSPECTION MEASURING AND TEST EQUIPMENTS

10.4.1 Inspection measuring and test equipments (IMTE) whether used by the Seller/Contractor or sub-contractor shall be calibrated, maintained and controlled. Calibration shall be valid and IMTE maintained in sound condition during usage.

10.4.2 In addition to above, Seller/Contractor shall ensure the following:

- a/ Measurement uncertainty is known and consistent with required measurement capability of the IMTE.
- b/ Selection of IMTEs is compatible with the necessary accuracy and precision of required measurement.
- c/ IMTEs are calibrated at the required intervals against certified equipments having known valid relationship to nationally recognized standards, at recognized calibration labs.
- d/ Calibration records are available and traceable to the particular IMTE.
- e/ In case, during recalibration, the IMTE is found out of calibration, report on action taken to validate the previous results along with both calibration records of the IMTE to be furnished to Inspection Agency.
- f/ IMTEs are stored, handled and preserved such that accuracy and fitness are maintained and safeguarded from adjustments.

NOTE: Purchaser's decision on acceptability of the product in such cases shall be binding.

10.4.3 Responsibility of usage of valid and calibrated IMTEs by his sub-contractor(s) shall be of the Seller/Contractor.

10.4.4 In case, calibration records are required by purchaser, copies of the same shall be furnished.

10.5 Seller/Contractor shall be fully responsible for the Quality of products supplied by sub-contractors.

#### **11.0. MATERIAL DESPATCH CLEARANCE CERTIFICATE (MDCC)**

11.1 When the tests have been satisfactorily completed at the Seller/Contractor's works, the Inspection Agency shall issue a certificate to that effect within fifteen (15) days after completion of tests, but if the tests were not witnessed by the Inspection

Agency or his representative, the certificate would be issued within fifteen (15) days of the receipt of the test certificates by the Inspection Agency.

11.2 Purchaser/Owner will issue MDCC to the Seller/Contractor based on the QS Note/Report from the Inspection Agency.

11.3 Seller/Contractor will not despatch any material before issue of MDCC by the Purchaser/Owner.

11.4 The satisfactory completion of these tests or the issue of MDCC, shall not bind the purchaser/Owner to accept the supply/equipment, should it, on further tests after erection, be found not to comply with the contract provisions.

## **12.0 DELIVERY FAILURE AND TERMINATION/PENALTY FOR DELAYED DELIVERY**

12.1 The parties hereto agree that the timely despatch/delivery and completion of other schedules as stipulated in order/contract shall be the essence of the Order/Contract. If the seller/contractor fails to complete the despatch/delivery and other schedules within the time period stipulated in the order/contract, or within any extension of time granted by the purchaser, it shall be lawful for the purchaser to recover damages for breach of order/contract without prejudice to any other rights and/or remedies provided for, in the order/contract and hereunder.

### **12.2 DELAYED DELIVERY**

12.2.1 The purchaser reserves the right to recover from the Seller/Contractor, as agreed liquidated damages and not by way of penalty, a sum equivalent to half percent (½%) of the total contract price per week or part thereof, subject to a maximum of ten per cent (10%) of the total contract price excluding elements of taxes, duties and freight, if the seller/contractor has failed to deliver any part of the ordered stores within the period stipulated in the Order/Contract.

NOTE: If the Order/Contract involves supply for two or more Units/Sets/lots of the Power Project, total value of the Order/Contract to be taken for levy of Penalty, shall be the Order/Contract value of the particular Unit/Set/lot for which the delay has taken place, provided delivery stipulated in the Order/Contract is Unit/Set/lot wise for supply packages. In case of turnkey packages, LD shall be leviable on the total value (supply and E & C) in case of delay in E & C. No LD shall be withheld from supply payments.

12.2.2 The purchaser reserves the right to purchase from elsewhere on account of and at the risk and cost of the seller/contractor with notice to the seller/contractor of the stores due for delivery but not so delivered or their equivalent, without canceling the order/contract in respect of the stores not yet due for delivery. The manner and the method of such purchase shall be at the discretion of the purchaser.

12.2.3 Purchaser reserves the right to cancel the order/contract or a portion thereof for the stores not so delivered at the risk and cost of the seller/contractor and the seller/contractor shall be liable to the purchaser for any excess costs thereof.

12.2.4 Seller/contractor shall continue the performance of the Order/Contract under all circumstances, to the extent not cancelled.

### **13.0 GUARANTEE FOR PLANT/EQUIPMENT/STORES**

13.1 The Seller/Contractor shall warrant that the stores supplied shall be free from all defects and faults in design & engineering, material, workmanship and manufacture and shall be of the highest grade and consistent with the established and generally accepted standards and in full conformity with the Order/Contract specifications, drawing or samples, if any.

13.2 a) Guarantee for Supply Packages – guarantee shall be eighteen (18) months from the last dispatch.

13.2 b) Guarantee for turnkey jobs: The guarantee shall be valid for a period as stipulated in the special conditions of the Order/Contract, otherwise, 18 calendar months from the date of completion of supplies or 12 calendar months from the date of satisfactory commissioning, whichever is later. Seller/Contractor's liability in respect of any complaints, defects and claims shall not be limited to the supply and installation of replaced parts free of charge, or the repair of defective parts to the extent that such replacements are attributable to or arise from faulty workmanship, material or design, in the manufacture, of the stores but at the option of the purchaser, to the payment of the value, expenditure and damages as mentioned hereafter, provided defects on being discovered are brought to the notice of the Seller/Contractor within a period of three (3) months from the date of expiry of the guarantee period.

13.3 All replacements and repairs during the guarantee period shall be delivered and completed promptly and satisfactorily within a period of three months from the time of reporting the defect/loss/rejection etc. If the Seller/Contractor so desires and the purchaser agrees subject to import control regulation, the replaced parts can be taken over by him or his representative or the same can be arranged to be despatched by the Seller/Contractor or his representative at Seller/Contractor's cost. No claim, whatsoever shall be entertained by the purchaser on account of such replaced parts.

13.4 All the replaced and replenished stores shall also be guaranteed as per above clauses.

13.5 The decision of the purchaser with regard to Seller/Contractor's liability and the amount involved, if any, payable by the Seller/Contractor under the guarantee shall be final, conclusive and binding.

### **14.0 INSURANCE**

14.1 Insurance shall be arranged by the seller/ contractor.

14.2 Insurance as applicable for field work such as third party liability, workmen compensation, Seller/Contractor's own Tools & Plants and automobile shall be arranged by the seller/ contractor.

## **15.0. INTER-CHANGEABILITY AND CHANGES**

15.1 All similar components or parts of similar equipment supplied by the seller/contractor shall be interchangeable with one another.

15.2 Even though all the work and materials necessary for satisfactory completion of the works may not be detailed in the specifications and schedules, the cost will be considered to be within the contract price and no extra charges shall be payable. However, if there are substantial changes in the specifications of the stores/plant, consequential changes in prices shall be mutually agreed between the purchaser and the seller/contractor.

## **16.0 PACKING**

16.1 The packing shall be in conformity with specification and shall be such as to ensure prevention of damages, corrosion, deterioration, shortages, pilferage and loss in transit or storage.

16.2 Packing list shall be submitted as per standard format along with advance set of documents for claiming payment which shall also indicate:-

- a/ Packing size.
- b/ Gross weight and net weight of each package.
- c/ Contents of the package with quantity of each item separately.

16.3 In case of shipment by sea, the packing shall be sea-worthy and of international standard.

### **16.4 PACKING FOR SPARES**

16.4.1 Different types of spares i.e. start-up/commissioning spares and initial spares (Mandatory spares and recommended O&M spares) are to be packed separately.

16.4.2 Documents for spares should have stamp/markings for easy identification and separation from Main Equipment.

### **16.5 COLOUR CODING OF TAGS/MARKING/STICKERS**

16.5.1 Aluminum stickers are required to be attached to large components but plastic sheet tags should be tied with small components, giving details regarding purchase order, description of the components, quantity etc.

16.5.2 Tags should be of the color as mentioned below:

- Main equipment : Yellow or white tag
- Mandatory spares : Pink or red tag
- Start-up/Commissioning spares: Blue tag
- O&M spares : Green tag

16.5.3 Similar color scheme should be followed wherever stickers are pasted on

components.

## **17.0 MATERIAL RECEIPT CERTIFICATE**

- a) The Seller/Contractor shall arrange Material Receipt Certificate from the concerned project site, duly signed by the purchaser/owner Site Engineer, after receipt of the material at site and its physical verification wherever E&C is in the scope of seller/contractor.
- b) For supply packages – MRC shall be arranged by BHEL. However vendor to provide copy of receipted LRs to enable BHEL to obtain MRC from site.

## **18.0 CONSIGNEE'S RIGHT OF REJECTION**

18.1 Notwithstanding any approval which Purchaser or the Engineer may have given in respect of the stores or any materials or other particulars or the work or workmanship involved in the performance of the Order/Contract (whether with or without any test carried out by Seller/Contractor or the Inspection Agency or under the direction of the Contract Engineer), and notwithstanding delivery of the stores where so provided to the consignee, it shall be lawful for the consignee, on behalf of the purchaser, to reject the stores or any part, portion or consignment thereof, within 30 days after actual delivery, thereof to him at the stipulated place or destination, if such stores or part, portion of consignments thereof is not in all respects in conformity with the terms and conditions of the Order/Contract whether on account of any loss, storage, deterioration or damage before despatch or otherwise, whatsoever.

18.2 Rejected goods or materials shall be removed by the seller/contractor within a period of 15 days from the date of receipt of notice of such.

## **19.0 RISKS IN STORES (FOR E & C CONTRACTS)**

The seller/contractor shall perform the Order/Contract in all respects in accordance with the terms and conditions thereof. The stores and every constituents part thereof, whether in the possession or control of the Seller/Contractor, his agents or servants, or a carrier, or in the joint possession of the seller/contractor, his agent or servants and the purchaser, his agents or servants shall remain in every respect at the risk of Seller/Contractor until their actual delivery to the consignee at the stipulated place or destination or where so provided in the acceptance of offer, until their delivery to a person specified by the purchaser as interim consignee for the purpose of despatch to the consignee. The Seller/Contractor shall be solely responsible for all loss, destructions, damage or deterioration of or to the stores from any cause whatsoever, while the stores after approval by the Inspection Agency are awaiting despatch.

## **20.0 SHORTAGES/DAMAGES**

### **20.1 FOR SUPPLY PACKAGES**

- a) Shortages in sound cases shall be replenished free of cost as early as possible by vendor.
- b) Shortages/Damages during transit/ handling at site, vendor shall supply replacements as early as possible at old contractual rates upon intimation

to vendor within 3 months of receipted LR.

## 20.2 FOR E & C PACKAGES -

Any shortages or damages during unloading and handling at site, including at the time of erection and commissioning, shall be made good by the Seller/Contractor at his risk and costs, to meet the project schedule. In case of faults/discrepancies in any material, component, sub-assembly, assembly, etc., the same shall be supplied / replenished free of cost to enable the equipment to be put in service.

## 21.0 CONFIDENTIALITY

Seller/contractor shall, at all times, undertake to maintain complete confidentiality of all data, information, software, drawings & documents, etc. belonging to the purchaser and also of the Systems, procedures, reports, input documents, manuals, results and any other company documents discussed and/or finalized during the course of execution of the order/contract.

## 22.0 DEFAULT/BREACH OF CONTRACT, INSOLVENCY AND RISK PURCHASE

22.1 If the Seller/Contractor fails to deliver the goods or materials or any installment thereof within the period(s) fixed for such delivery or delivers goods or materials not of the contracted quality and failing to adhere to the contract specifications or at any time repudiates or otherwise abandons the contract before expiry of such period or refuses or is unable to supply goods or materials covered by the Order/Contract either in whole or in part or otherwise fails to perform the Order/Contract or commits any breach of the Order/Contract not herein specifically provided for or in the event of the death or insanity or if the Seller/Contractor being an individual or if a firm on a partnership thereof, shall at any time, be adjudged insolvent or shall have a receiving order for administration of his estate made against him or shall take any proceeding for composition under any Insolvency Act for the time being in force or make any assignment of the Order/Contract or enter into any arrangement or composition with his creditors or suspend payment or if the firm dissolved under the Partnership Act or if the Seller/Contractor being a company is wound up voluntarily or by order of a Court or a Receiver, Liquidator or Manager on behalf of the debenture holders and creditors is appointed or circumstances shall have arisen which entitles the Court of debenture holder and creditors to appoint a receiver, liquidator or manager, the purchaser without prejudice to his right to recover any expenses, losses or damages to which the purchaser may be put to incur or sustain by reason of the Seller/Contractor's default or breach of Order/Contract shall be entitled to cancel the Order/Contract either in whole or portion thereof without compensation to the Seller/Contractor and if the purchaser so desires, he may procure upon such terms and in such manner as he deems appropriate, stores not so delivered or others of a similar description where stores exactly complying with particulars are not, in the opinion of the purchaser, which shall be final, readily procurable, at the risk and cost of the Seller/Contractor and the Seller/Contractor shall be liable to the purchaser for any excess costs provided that the Seller/Contractor shall continue the performance of the Order/Contract to the extent not cancelled under the provisions of this clause. The Seller/Contractor shall on no account be entitled to any gain on such repurchases.

22.2 Cost of the purchases made by the Purchaser at the risk and cost of the seller/contractor shall be worked out after levying 30% overheads as departmental charges on the ex-works cost of materials purchased.

### **23.0 TERMINATION OF THE CONTRACT**

23.1 The purchaser shall have the right to cancel the Order/Contract, wholly or in part, in case he is obliged to do soon account of any decline, diminution, curtailment or stoppage of his business and in that event, the Seller/Contractor compensation claim shall be settled mutually.

23.2 The purchaser shall also have the right to cancel the Order/Contract at the risk and cost of the Seller/Contractor in case either the Seller/Contractor himself or any of his representative or agent is found to have been a previous employee of the purchaser immediately before the retirement and has within a period of two years of such retirement accepted the employment of the Seller/Contractor either as a Seller/Contractor or as an employee without having obtained the prior permission of the purchaser.

23.3 In case of cancellation of main supply order/ contract, all other associated orders/ contracts like, mandatory spares/recommended spares/ E & C/supervision of E & C also get cancelled.

### **24.0 TRANSFER, SUB-LETTING/ASSIGNMENT/SUB-CONTRACTING**

24.1 The seller/contractor shall not sublet, transfer or assign this order/contract or any part thereof or interest therein or benefit or advantage thereof save with the prior consent in writing of the purchaser. In the event of seller/contractor sub-letting, transferring or assigning this order/contract or any part thereof or interest therein or benefit or advantage thereof without such permission, the purchaser shall be entitled to cancel the order/contract and to purchase the stores from elsewhere at risk and costs of the seller/contractor and the seller/contractor shall be liable for any loss or damage which the purchaser may sustain in consequence of, or arising out of such risk purchase.

24.2 If the seller/contractor is an individual or a proprietary concern and the individual or the proprietor dies or the partnership is dissolved or substantially affected, then unless the purchaser is satisfied that the legal representative of the individual seller/contractor or the proprietor of proprietary concern and in the case of partnership, surviving partners are capable of carrying out and completing the Order/Contract, the purchase shall be entitled to cancel the Order/Contract as to its incomplete and without being in any way liable to payment of any compensation to the estate of seller/contractor and/or to the surviving partners of the seller's/contractor's firm on account of the cancellation of the order/contract.

24.3 Terms and Conditions shall not get affected in case of merger/amalgamation/re-arrangement/takeover etc.

24.4 The decision of the purchaser that the legal representatives of the deceased

seller/contractor or surviving partners of the seller's/contractor's firm can't carry out and complete the order/contract shall be final and binding on the parties hereto.

## **25.0 FORCE MAJEURE**

25.1 Notwithstanding anything contained in clause 13.0, if at any time, during the continuance of the Order/Contract the performance in whole or in part by either party, of any obligations under this Order/Contract shall be prevented or delayed by reason of any war hostilities, acts of the public enemy, restrictions by Govt. of India, civil commotion, sabotage, fires, floods, explosion, epidemics, quarantine restrictions, strike, lock-outs, or acts of God (hereinafter referred to as 'event'), then, provided notice of the happening of such event is given by either party to other within fifteen (15) days from the date of occurrence thereof, neither party shall by reason of such event be entitled to terminate this Order/Contract nor shall have any claim for damages against each other in respect of such non-performance and delay in performance. Performance under the Order/Contract shall be resumed immediately after such event has come to an end or ceased to exist and decision of the purchaser as to whether the deliveries have to be resumed or not shall be final, conclusive and binding on the parties hereto.

25.2 In the event of the parties hereto not able to agree that a force majeure event has occurred, the parties shall submit the disputes for resolution pursuant to the provisions hereunder, provided that the burden of proof as to whether a force majeure event has occurred shall be upon the party claiming such an event.

25.3 Notwithstanding the above provisions, Purchaser shall reserve the right to cancel the Order/Contract, wholly or partly, in order to meet the overall Project schedule and make alternative arrangements for completion of delivery and other schedules.

## **26.0 INDEMNIFICATION**

Seller/Contractor shall fully indemnify and keep indemnified the Purchaser against all claims of whatsoever nature arising during the course and out of the execution of this Order/Contract.

## **27.0 CONTRACT PERFORMANCE EVALUATION**

Performance of the Seller/Contractor in the present Order/Contract shall be evaluated by the Purchaser as per Performance Evaluation System in detailed. The Seller/Contractor may be de-listed or put under hold or retained based on the performance in the present Order/Contract.

## **28.0 SETTLEMENT OF DISPUTES**

28.1 Except as otherwise specifically provided in the Order/Contract, all disputes concerning questions of the facts arising under the Order/Contract, shall be decided by purchaser, subject to written appeal by the Seller/Contractor to the purchaser, whose decision shall be final.

28.2 Any disputes or differences shall be to the extent possible settled amicably

between the parties hereto, failing which the disputed issues shall be settled through arbitration.

28.3 The Seller /Contractor shall continue to perform the Order/Contract, pending settlement of dispute(s).

## **29.0 ARBITRATION**

29.1 In the event of any dispute or difference arising out of the execution of the Order/Contract or the respective rights and liabilities of the parties or in relation to interpretation of any provision by the Seller/Contractor in any manner touching upon the Order/Contract, such dispute or difference shall (except as to any matters, the decision of which is specifically provided for therein) be referred to the arbitration of the person appointed by the competent authority of the Purchaser. Subject as aforesaid, the provisions of Arbitration and Conciliation Act, 1996 (India) or statutory modifications or reenactments thereof and the rules made thereunder and for the time being in force shall apply to the arbitration proceedings under this clause. The venue of arbitration shall be at Bangalore.

29.2 In case of order/contract on Public Sector Enterprises (PSE) or a Govt. Dept., the following clause shall be applicable:-

In the event of any dispute or difference relating to the interpretation and application of the provisions of the Order/Contract, such dispute or difference shall be referred to by either party to the arbitration of one of the arbitrators in the department of public enterprises. The award of the arbitrator shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such award may make a further reference for setting aside or revision of the award to the Law secretary, Dept. of Legal Affairs, Ministry of Law & Justice, Government of India. Upon such reference the dispute shall be decided by the Law Secretary or the Special Secretary or Additional Secretary when so authorized by the Law Secretary, whose decision shall bind the parties hereto finally and conclusively.

29.3 The cost of the arbitration shall be borne equally by the parties.

## **30.0 LAWS GOVERNING THE CONTRACT**

The Contract including all matters connecting with this contract shall be governed by the Indian Law both substantive and procedural, for the time being in force including modification thereto, and shall be subject to the exclusive jurisdiction of Indian courts at Bangalore.

## **31.0 JURISDICTION OF COURT**

Courts at Bangalore shall have exclusive jurisdiction to decide the dispute, if any, arising out of or in respect of the contract(s) to which these conditions are applicable.

(To be filled up by the Bidders)

Ref. No. :

Dated :

**M/s Bharat Heavy Electricals Ltd.,  
Electroporcelains Division, Bangalore  
– 560 012**

**ATTENTION :**

Dear Sir,

1. Having examined the tender documents against your tender Enquiry No. \_\_\_\_\_ dated \_\_\_\_\_ and having understood the provisions of the said tender documents and having thoroughly studied the requirements of BHEL related to the work tendered for, in connection with

\_\_\_\_\_  
(name of work & project site), we hereby submit our offer for the proposed work in accordance with terms and conditions mentioned in the tender documents, at the prices quoted by us in your price schedule format and as per the indicated delivery schedule.

2. If the work or any part thereof is awarded to us, we undertake to submit security-cum contract performance bank guarantee as per your requirement, within thirty days of receipt of Letter of intent/Order/Contract.

3. We have annexed to this tender the following documents:-

**Part-I (Techno Commercial Bid)** - in a properly sealed cover

- i/ Complete Techno-Commercial Offer.
- ii/ Agreed Terms and Conditions (Annexure-II).
- iii/ Schedule of Commercial Deviations giving clause references.
- iv/ Schedule of Technical Deviations giving clause references.
- v/ Unpriced copy of Price Schedule using format given by BHEL.
- vi/ Any other documents (Please specify).

**Part-II (Price Bid)** - in a separate, properly sealed cover, in duplicate in the format given by BHEL.

Thanking you,

Yours Faithfully,

(Signature of the bidder with Name, Designation and Company's Seal)

GENERAL CONDITIONS OF CONTRACT (GCC) **Annexure – II** REV NO. : 02 PAGE NO. : 01 OF 01  
**AGREED TERMS AND CONDITIONS**

(This format duly filled in, signed and stamped must form part of the techno-commercial (Part-I) bid. Clauses confirmed hereunder need not be repeated in the bid.)

<b>S.No.</b>	<b>Description</b>	<b>Bidder's confirmation (YES/NO/NA)</b>
<b>1.(a)</b>	Acceptance of Technical Specifications, Schedules and Data Sheets and scope of supply as per Tender Enquiry.	
<b>1.(b)</b>	In case of deviations, the same have been highlighted separately giving clause references under the heading “ <b>TECHNICAL DEVIATIONS</b> ”.	
<b>2.(a)</b>	Acceptance of Terms and Conditions included in the Enquiry letter and all Vol-IA General Conditions of Contract (Part-I: Instructions to bidders, Part-II: General Commercial Terms & Conditions) and Special Conditions of Contract, if any.	
<b>2.(b)</b>	In case of deviations, the same have been highlighted separately giving clause references under the heading “ <b>COMMERCIAL DEVIATIONS</b> ”.	
<b>3.(a)</b>	<b>PRICES:</b> Quoted prices shall remain FIRM / with PVC till complete execution of the Order/Contract.	
<b>3.(b)</b>	Prices have been filled up in the Price Schedule format attached with the tender documents.	
<b>3.(c)</b>	Rates of excise duty, central sales tax / VAT & service tax and requirement of concessional forms have been indicated in the un priced copy of price bid, enclosed.	
<b>4.</b>	<b>Payment Terms:</b> Acceptance of relevant terms of payment as specified in the Tender Documents.	
<b>5.</b>	<b>Bank Guarantee:</b> Security-cum-performance BG shall be furnished as specified in the Tender Documents.	
<b>6.</b>	<b>Delivery:</b> Indicate the shortest delivery period, which shall not exceed the delivery requirement as per this Tender Enquiry.	
<b>7.</b>	<b>Penalty:</b> In case of delay in delivery/completion schedule, Penalty clause as per tender documents acceptable.	
<b>8.</b>	Part order will be acceptable ( Not applicable for turnkey packages )	
<b>9.</b>	Validity of Offer acceptable to Bidders” as per tender documents.	

Note: - The order of preference shall be N.I.T. covering letter/ SCC/ GCC terms/ Region GCC (if applicable)

(Signature of Bidder with Name, Designation and Company's Seal)

## DECLARATION

It is hereby declared that the original/revised\* price bids being opened for \_\_\_\_\_ (Name of Package) for \_\_\_\_\_ project is complete in all respects and contains prices for complete scope of supply, including tests etc., as per BHEL's requirement. If in the original/revised\* price bids where itemized price is not available for any part of scope of supply, including tests, etc., the same should be treated to have been included in our original/revised\* price bid. Also revised price bid, if any, even though generally governed by the terms and conditions indicated in the original commercial/Price bid (unless indicated to the contrary), any price discount, if not mentioned specially in the revised price bid, the one mentioned, if any in the original price bid shall be applicable for computing final price. It is also agreed that no further chance for seeking clarification/confirmation to any missing point will be necessary. Absence of itemized prices against some items does not mean that they are not included. Even though itemized prices are given for major items, those items which are not specially shown, are also included to meet the entire system as per BHEL requirements.

Signature of authorized Representative

Name and Designation:

Name & Address of the Bidder

Date

Forwarded to:

**M/s Bharat Heavy Electricals Limited**  
**Electroporcelains Division**  
**Bangalore – 560 012**

(Please delete whichever is not applicable.)

BANK GUARANTEE FOR PERFORMANCE

To:  
Bharat Heavy Electicals Limited  
Electroporcelains Division  
Prof C N R Rao Circle  
Opp. IISC Malleswaram,  
BANGALORE 560 012

Bank Guarantee No:  
Amount of Guarantee:  
Guarantee cover from:  
Last Date of Lodgement of Claim:

1. In consideration of Bharat Heavy Electricals Limited, having its Registered Office at Bangalore, India (hereinafter called "The Purchaser", which expression shall unless repugnant to the subject or context include its administrators, successors and assigns) having entered into a contract vide Purchase Order No: Dated: with M/s -----  
----- having its registered Office at -----  
----- (hereinafter referred to as "The Supplier" which expression shall unless repugnant to the administrators, executors and permitted assigns) for the supply of "-----  
"(which contract is hereinafter referred to as the "Contract" and the supplier, having agreed to provide a Guarantee for Performance of the Contract in the Form of Bank Guarantee, We -----  
-----a company constituted under the Companies Act 1956 and deemed to be a banking company under the Banking Regulation Act, 1949, having its registered office and Head Office at ----- and among other places a branch at --  
----- (hereinafter called to as "The Bank"  
which expression shall unless repugnant to the context of meaning thereof include its successors, administrators, executors and assigns) do hereby unconditionally and irrevocably guarantee and undertake a indemnify and keep indemnified the purchases to extent of Rs. ( ) at any time against any loss, damage, costs, charges and expenses including due to faulty design, faulty materials and bad workmanship caused to or suffered by or that may be caused to or suffered by "the purchaser" on its mere written demand and without any demur, reservations, recourse, contest or protest and without any reference to "the supplier" to the extent aforesaid.

2. We "the", further agree that "the purchaser", shall be the sole judge of and as to whether "the said supplier" has committed any breach or breaches of any of the terms and conditions of the contract and the extent of loss, damage, costs and expenses caused to or suffered by "the purchaser" on account thereof and the decision of the purchaser that the said supplier has committed such breach or breaches as to the amount or amounts of loss, damages, costs, charges and expenses including due to faulty design, faulty materials and bad workmanship caused to or suffered by or that may be caused to or suffered by "the purchaser" from to time shall be final and binding on us notwithstanding any difference between the PURCHASER and the SUPPLIER or any dispute pending before any court, tribunal application or any other authority to form.

3. We "the", further agree that this guarantee shall come into force upon the Effective Date as defined in bank performance guarantee clause of contract and shall remain in force for a period of 12 months from the date of commissioning i.e. unless a notice or claim under this guarantee

has been served o “the said “before the expiry of said period of validity i.e., inclusive of claim period in which case this guarantee shall be enforceable against “the “.

4. “The purchaser” shall have the fullest liberty without affecting in any way the liability of “the said “ under this guarantee from time to time to vary any of the terms and conditions of the said contract or to extend time for Performance thereof by “the said supplier” or to postpone for any time and from time to time any of the powers exercisable by it against “the said supplier” and either to enforce or forbear from enforcing any of the terms and conditions governing “the said contract” or securities available to the purchaser and “the said bank” shall not be released from its liabilities under these presents by any exercise by “the purchaser” of the liberty with reference to the matter aforesaid or by reason of time being given to the said purchaser or any other forbearance act or omission on the part of the purchaser or any indulgence by the purchaser to the “said supplier” or of any other matters or thing whatsoever under the law relating the securities would but this provision have the effect of so releasing “ the said “ from its liability hereunder.

5. Our obligation to pay hereunder is as principal debtor and not as surety and it shall not be necessary for “to proceed against” the said supplier” before proceeding against” the Bank and the guarantee herein contained shall be enforceable against “the bank” notwithstanding any other security which “the purchaser” may have obtained or obtain from” the supplier” at the time when proceedings are taken against “the said Bank” in any manner whatsoever.

6. Unless extended, this guarantee shall remain in force till provided however, that should it be necessary to extend we shall extend forthwith period of this guarantee on your request till such time as may be required by you.

7. We “the said “further under take not revoke the guarantee during its currency except with the previous consent of “the purchaser” in writing and agree that any change in the constitution of “the said supplier” or the bank shall not discharge our liability hereunder in any manner whatsoever.

8. Our liability under this guarantee is limited to Rs. ( )

9. We have power to issue this guarantee in your favour and the undersigned who are executing this guarantee have the necessary power to do so on behalf of the Bank.

10. This guarantee shall come into force immediately on release of payment of Rs. ( ) by the purchaser to the supplier.

11. Notwithstanding anything contained herein:

- a. Our liability under this Bank guarantee shall not exceed Rs. ( )
- b. This bank guarantee shall be valid only up to and
- c. The said is liable to pay the entire amount or any part thereof under this Bank Guarantee only if THE PURCHASER serves on the Bank a written notice, claim or demand and the same is received by the Bank at its counters, i.e., at . Trade Finance expiry date of this Bank Guarantee failing which all rights of the Purchaser under this guarantee shall cease and bank shall be released and discharged from all the liabilities irrespective of the fact whether the original guarantee is returned to us or not. The original bond should be returned to us on expiry.

FORM NO. E – 5

**ELECTRONIC CLEARING SERVICE (CREDIT CLEARING)**  
**MODEL MANDATE FORM**  
**INVESTOR/CUSTOMER’S OPTION TO RECEIVE PAYMENTS THROUGH**  
**CREDIT CLEARING MECHANISM**  
SCHEME NAME AND THE PERIODICITY OF PAYMENT

- 1. INVESTOR/CUSTOMER’S NAME:
- 2. PARTICULARS OF BANK ACCOUNT

A. BANK NAME:

B. BRANCH NAME:  
ADDRESS:  
TELEPHONE NO:

C. 9- DIGIT CODE NUMBER OF THE BANK & BRANCH APPEARING ON THE MICR CHEQUE ISSUED BY THE BANK:

D. ACCOUNT TYPE (S.B ACCOUNT/CURRENT OR CASH CREDIT) WITH CODE 10/11/13:

E. I F S C NO.

F. ACCOUNT NUMBER (AS APPEARIG ON THE CHEQUE BOOK):

G. E MAIL ID: ADDRESS

(In lieu of the bank certificate to be obtained as under, please attach a blank cancelled cheque, or photocopy of a cheque or front page of your savings bank passbook issued by your bank for verification of the above particulars)

- 3. DATE OF EFFECT:

I hereby, that the particulars given above are correct and complete. If the transaction is delayed or not effected at all for reasons of incomplete or incorrect information, I would not hold the user institution responsible. I have read the option invitation letter and agree to discharge the responsibility expected of me as a participant under the scheme.

Date: (-----)  
Signature of the Investor/ Customer

Certificate that the particulars furnished above are correct as per our records.

COMPANY STAMP (-----)  
Date: SIGNATURE OF THE AUTHORIZED/ OFFICIAL from the Bank

Normally no deviation for payment is allowed, however BHEL accept the deviation only in case of exceptional circumstances, bids shall be loaded as per following during bid evaluation.

**A) PAYMENT TERMS (LOADING)**

Interest @ 16.75% per annum will be loaded for the differential credit period (Specified credit period offered by supplier) and the differential amount (amount of payment specified-amount of payment asked for in the offer stage-wise). The comparative statement of the prices prepared on the reference date shall remain firm throughout the execution period. Any change in duty & tax structure during execution of the contract will not be considered for re-ranking of vendors. However changes in taxes and duties will be applicable for payment.

**B) BANK GUARANTEE:-**

Non submission of Bank Guarantee: No deviation is permitted

**C) PENALTY for LATE DELIVERY:-**

Penalty for late delivery is @0.5% per week to a maximum of 10% per week to a maximum of 10% for undelivered portion. In case vendor agrees only for 5% the difference will be loaded on the quoted price excluding taxes, duties & freight.

**D) PRICE VARIATION CLAUSE:-.**

PVC Instead of Firm Price: Maximum ceiling of PVC as demanded by vendor.

**Essential Criteria of Techno-Commercial offer**

ADDRESS OF THE FIRM:			
<b>SL.NO</b>	<b>PARAMETER</b>	<b>BHEL SPEC/REQUIREMENT</b>	<b>VENDOR OFFER</b>
1	Name of Contact person	TO BE MENTIONED	
2	E-mail ID	TO BE MENTIONED	
3	Mobile number	TO BE MENTIONED	
4	Land line number	TO BE MENTIONED	
5	Fax number	TO BE MENTIONED	
6	Delivery Term	F.O.R-BHEL EPD STORES	
7	Payment Terms	APPLICABLE AS PER NIT	
8	Performance Bank Guarantee	APPLICABLE AS PER NIT	
9	Late Delivery	APPLICABLE AS PER NIT	
10	Risk purchase clause	APPLICABLE AS PER NIT	
11	Capacity/capability to execute this job	AS PER VENDOR CAPACITY	
12	Lead time for Supply	APPLICABLE AS PER NIT	
13	Guarantee Period	APPLICABLE AS PER NIT	
14	Offer validity	APPLICABLE AS PER NIT	
15	Tax and Duty Structure	EXCISE DUTY %	
		E C	
		CESS%	
		CENTRAL SALES TAX%	
		VAT %	
		ANY OTHER	

**SIGNATURE OF THE TENDERER WITH SEAL**

## ANNEXURES

NO.	DESCRIPTION
I	OFFER SUBMISSION AS PER NIT
II	TERMS & CONDITIONS CONFIRMATION
III	DECLARATION
IV	BANK GUARANTEE FOR PERFORMANCE
V	NEFT DETAILS
VI	LOADING CRITERION
VII	ESSENTIAL CRITERIA OF TECHNO COMMERCIAL OFFER

**BHARAT HEAVY ELECTRICALS LIMITED  
ELECTROPORCELAINS DIVISION  
BANGALORE-560012**