



भारत हेवी इलेक्ट्रिकल्स लिमिटेड Bharat Heavy Electricals Limited

(भारत सरकार का उपक्रम / A Government of India Undertaking)
(कॉर्पोरेट-कार्यालय / Corporate Office)

CIN: L74899DL1964GOI004281

(बीएचईएल हाउस, सिरी फोर्ट, नई दिल्ली – 110049 / BHEL HOUSE, Siri Fort, New Delhi – 110049)

(फोन /Phone: 011-6633 7408 | ईमेल /Email: kashif@bhel.in)

निविदा आमंत्रण सूचना / NOTICE INVITING TENDER

SINGLE TENDER ENQUIRY

To,
M/s Climaveneta Climate Technologies (P) Ltd.
E-117, 2nd Floor, Okhla Industrial Area, Phase-III,
Near Modi Mill, South East Delhi-110020

Sir/Madam,

Bharat Heavy Electricals Limited, (a Public Sector Enterprise) having its Corporate / Registered Office at BHEL House, Siri Fort, New Delhi-110049 invites offer in single part bid in sealed envelope for **“Non-comprehensive AMC of 2 x 20 Tr Precision Air Conditioner installed at BHEL House, Siri-Fort, New Delhi for the period of 1-Year”**.

SCHEDULE TO TENDER

1.	Tender Reference No.	AA: GAX:25:PR:501
2.	Date of Issue of Tender:	30-09-2025
3.	Tender Title:	Non-comprehensive AMC of 2 x 20 Tr Precision Air Conditioner installed at BHEL House, Siri-Fort, New Delhi for the period of 1-Year.
4.	Last date/ time for receipt of tender:	07-10-2025 Up to 14:00 Hrs.
5.	Date/ time of opening of tender	07-10-2025 at 14:30 Hrs.
6.	Place of Submission of tender:	Tender Box at Ground Floor, Rear Block Entrance Lobby, BHEL House, Siri Fort, New Delhi-110049

All corrigenda, addenda, amendments, time extension, clarifications, etc. to the tender will be hosted on website <http://www.bhel.com> and <http://eprocure.gov.in/cppp/> only. Bidders should regularly visit website till the due date of submission to keep themselves updated. If there are any clarifications, this may be obtained through the contact details given in the tender document. Bidder should take into account of the corrigendum published before submitting the bid.

Thanking you,

For & on behalf of
Bharat Heavy Electricals Ltd.

(Md. Kashif Ajmal)
Engineer (HR-GAX & ISMG)

पंजीकृत कार्यालय : बीएचईएल हाउस, सिरी फोर्ट, नई दिल्ली - 110049 | फोन : 011-66337598 | ईमेल : contactus@bhel.in

Registered Office: BHEL HOUSE, Siri Fort, New Delhi - 110049 | Phone: 011-66337598 | E-mail: contactus@bhel.in

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CHAPTER-1

1. GENERAL INSTRUCTION TO TENDERER

1.1. DESPATCH INSTRUCTION

- 1.1.1.** The General Conditions of Contract form part of the Tender specifications. The information furnished shall be complete by itself. The tenderer is required to furnish all the details and other documents as required in the following pages.
- 1.1.2.** Tenderer is 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. Should the tenderer has any doubt about the meaning of any portion of the Tender Specification or find discrepancies or omissions in the drawings or the tender documents issued are incomplete or shall require clarification on any of the technical aspect, the scope of supply etc., he shall at once, contact the authority inviting the tender well in time (so as not to affect last date of submission) for clarification before the submission of the tender. Tenderer's request for clarifications shall be with reference to Sections and Clause numbers given in the tender documents. The specifications and terms and conditions shall be deemed to have been accepted 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. SUBMISSION OF TENDERS

- 1.2.1.** The tenderer must submit their tender to Officer inviting tender as per instructions in the NIT.
- 1.2.2.** Bid submitted by post shall be sent by 'REGISTERED POST / COURIER' and shall be posted with due allowance for any postal/courier delays. BHEL takes no responsibility for delay, loss or non-receipt of bid sent by post/courier. The bids received after the specified time of their submission are treated as 'Late Bid' and shall not be considered under any circumstances.
- 1.2.3.** Tender shall be opened by Officer of BHEL at the time and date as specified in the NIT.
- 1.2.4.** The information given in the tender documents is for general guidance and shall not be construed as contractually binding on BHEL/ Owner. All relevant site data/ information as may be necessary for bidding shall have to be obtained/ collected by the Tenderer.
- 1.2.5.** The Tenderer is advised to physically visit the site to acquaint and satisfy themselves about the weather conditions, working culture in the area, socio-political environment, safety & security aspects, law & order situation, law of the land, transportation routes, various distances, surroundings of plant/ project premises together with all statutory, obligatory, mandatory requirements of various authorities and obtain for themselves all necessary information as to the risks, contingencies and all other circumstances, which may influence or affect the discharge of various obligations under the Contract during contract period including extended period (if any).
- 1.2.6.** The submission of bid will tantamount to due diligence having been done and it shall be deemed that:

- 1.2.6.1.** the Tenderer has obtained all necessary information as to risks, contingencies and other circumstances which may influence or affect the supply
- 1.2.6.2.** the Tenderer accepts total responsibility for having foreseen all difficulties and costs of successfully completing the supply
- 1.2.6.3.** the Tenderer accepts that; the Contract Price shall not be adjusted to take account of any unforeseeable or unforeseen difficulties or costs and the Tenderer shall not raise any claims/ disputes against BHEL and/ or Owner at later date in any manner whatsoever.

1.3. LANGUAGE

- 1.3.1.** The tenderer shall quote the rates in English language and international numerals. These rates shall be entered in figures as well as in words. For the purpose of the tenders, the metric system of units shall be used. The evaluation currency for this tender shall be INR.
- 1.3.2.** All entries in the tender shall either be typed or written legibly in one ink. Bid should be free from correction, overwriting, using corrective fluid etc. Any interlineation, cutting, erasure or overwriting shall be valid only if they are attested under full signature(s) of person(s) signing the bid else bid shall be liable for rejection.

1.4. PRICE DISCREPANCY: Provided that the bid is substantially responsive, BHEL shall correct arithmetical errors on the following basis:

- 1.4.1.** If, in the price structure quoted for the required goods / services / works, there is discrepancy between the unit price and the total price (which is obtained by multiplying the unit price by the quantity), the unit price shall prevail and the total price corrected accordingly, unless in the opinion of the purchaser there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price corrected accordingly.
- 1.4.2.** If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
- 1.4.3.** If there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject of **1.4.1** and **1.4.2** above.
- 1.4.4.** If there is such discrepancy in an offer, the same shall be conveyed to the bidder with target date up to which the bidder has to send his acceptance on the above lines and if the bidder does not agree to the decision of the purchaser i.e. BHEL, the bid is liable to be ignored.

1.5. EVALUATION OF BIDS: Evaluation shall be on the basis of delivered cost (i.e. "total cost to BHEL").

1.6. VALIDITY OF OFFER: The rates in the Tender shall be kept open for acceptance for a minimum period of SIX MONTHS from latest due date of offer submission (including extension, if any). In case BHEL (Bharat Heavy Electricals Ltd.) calls for negotiations, such negotiations shall not amount to cancellation or withdrawal of the original offer which shall be binding on the tenderer.

1.7. SECURITY DEPOSIT / PERFORMANCE SECURITY

- 1.7.1.** Successful bidder awarded the contract should deposit **5%** of the contract value as performance security towards fulfilment of all contractual obligations, including warranty obligations.
- 1.7.2.** Performance Security is to be furnished within 14 days after issuance of Contract/PO and should remain valid for a period of **2 (two) months** beyond the date of completion of all contractual obligations of the Supplier/Vendor, including warranty obligations.
- 1.7.3.** Performance security may be furnished in the following forms:
- Local cheques of Scheduled Banks (subject to realization)/ Pay Order/Demand Draft/ Electronic Fund Transfer in favour of 'Bharat Heavy Electricals Limited' and payable at New Delhi.
 - Bank Guarantee from Scheduled Banks / Public Financial Institutions as defined in the Companies Act. The Bank Guarantee should be in the prescribed format of BHEL.
 - Fixed Deposit Receipt (FDR) issued by Scheduled Banks / Public Financial Institutions as defined in the Companies Act (FDR should be in the name of the Contractor, a/c BHEL).
 - Securities available from Indian Post offices such as National Savings Certificates, Kisan Vikas Patras etc. (held in the name of Contractor furnishing the security and duly endorsed/ hypothecated/ pledged, as applicable, in favour of BHEL).
 - Insurance Surety Bond.

Note:

- BHEL will not be liable or responsible in any manner for the collection of interest or renewal of the documents or in any other matter connected therewith.
 - In case of delay in submission of Security Deposit, enhanced security deposit which would include interest (Repo rate + 4%) for the delayed period, shall be submitted by the bidder before submission of first bill.
- 1.7.4.** The Performance security shall not carry any interest.
- 1.7.5.** In case the value of work exceeds the awarded / accepted value, the Performance security shall be correspondingly enhanced as given below:
- The enhanced part of the Performance security shall be immediately deposited by the Contractor or adjusted against payments due to the Contractor.
 - Contract value for the purpose of operating the increased value of Performance security due to Quantity Variation, shall be exclusive of Price Variation Clause, Over Run Compensation and Extra works done on man-day rates.
 - The recoveries made from running bills can be released against submission of equivalent Bank Guarantee in acceptable form, but only once, before completion of work, with the approval of competent authority of BHEL.
- 1.7.6.** The validity of Bank Guarantees towards Performance security shall be valid till actual completion of work + Guarantee Period.
- 1.7.7.** BHEL reserves the right of forfeiture of Performance security in addition to other claims, damages and remedies in the event of the Contractor's failure to fulfill any of the contractual obligations or in the event of termination of contract as per terms and conditions of contract. BHEL reserves the right to set off the Performance security against any claims of other contracts with BHEL by giving prior notice to the contractor.

1.7.8. The performance security will be forfeited and credited to BHEL's account in the event of a breach of contract by the Supplier/Vendor as provided herein or elsewhere in the Contract/PO.

1.7.9. There is no exemption of Performance security deposit submission for MSE Vendors.

1.7.10. RETURN OF PERFORMANCE SECURITY

Performance Security shall be released to the contractor upon fulfillment of contractual obligations as per terms of the contract including completion of Guarantee Period after deducting all expenses / other amounts due to BHEL under the contract.

1.7.11. BANK GUARANTEES

Where ever Bank Guarantees are to be furnished/submitted by the contractor, the following shall be complied with

- i) Bank Guarantees shall be from Scheduled Banks / Public Financial Institutions as defined in the Companies Act. Bank Guarantees issued by Co-Operative Banks/ Financial Institutions shall not be accepted.
- ii) The Bank Guarantees shall be as per prescribed formats.
- iii) It is the responsibility of the bidder to get the Bank Guarantees revalidated/extended for the required period as per the advice of Engineer-in-Charge. BHEL shall not be liable for issue of any reminders regarding expiry of the Bank Guarantees.
- iv) In case extension/further extensions of any Bank Guarantees are not required, the bidders shall ensure that the same is explicitly endorsed by the Engineer-in-Charge and submitted to the Office issuing the LOI/LOA.
- v) In case the Bank Guarantees are not extended before the expiry date, BHEL reserves the right to invoke the same by informing the concerned Bank in writing, without any advance notice/communication to the concerned bidder.
- vi) Bidders to note that any corrections to Bank Guarantees shall be done by the issuing Bank, only through an amendment in an appropriate non-judicial stamp paper.
- vii) The Original Bank Guarantee shall be submitted to the Office issuing the LOI/LOA.

1.8. REJECTION OF TENDER AND OTHER CONDITIONS

1.8.1. Conditional tenders, unsolicited tenders, tenders which are incomplete or not in the form specified or defective or have been materially altered or not in accordance with the tender conditions, specifications etc. are liable to be rejected.

1.8.2. Tenders are liable to be rejected in case of unsatisfactory performance of the tenderer with BHEL or tenderer under suspension (debarred) by any unit / region / division of BHEL or tenderers who do not comply with the latest guidelines of Ministry/Commissions of Govt of India. BHEL reserves the right to not consider a bidder for further processing of tender in case it is observed that they are overloaded and may not be in a position to execute this job as per the required schedule in line with 'NIT'. The decision of BHEL will be final in this regard.

1.8.3. If a tenderer who is a proprietor expires after the submission of his tender or after the acceptance of his tender, BHEL may at their discretion, cancel such tender. If a partner of a firm expires after the submission of tender or after the acceptance of the tender, BHEL may then cancel such tender at their discretion, unless the firm retains its character. In case BHEL resolves to cancel the tender under this clause, BHEL will issue a notice in this regard containing reasons as to the cancellation of tender. The contractor shall be required to furnish his response to such notice within a period of 14 days from the date of receipt of such notice through any means (BHEL reserves the right to decrease the period up to 05 days). BHEL after due consideration of the representation made by contractor shall communicate its final decision within a reasonable period.

1.8.4. In case contractor fails to submit any response to the notice issued by BHEL within the period stipulated in the notice, BHEL at its discretion may proceed to cancel the contract.

Contractor shall not be eligible for any compensation whatsoever for the cancellation of contract under this clause.

1.8.5. BHEL will not be bound by any Power of Attorney granted by changes in the composition of the firm made subsequent to the execution of the contract. BHEL may, however, recognize such power of Attorney and changes after obtaining proper legal advice, the cost of which will be chargeable to the contractor concerned.

1.8.6. If the tenderer deliberately gives wrong information in his tender, BHEL reserves the right to reject such tender at any stage or to cancel the contract if awarded and forfeit the Earnest Money/Security Deposit/any other money due.

1.8.7. Canvassing in any form in connection with the tenders submitted by the Tenderer shall make his offer liable to rejection.

1.8.8. In case the Proprietor, Partner or Director of the Company/Firm submitting the Tender, has any relative or relation employed in BHEL, the authority inviting the Tender shall be informed of the fact as per specified format, along with the Offer. Failing to do so, BHEL may, at its sole discretion, reject the tender or cancel the contract and forfeit the Earnest Money/Security Deposit.

1.8.9. The Tender submitted by tenderer shall become the property of BHEL who shall be under no obligation to return the same to the bidder.

1.8.10. BHEL shall not be liable for any expenses incurred by the tenderer in the preparation of the tender irrespective of whether the tender is accepted or not.

1.9. INTIMATION OF CHANGE OF NAME/ RE-CONSTITUTION OF THE ORGANIZATION: In the event of the organization (Proprietorship/Partnership/Company) undergoing any change of name or reconstitution, prior intimation of the same shall be given to BHEL. Upon such changes coming into effect, the same is to be intimated to BHEL immediately with supporting documents as applicable.

2. CHAPTER-2

2.1. DEFINITION: The following terms shall have the meaning hereby assigned to them except where the context otherwise requires

- i. BHEL shall mean Bharat Heavy Electricals Limited, a company registered under Indian Companies Act 1956, having its Registered Office at BHEL HOUSE, SIRI FORT, NEW DELHI – 110 049.
- ii. "EXECUTIVE DIRECTOR" or "GENERAL MANAGER (In- charge)" or "GENERAL MANAGER" shall mean the Officer in Administrative charge of the respective UNIT/Power Sector Region.
- iii. "COMPETENT AUTHORITY" shall mean BHEL Officers who are empowered to act on behalf of BHEL.
- iv. "ENGINEER" or "ENGINEER IN CHARGE" shall mean an Officer of BHEL as may be duly appointed and authorized by BHEL to act as "Engineer" on his behalf for the purpose of the Contract, to perform the duty set forth in this General Conditions of Contract and other Contract documents. The term also includes 'CONSTRUCTION MANAGER' or 'SITE INCHARGE' as well as Officers at Site or at the Headquarters of the respective Power Sector Regions. For the purpose of joint measurement, verification, certification and/ or approval of the work and/ or documents under the contract the word "Engineer" or "Engineer In charge" shall be deemed to include the Engineers of the Customer and/ or his Consultant also.
- v. "SITE" shall mean the places or place at which the plants/Equipments are to be erected and services are to be performed as per the specification of this Tender.
- vi. "CLIENT OF BHEL" or "CUSTOMER" shall mean the project authorities with whom BHEL has entered into a contract for supply of Equipments or provision of services.
- vii. "CONTRACTOR" shall mean the successful Bidder/Tenderer who is awarded the Contract and shall include the Contractor's successors, heirs, executors, administrators and permitted assigns.
- viii. "CONTRACT" or "CONTRACT DOCUMENT" shall mean and includes the Agreement or Work Order, the accepted appendices of Rates, Schedules, Quantities if any, Offer submitted by contractor including acceptance to General Conditions of Contract, Special Conditions of Contract, Instructions to the Tenderers, Drawings, Technical Specifications, the Special Specifications if any, the Tender documents, subsequent amendments /corrigendum to Tender mutually agreed upon and the Letter of Intent/Award/Acceptance issued by BHEL. Any conditions or terms stipulated by the contractor in the tender documents or subsequent letters shall not form part of the contract unless, specifically accepted in writing by BHEL in the Letter of Intent/Award and incorporated in the agreement or amendment thereof.
- ix. "GENERAL CONDITIONS OF CONTRACT" shall mean the 'Instructions to Tenderers' and 'General Conditions of Contract' pertaining to the work for which above tenders have been called for.
- x. "TENDER SPECIFICATION" or "TENDER" or "TENDER DOCUMENTS" shall mean General Conditions, Common Conditions, Special Conditions, Price Bid, Rate Schedule, Technical Specifications, Appendices, Annexures, Corrigendums, Amendments, Forms, Procedures, Site information etc. and drawings/documents pertaining to the work for which the tenderers are required to submit their offers. Individual specification number will be assigned to each Tender Specification.
- xi. "LETTER OF INTENT/ AWARD" shall mean the intimation by a Letter/Fax/email to the tenderer that the tender has been accepted in accordance with provisions contained in the letter. The responsibility of the contractor commences from the date of issue of this letter and all terms and conditions of the contract are applicable from this date.

- xii. "COMPLETION TIME" shall mean the period by 'date/month' specified in the 'Letter of Intent/Award' or date mutually agreed upon for handing over of the intended scope of work, the erected equipment/plant which are found acceptable by the Engineer, being of required standard and conforming to the specifications of the Contract.
- xiii. "PLANT" shall mean and connote the entire assembly of the plant and Equipments covered by the contract.
- xiv. "EQUIPMENT" shall mean equipment, machineries, materials, structural, electricals and other components of the plant covered by the contract.
- xv. "TESTS" shall mean and include such test or tests to be carried out on the part of the contractor as are prescribed in the contract or considered necessary by BHEL in order to ascertain the quality, workmanship, performance and efficiency of the contractor or part thereof.
- xvi. "APPROVED", "DIRECTED" or "INSTRUCTED" shall mean approved, directed or instructed by BHEL.
- xvii. "WORK or CONTRACT WORK" shall mean and include supply of all categories of labour, specified consumables, tools and tackles and Plants required for complete and satisfactory site transportation, handling, stacking, storing, erecting, testing and commissioning of the equipments to the entire satisfaction of BHEL.
- xviii. "SINGULAR AND PLURALS ETC" words carrying singular number shall also include plural and vice versa, where the context so requires. Words imparting the masculine Gender shall be taken to include the feminine Gender and words imparting persons shall include any Company or Associations or Body of Individuals, whether incorporated or not.
- xix. "HEADING" – The heading in these General Conditions are solely for the purpose of facilitating reference and shall not be deemed to be part thereof or be taken as instructions thereof or of the contract.
- xx. "MONTH" shall mean calendar month unless otherwise specified in the Tender.
- xxi. 'Day' or 'Days' unless herein otherwise expressly defined shall mean calendar day or days of twenty-four (24) hours each. A Week shall mean continuous period of seven (7) days.
- xxii. "COMMISSIONING" shall mean the synchronization testing and achieving functional operation of the Equipment with associated system after all initial adjustments, trials, cleaning, re-assembly required at site if any, have been completed and Equipment with associated system is ready for taking into service.
- xxiii. "WRITING" shall include any manuscript type written or hand written or printed statement or electronically transmitted messages, under the signature or seal or transmittal of BHEL.
- xxiv. "TEMPORARY WORK" shall mean all temporary works for every kind required in or for the execution, completion, maintenance of the work.
- xxv. 'CONTRACT PRICE' or 'CONTRACT VALUE' shall mean the sum mentioned in the LOI/LOA/Contract Agreement subject to such additions thereto or deductions there from as may be made under provisions hereinafter contained.
- xxvi. 'EXECUTED CONTRACT VALUE' shall mean actual value of works executed by the contractor and certified by BHEL. This value shall not include PVC, ORC, Extra Works and Taxes.
- xxvii. "COMMENCEMENT DATE" or "START DATE" shall mean the commencement/start of work at Site as per terms defined in the Tender.
- xxviii. "SHORT CLOSING" or "FORE CLOSING" of Contract shall mean the premature closing of Contract, for reasons not attributable to the contractor and mutually agreed between BHEL and the contractor.
- xxix. "TERMINATION" of Contract shall mean the pre-mature closing of contract due to reasons as mentioned in the contract.
- xxx. "DE MOBILIZATION" shall mean the temporary winding up of Site establishment by Contractor leading to suspension of works temporarily for reasons not attributable to the contractor.
- xxxi. "RE MOBILIZATION" shall mean the resumption of work with all resources required for the work after demobilization.

- 2.2. LAW GOVERNING THE CONTRACT AND COURT JURISDICTION:** The contract shall be governed by the Laws of India. Subject to **clause 2.9.1** of this contract, the Civil Court having original Civil Jurisdiction at **Delhi**, shall alone have exclusive jurisdiction in regard to all matters in respect of the Contract.
- 2.3. ISSUE OF NOTICE**
- 2.3.1. Service of notice to the Contractor:** Any notice to be given to the Contractor under the terms of the contract shall be served by sending the same by **Email/ Registered Post/Speed Post to or leaving the same at** the Contractor's last known address of the principal place of business (or in the event of the contractor being a company, to or at its Registered Office). In case of change of address, the notice shall be served at changed address as notified in writing by the Contractor to BHEL. Such dispatch or display of the notice as the case may be shall be deemed to be good service of such notice and the time mentioned to the condition for doing any act after notice shall be reckoned from the date so mentioned in such notice.
- 2.3.2. Service of notice to BHEL:** Any notice to be given to BHEL In-charge of the Region under the terms of the Contract shall be served by sending the same by Registered/AD or Speed post to BHEL address or changed address as notified in writing by BHEL to the Contractor.
- 2.4. COMMENCEMENT OF WORK**
- 2.4.1.** On intimation by BHEL through E-Mail for issue of LOI, the contractor has to immediately act upon for completing the formalities of signing of agreement along with deposition of initial security deposit within time specified in LOI. The contractor has to plan in parallel for initial mobilization of resources so as to commence the work by the date of commencement as specified in the LOI. Upon commencement of work, the contractor may be required to augment the resource as per the need of the work/ project.
- 2.4.2.** Contractor's responsibility under the contract shall commence from the date of LOI / Work Order.
- 2.4.3.** If the contractor fails to start the work within stipulated time as per LOI/ LOA or as intimated by BHEL, then BHEL at its sole discretion shall have the right to cancel the contract. The Earnest Money and/or Security Deposit furnished by the contractor to under this tender will stand forfeited without any further reference to him and without prejudice to BHEL's other rights and remedies under this contract and the applicable laws in this regard.
- 2.4.4.** All the work shall be carried out under the direction and to the satisfaction of BHEL.
- 2.5. RIGHTS OF BHEL:** BHEL reserves the following rights in respect of this contract during the original contract period or its extensions if any, as per the provisions of the contract, without entitling the contractor for any compensation.
- 2.5.1.** To withdraw any portion of work and/or to restrict/alter quantum of work as indicated in the contract during the progress of work and get it done through other agencies to fulfil BHEL's commitment to its customer or the date of completion is advance due to other emergent reasons/ BHEL's obligation to its customer.

Where the contractor fails to deploy adequate manpower to meet the contractual target, BHEL reserves the right to deploy manpower to meet such shortfall, through any other agency for expediting activities in the interest of the project. Supplied manpower shall be put on job by the contractor. Fulfilling of all obligations towards payments and other statutory compliances related to such manpower shall be the contractor's responsibility. In case of contractor's failure to fulfill his obligations in respect of such manpower, BHEL shall be entitled to take action as provided herein.

2.5.2. BREACH OF CONTRACT, REMEDIES AND TERMINATION

2.5.2.1. The following shall amount to breach of contract:

- i. Non-supply of material/ non-completion of work by the Supplier/Vendor within scheduled delivery/ completion period as per contract or as extended from time to time.
- ii. The Supplier/Vendor fails to perform as per the activity schedule and there are sufficient reasons even before expiry of the delivery/ completion period to justify that supplies shall be inordinately delayed beyond contractual delivery/ completion period.
- iii. The Supplier/Vendor delivers equipment/ material not of the contracted quality.
- iv. The Supplier/Vendor fails to replace the defective equipment/ material/ component as per guarantee clause.
- v. Withdrawal from or abandonment of the work by the Supplier/Vendor before completion as per contract.
- vi. Assignment, transfer, subletting of Contract by the Supplier/Vendor without BHEL's written permission resulting in termination of Contract or part thereof by BHEL.
- vii. Non-compliance to any contractual condition or any other default attributable to Supplier/Vendor.
- viii. Any other reason(s) attributable to Vendor towards failure of performance of contract. In case of breach of contract, BHEL shall have the right to terminate the Purchase Order/ Contract either in whole or in part thereof without any compensation to the Supplier/Vendor.
- ix. Any of the declarations furnished by the contractor at the time of bidding and/ or entering into the contract for supply are found untruthful and such declarations were of a nature that could have resulted in non-award of contract to the contractor or could expose BHEL and/ or Owner to adverse consequences, financial or otherwise.
- x. Supplier/Vendor is convicted of any offence involving corrupt business practices, antinational activities or any such offence that compromises the business ethics of BHEL, in violation of the Integrity Pact entered into with BHEL has the potential to harm the overall business of BHEL/ Owner.

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

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

LD against delay in executed work in case of Termination of Contract:

LD against delay in executed work shall be calculated in line with LD **clause no. 2.5.3** of GCC, for the delay attributable to contractor. For limiting the maximum value of LD, contract value shall be taken as Executed Value of work till termination of contract.

Method for calculation of "LD against delay in executed work in case of termination of contract" is given below.

- i) Let the time period from scheduled date of start of work till termination of contract excluding the period of Hold (if any) not attributable to contractor = T1
- ii) Let the value of executed work till the time of termination of contract = X
- iii) Let the Total Executable Value of work for which inputs/fronts were made available to contractor and were planned for execution till termination of contract = Y
- iv) Delay in executed work attributable to contractor i.e. $T2 = [1 - (X/Y)] \times T1$
- v) LD shall be calculated in line with LD clause (**clause 2.5.3**) of the Contract for the delay attributable to contractor taking "X" as Contract Value and "T2" as period of delay attributable to contractor.

2.5.2.2. REMEDIES IN CASE OF BREACH OF CONTRACT

- i. Wherein the period as stipulated in the notice issued under **clause 2.5.2.1** has expired and Contractor has failed to remedy the breach, BHEL will have the right to terminate the contract on the ground of "Breach of Contract" without any further notice to contractor.
- ii. Upon termination of contract, BHEL shall be entitled to recover an amount equivalent to 10% of the Contract Value for the damages on account of breach of contract committed by the Contractor. This amount shall be recovered by way of encashing the security instruments like performance bank guarantee etc. available with BHEL against the said contract. In case the value of the security instruments available is less than 10% of the contract value, the balance amount shall be recovered from other financial remedies (i.e. available bills of the contractor, retention amount, from the money due to the Contractor etc. with BHEL) or the other legal remedies shall be pursued.
- iii. wherever the value of security instruments like performance bank guarantee available with BHEL against the said contract is 10% of the contract value or more, such security instruments to the extent of 10% contract value will be encashed. In case no security instruments are available or the value of the security instruments available is less than 10% of the contract value, the 10% of the contract value or the balance amount, as the case may be, will be recovered in all or any of the following manners:
- iv. In case the amount recovered under above sub clause is not sufficient to fulfil the amount recoverable then; a demand notice to deposit the balance amount within 30 days shall be issued to Contractor.
- v. If Contractor fails to deposit the balance amount within the period as prescribed in demand notice, following action shall be taken for recovery of the balance amount:
 - a) from dues available in the form of Bills payable to defaulted Contractor against the same contract.
 - b) If it is not possible to recover the dues available from the same contract or dues are insufficient to meet the recoverable amount, balance amount shall be recovered from any money(s) payable to Contractor under any contract with other Units of BHEL including recovery from security deposits or any other deposit available in the form of security instruments of any kind against Security deposit or EMD.
 - c) In-case recoveries are not possible with any of the above available options, Legal action shall be initiated for recovery against defaulted Contractor.

- vi. is an agreed term of contract that this amount shall be a genuine pre-estimate of damages that BHEL would incur in completion of balance contractual obligation of the contract through any other agency and BHEL will not be required to furnish any other evidence to the Contractor for the purpose of estimation of damages.
- vii. In addition to the above, imposition of liquidated damages, debarment, termination, de-scoping, short-closure, etc., shall be applied as per provisions of the contract.

Note:

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

2.5.3. LIQUIDATED DAMAGES

Liquidated Damages, wherever referred under this Tender/Agreement, shall mean and refer to the damages, not in the nature of penalty, which the contractor agrees to pay in the event of delay in delivery of stores, installation, commissioning, breach of contract etc. as the case may be.

Liquidated Damages leviable upon the contractor is a sum which is agreed by the parties as a reasonable and genuine pre-estimate of damages which will be suffered by BHEL on account of delay/breach on the part of the contractor.

Liquidated Damages shall be calculated in the manner stipulated hereinafter:

In case the work is not completed within the stipulated time period, BHEL at its discretion may grant provisional time extension to contractor for the sole purpose of completion of balance works keeping its right reserved under the contract and law.

Grant of any provisional time extension shall by no means be considered as waiver of BHEL rights under the contract or law.

After the completion of work, duly certified by Engineer In charge, a comprehensive delay analysis shall be carried out to ascertain the attribution of delays in the provisional time extensions granted to contractor. The delay analysis shall record:

- a) Delays solely attributable to contractor
- b) Delays attributable to BHEL
- c) Delays on account of Force Majeure (as specified elsewhere in the contract)

The total period under the final time extension shall be equal to the period between the scheduled date of completion and the actual date of completion of contract. LD shall be imposed/ levied for the portion of time extensions solely attributable to contractor and recoverable from the dues payable to the contractor.

For the periods, wherein the delay as per the comprehensive delay analysis carried out is solely attributable to contractor, BHEL shall have the right to impose Liquidated Damage at the rate of **0.5% of the contract value, per day of delay or part thereof subject to a maximum of 10% of the contract value.**

Before levying LD, the contractor shall be duly intimated the amount and reasons thereof for imposition of LD.

2.6. RESPONSIBILITIES OF THE CONTRACTOR IN RESPECT OF LOCAL LAWS, EMPLOYMENT OF WORKERS ETC.

The following are the responsibilities of the contractor in respect of observance of local laws, employment of personnel, payment of taxes etc. The subcontractor shall fully indemnify BHEL against any claims of whatsoever nature arising due to the failure of the contractor in discharging any of his responsibilities hereunder:

- 2.6.1.** As far as possible, Skilled Workers shall be engaged from the local areas in which the work is being executed.
- 2.6.2.** The contractor at all times during the continuance of this contract shall, in all his dealings with local labour for the time being employed on or in connection with the work, have due regard to all local festivals and religious and other customs.
- 2.6.3.** The contractor shall comply with all applicable State and Central Laws, Statutory Rules, Regulations, Notifications etc. such as Payment of Wages Act, Minimum Wages Act, Workmen Compensation Act, Employer's Liability Act, Industrial Disputes Act, Employers Provident Fund and Miscellaneous Provisions Act, 1952, Employees State Insurance Scheme, Contract Labour (Regulation and Abolition) Act, 1970, Payment of Bonus & Gratuity Act, Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act 1996, The Building and Other Construction Workers' Welfare Cess Act 1996 and other Acts, Rules, and Regulations for labour/workers as applicable and as may be enacted by the State Government and Central Govt. during the tenure of the Contract and having force or jurisdiction at Site. The Contractor shall also comply with provisions of and give all such notices to the local Governing Body, Police and other relevant Authorities as may be required by the Law. The Contractor shall without any fail maintain all the registers/records in proper formats as per all the Acts, Rules and Regulations mentioned in this clause.
- 2.6.4.** The Contractor shall obtain independent License under the Contract Labour (Regulations and Abolition) Act, 1970 for engaging contract labour as required from the concerned Authorities based on the certificate (Form- V or as applicable) issued by the Principal Employer/Customer.
- 2.6.5.** The contractor shall pay and bear all taxes, fees, license charges, Cess, duties, deposits, tolls, royalties, commission or other charges which may be leviable on account of his operations in executing the contract.
- 2.6.6.** Contractor shall be responsible for provision of Health and Sanitary arrangements (more particularly described in Contract Labour Regulation & Abolition Act), Safety precautions etc. as may be required for safe and satisfactory execution of contract.

- 2.6.7.** The contractor shall be responsible for proper accommodation including adequate medical facilities for personnel employed by him.
- 2.6.8.** The contractor shall be responsible for the proper behavior and observance of all regulations by the staff employed by him.
- 2.6.9.** The contractor shall ensure that no damage is caused to any person/property of other parties working at site/company" premises. If any such damage is caused, it is responsibility of the contractor to make good the losses or compensate for the same.
- 2.6.10.** All the properties/equipments/components of BHEL loaned with or without deposit to the contractor in connection with the contract shall remain properties of BHEL.
- 2.6.11.** The contractor shall use such properties for the purpose of execution of this contract. All such properties/equipments/components shall be deemed to be in good condition when received by the contractor unless he notifies within 48 hours to the contrary. The contractor shall return them in good condition as and when required by BHEL/their Client. In case of non-return, loss, damage, repairs etc. the cost thereof as may be fixed by BHEL Engineer will be recovered from the contractor.
- 2.6.12.** Any delay in completion of works/or non-achievement of periodical targets/or non-execution of contract due to the reasons attributable to the contractor, the same may have to be compensated by the contractor either by increasing manpower and resources or by working extra hours and/or by working more than one shift. All these are to be carried out by the contractor at no extra cost.
- 2.6.13.** The contractor shall arrange, coordinate his work in such a manner as to cause no hindrance to other agencies working in the same premises.
- 2.6.14.** All safety rules and codes applied by BHEL at site shall be observed by the contractor without exception. The contractor shall be responsible for the safety of the equipment/material and works to be performed by him and shall maintain all light, fencing guards, slings etc. or other protection necessary for the purpose. Contractor shall also take such additional precautions as may be indicated from time to time by the Engineer with a view to prevent pilferage, accidents, fire hazards. Due precautions shall be taken against fire hazards and atmospheric conditions. Suitable number of Clerical staffs, watch and ward, store keepers to take care of equipment/materials and construction tools and tackles shall be posted at site by the contractor till the completion of work under this contract.

The contractor shall arrange for such safety devices as are necessary for such type of work and carry out the requisite site tests of handling equipment, lifting tools, tackles etc. as per prescribed standards and practices.

Contractor has to ensure the implementation of Health, Safety and Environment (HSE) requirements as per directions given by BHEL/Customer. The contractor has to assist in HSE audit by BHEL/Customer and submit compliance Report. The contractor has to generate and submit record/reports as per HSE plan/activities as per instruction of BHEL/Customer.

- 2.6.15.** The contractor shall be directly responsible for payment of wages to his workmen/labours before the expiry of seven days from the last day of wage period and to ensure disbursement of wages in the presence of the representative from BHEL. A pay roll sheet giving all the payments given to the workers and duly signed by the contractor's representative should be furnished to BHEL site for the purpose of maintaining the records for compliance.
- Contractor shall create awareness amongst their workforce by helping & encouraging in opening bank accounts and to encourage them to adopt digital mode of transactions. While releasing wages/ salary to their workers/ supervisors/ staff, Contractor shall comply with the GOI's guidelines for maximizing such transactions through Non-Cash / digital means.
- 2.6.16.** In case of any class of work for which there is no such specification as laid down in the contract, such work shall be carried out in accordance with the instructions and requirements of the Engineer-in-Charge.
- 2.6.17.** Also, no idle charges will be admissible in the event of any stoppage caused in the work resulting in contractor's labour and Tools & Plants being rendered idle due to any reason at any time.
- 2.6.18.** The contractor shall take all reasonable care to protect the materials and work till such time the plant/equipment has been taken over by BHEL or their Customer whichever is earlier.
- 2.6.19.** The contractor shall not stop the work or abandon the site for whatsoever reason of dispute, excepting force majeure conditions. All such problems/disputes shall be separately discussed and settled without affecting the progress of work. Such stoppage or abandonment shall be treated as breach of contract and dealt with accordingly.
- 2.6.20.** The contractor shall keep the area of work clean and shall remove the debris etc. while executing day-to-day work. Upon completion of work, the contractor shall remove from the vicinity of work, all scrap, packing materials, rubbish, unused and other materials and deposit them in places specified by the Engineer. The contractor will also demolish all the hutments, sheds, offices etc. constructed and used by him and shall clean the debris. In the event of his failure to do so, the same will be arranged to be done by the Engineer and the expenses recovered from the contractor.
- 2.6.21.** The contractor shall execute the work in the most substantial and workman like manner in the stipulated time. Accuracy of work and timely execution shall be the essence of this contract. The contractor shall be responsible to ensure that the quality, assembly and workmanship conform to the dimensions and clearance given in the drawings and/ or as per the instructions of the Engineer.
- 2.6.22.** The Contractor to note that some of BHEL's T&Ps/MMDs may not be insured. The Contractor will take necessary precautions and due care to protect the same while in his custody from any damage/ loss till the same is handed over back to BHEL. In case the damage / loss is caused due to carelessness/ negligence on the part of the contractor, the Contractor is liable to get them repair/ replaced immediately and in case of his failure to do so within a reasonable time, BHEL shall recover the loss from the contractor.

2.7. QUANTITY VARIATION

2.7.1. Variation in Final Executed Contract Value: The quantities given in the contract are tentative and may change to the extent of 30% (both in plus side and minus side). No compensation becomes payable in case the contract gets partially executed/ short closed/ terminated/ work withdrawn under Rights of BHEL mentioned in **Clause 2.5** of GCC.

2.7.2. Variation in Individual Quantities of BOQ Item(s): The quantity of individual BOQ item(s) may change to the extent of 100% (both in plus side and minus side). BHEL, however, retains the right to arrange the excess quantity through any other source.

2.8. FORCE MAJEURE

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

- a) beyond control of either of the parties to contract,
- b) either of the parties could not reasonably have provided against the event before entering into the contract,
- c) having arisen, either of the parties could not reasonably have avoided or overcome, and
- d) is not substantially attributable to either of the parties

And

Prevents the performance of the contract,

Such circumstances include but shall not be limited to:

- i. War, hostilities, invasion, act of foreign enemies.
- ii. Rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war.
- iii. Riot, commotion or disorder by persons other than the contractor's personnel and other employees of the contractor and sub-contractors.
- iv. Strike or lockout not solely involving the contractor's personnel and other employees of the contractor and sub-contractors.
- v. Encountering munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the contractor's use of such munitions, explosives, radiation or radio- activity.
- vi. Natural catastrophes such as earthquake, tsunami, volcanic activity, hurricane or typhoon, flood, fire, cyclones etc.
- vii. Epidemic, pandemic etc.

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

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

- 2.8.4.** The party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such party's performance is prevented, hindered or delayed. The Time for Completion shall be extended by a period of time equal to period of delay caused due to such Force Majeure event.
- 2.8.5.** Delay or non-performance by either party hereto caused by the occurrence of any event of Force Majeure shall not
- a. Constitute a default or breach of the Contract.
 - b. Give rise to any claim for damages or additional cost expense occasioned thereby, if and to the extent that such delay or non-performance is caused by the occurrence of an event of Force Majeure.
- 2.8.6.** BHEL at its discretion may consider short closure of contract after 1 year of imposition of Force Majeure in line with extant guidelines. In any case, Supplier/Vendor cannot consider deemed short-closure after 1 year of imposition of Force Majeure

2.9. Settlement of Dispute

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

If after the Designated Engineer has given written notice of this decision to the party and no intention to pursue the dispute has been communicated to him by the affected party within 30 days from the receipt of such notice, the said decision shall become final and binding on the parties. In the event the Supplier/Vendor being dissatisfied with any such decision or if amicable settlement cannot be reached then all such disputed issues shall be resolved through conciliation in terms of the BHEL Conciliation Scheme 2018 as per **Clause 2.9.1**

2.9.1. Conciliation:

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

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

2.9.2. ARBITRATION:

- 2.9.2.1.** Except as provided elsewhere in this Contract, in case Parties are unable to reach amicable settlement (whether by Conciliation to be conducted as provided in **Clause 2.9.1** herein above or otherwise) in respect of any dispute or difference; arising out of the formation, breach, termination, validity or execution of the Contract; or, the respective rights and liabilities of the Parties; or, in relation to interpretation of any provision of the Contract; or in any manner touching upon the Contract (hereinafter referred to as the 'Dispute'), then, either Party may, refer the disputes to Arbitral Institution (to be identified by the contract issuing agency (e.g. "IIAC" (India International Arbitration Centre) for Delhi/NCR offices) and such dispute to be adjudicated by Sole Arbitrator appointed in accordance with the Rules of said Arbitral Institution.
- 2.9.2.2.** A party willing to commence arbitration proceeding shall invoke Arbitration Clause by giving notice to the other party in terms of section 21 of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as the 'Notice') before referring the matter to arbitral institution. The Notice shall be addressed to the Head of the Region, Power Sector/ Unit, BHEL, executing the Contract and shall contain the particulars of all claims to be referred to arbitration with sufficient detail and shall also indicate the monetary amount of such claim including interest, if any.
- 2.9.2.3.** After expiry of 30 days from the date of receipt of aforesaid notice, the party invoking the Arbitration shall submit that dispute to the Arbitral Institutions (to be identified by the contract issuing agency (e.g. "IIAC" (India International Arbitration Centre) for Delhi/NCR offices) and that dispute shall be adjudicated in accordance with their respective Arbitration Rules. The matter shall be adjudicated by a Sole Arbitrator who shall necessarily be a Retd. Judge having considerable experience in commercial matters to be appointed/nominated by the respective institution. The cost/expenses pertaining to the said Arbitration shall also be governed in accordance with the Rules of the respective Arbitral Institution. The decision of the party invoking the Arbitration for reference of dispute to a specific Arbitral institution for adjudication of that dispute shall be final and binding on both the parties and shall not be subject to any change thereafter. The institution once selected at the time of invocation of dispute shall remain unchanged.
- 2.9.2.4.** The fee and expenses shall be borne by the parties as per the Arbitral Institutional rules.
- 2.9.2.5.** The Arbitration proceedings shall be in English language and the seat and venue of Arbitration shall be **New Delhi**.
- 2.9.2.6.** Subject to the above, the provisions of Arbitration & Conciliation Act 1996 and any amendment thereof shall be applicable. All matters relating to this Contract and arising out of invocation of Arbitration clause are subject to the exclusive jurisdiction of the Court(s) situated at **New Delhi**.
- 2.9.2.7.** Notwithstanding any reference to the Designated Engineer or Conciliation or Arbitration herein, a. the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree. Settlement of Dispute clause cannot be invoked by the Contractor, if the Contract has been mutually closed or 'No Demand Certificate' has been furnished by the Contractor or any Settlement Agreement has been signed between the Employer and the Contractor.
- 2.9.2.8.** It is agreed that Mechanism of resolution of disputes through arbitration shall be available only in the cases where the value of the dispute is less than Rs. 10 Crores.

2.9.2.9. In case the disputed amount (Claim, Counter claim including interest is Rs. 10 crores and above, the parties shall be within their rights to take recourse to remedies other than Arbitration, as may be available to them under the applicable laws after prior intimation to the other party. Subject to the aforesaid conditions, provisions of the Arbitration and Conciliation Act, 1996 and any statutory modifications or re-enactment thereof as amended from time to time, shall apply to the arbitration proceedings under this clause.

2.9.2.10. In case, multiple arbitrations are invoked (whether sub-judice or arbitral award passed) by any party to under this contract, then the cumulative value of claims (including interest claimed or awarded) in all such arbitrations shall be taken in account while arriving at the total claim in dispute for the subject contract for the purpose of **clause 2.9.2.9**. Disputes having cumulative value of less than 10 crores shall be resolved through arbitration and any additional dispute shall be adjudicated by the court of competent jurisdiction.

2.9.3. In case of Contract with Public Sector Enterprise (PSE) or a Government Department, the following shall be applicable:

In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract(s) between Central Public Sector Enterprises (CPSEs)/ Port Trusts inter se and also between CPSEs and Government Departments/Organizations (excluding disputes concerning Railways, Income Tax, Customs & Excise Departments), such dispute or difference shall be taken up by either party for resolution through AMRCD (Administrative Mechanism for Resolution of CPSEs Disputes) as mentioned in DPE OM No. 05/0003/2019-FTS-10937 dated 14-12-2022 as amended from time to time.

2.9.4. NO INTEREST PAYABLE TO CONTRACTOR

Notwithstanding anything to the contrary contained in any other document comprising in the Contract, no interest shall be payable by BHEL to Contractor on any moneys or balances including but not limited to the Security Deposit, EMD, Retention Money, RA Bills or the Final Bill, or any amount withheld and/or appropriated by BHEL. etc., which becomes or as the case may be, is adjudged to be due from BHEL to Contractor whether under the Contract or otherwise.

2.10. SUSPENSION OF BUSINESS DEALINGS

BHEL reserves the right to take action against Contractors who either fail to perform or Tenderers/Contractor who indulge in malpractices, by suspending business dealings with them in line with BHEL guidelines issued from time to time.

The offers of the bidders who are under suspension as also the offers of the bidders, who engage the services of the banned firms / principal / agents, shall be rejected. The list of banned firms is available on BHEL web site www.bhel.com.

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

2.11. LIMITATION ON LIABILITY:

Notwithstanding anything to the contrary in this Contract or PO or Purchase Order or any other mutually agreed document between the parties, the maximum liability, for damages, of the contractor, its servants or agents, shall under no circumstances exceed an amount equal to the Price of the Contract or the Purchase Order. The Contractor shall not in any case be liable for loss of profit or special, punitive, exemplary, indirect or consequential losses whatsoever. This shall not be applicable on the recoveries made by Customer from BHEL on account of Contractor, any other type of recoveries for workmanship, material, T&P etc. due from the contractor.

2.12. CONFIDENTIAL INFORMATION:

The Contractor agrees & acknowledges that in the course of their discussions and interactions, BHEL may disclose information of confidential proprietary nature relating to its business, products, know-how, technology, customers, employees and financial. Such information shall be considered as confidential. The contractor agrees to keep it confidential & secret at all times and not directly or indirectly disclose to any party other than its employees and authorized personnel's strictly on a need know basis, without the prior written permission of BHEL.

The above condition shall however not apply to that information, which –

- i. now or hereafter enters the public domain through no fault of that party;
- ii. can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party hereto; and
- iii. otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.

2.13. FRAUD PREVENTION POLICY

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

2.14. PRICE VARIATION COMPENSATION, BONUS & OVER RUN COMPENSATION:

Within the validity or any extension of contract thereof, rates shall remain firm without any escalation / variation for any reason, whatsoever, unless specifically provided herein. Contractor's obligation shall remain unaffected by such escalation / variation.

The price quoted shall remain firm during the contract period including any extension of the original contract period and no price variation compensation (PVC) shall be paid by BHEL for whatsoever reason. Early completion of work is acceptable by BHEL. However, no reward/bonus shall be admissible. While every endeavour shall be made by the BHEL, it cannot guarantee uninterrupted work due to condition beyond its control. The contractor will not be entitled to any compensation / extra payment / overrun compensation on this account.

2.15. SUBCONTRACTING: The Contractor cannot sub-contract part or complete work detailed in the tender specification undertaken by him without written permission of BHEL. The Contractor is solely responsible to BHEL for the work awarded to him.

2.16. TERMINATION OF CONTRACT:

- (i) BHEL may at any time terminate the Contract for any reason by giving the Contractor a notice of termination that refers to this clause.
- (ii) Upon receipt of the notice of termination under Subclause i), the Contractor shall, either immediately or upon the date specified in the notice of termination,
 - (a) cease all further work, except for such work as BHEL may specify in the notice of termination; and
 - (b) remove all Contractor's Equipment from the Site, repatriate the Contractor's personnel from the Site, remove from the Site any wreckage, rubbish and debris of any kind, and leave the whole of the Site in a clean and safe condition.
 - (c) In the event of termination of the Contract under **Subclause (i)**, the BHEL shall pay to the Contractor the Contract Price, properly attributable to the parts of the Facilities executed by the Contractor as of the date of termination.

2.17. RECOVERY FROM CONTRACTOR: Whenever under the contract, any sum of money is recoverable from or payable by the contractor, the same may be deducted from any sum then due or which at any time thereafter may become due to the contractor under the contract or from his security deposit, or the contractor shall pay the claim on demand.

2.18. POST PAYMENT AUDIT OF WORK & BILLS: BHEL reserves the right to carry out a post payment audit and technical examination of the work and final bill including all supporting vouchers, abstracts etc. and to enforce recovery of any sums becoming due as a result thereof. However, no such recovery shall be enforced after three years of payment of the final bill.

2.19. ORDER OF PRECEDENCE

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

- a) Contract agreement with its Amendments/ Clarifications/Corrigenda/Errata etc. issued in respect of the tender documents by BHEL
- b) Notice Inviting Tender (NIT)
- c) Price Bid
- d) Special Conditions of Contract (SCC)
- e) General Conditions of Contract (GCC)
- f) Forms and Procedures

3. CHAPTER-3

3.1. TAXES & DUTIES:

- 3.1.1.** The To enable BHEL to avail GST Input tax credit, Contractor shall submit GST compliant tax invoice containing all the particulars as stipulated under Invoice Rules of GST Law. Payment shall be made to the Contractor only after submission of GST complaint Tax invoice. The Contractor shall raise GST compliant invoice affixing GSTIN of BHEL's unit availing the works.
- 3.1.2.** If BHEL is liable to discharge tax liability under the Reverse Charge Mechanism, the service provider shall provide all necessary documents within 10 days from date of completion of service to enable BHEL to meet the GST liability. Any implications arising from a delay shall be the responsibility of the service provider and will be charged to the service provider's account.
- 3.1.3.** The service provider has to submit their GST registration certificate along with a declaration regarding applicability of GST Reverse Charge (if applicable) to respective BHEL Unit/region along with the bid.
- 3.1.4.** Any statutory changes as and when made applicable by the Government shall become applicable against documentary evidence. However, no increase in price on account of statutory increase in the rate of GST taking place during the period of delivery period extension with liquidated damages shall be admissible. Nevertheless, the Buyer shall be entitled to the benefit of any decrease in price on account of reduction in GST taking place during extended delivery period.
- 3.1.5.** Payment to the service provider will be subjected to TDS as per rules in force from time to time. The Tax Deduction at Source (TDS) shall be done as per the provisions of Income Tax Act and GST as applicable, as amended from time to time and a certificate to this effect shall be provided to the service provider by BHEL.
- 3.1.6.** In case the Input Tax Credit of GST is denied or demand is recovered from BHEL on account of any act/ omission of the Contractor in this regard, the Contractor shall be liable in respect of all claims of tax, penalty and / or interest, loss, damages, costs, expenses and liability that may arise due to such non-compliance. BHEL shall have the right to recover such amount from any payments due to the Contractor or from Performance Security, or any other legal recourse from the said Contractor. If any tax is required to be paid by the Contractor in pursuance of any demand from tax authorities, on account of Contractor's suppression of facts, fraud or willful misstatement of facts while offering the products or submitting the bids, then the same shall not be passed on to BHEL through debit notes or Invoices or Supplementary Invoices and the contractor shall be solely liable for payment of the same.
- 3.1.7.** To enable BHEL to avail GST Input tax credit, Contractor shall submit GST compliant tax invoice containing all the particulars as stipulated under Invoice Rules of GST Law. Payment shall be made to the Contractor only after submission of GST complaint Tax invoice. The Contractor shall raise GST compliant invoice affixing GSTIN of BHEL's unit availing the works.
- 3.1.8.** GSTIN of respective BHEL Unit will be provided to the Contractor along with the site clearance instructions/ order issued by respective Unit for SITC.

- 3.1.9.** Applicable GST shall also be recoverable from the Contractor in case of LD recovery/penalty on account of breach of terms of contract/ any penalty for the contract.
- 3.1.10.** GST amount shall be released only after confirmation from GST portal that such invoice has been declared in GSTR-1 return filed by contractor and is available in GSTR-2B of BHEL within the stipulated time for the relevant period and tax amount thereon has been paid by contractor to Govt. within the stipulated time period as per GST Law.
- 3.2. PAYMENT TERMS:** The Contract Price shall be paid by BHEL to the Supplier as per the terms specified in the Contract.
- 3.2.1.** The accepted rates shall remain firm during the entire duration of the contract.
- 3.2.2.** Any clarification sought by BHEL, pertains to respective bill, must be clarified by Contractor at the earliest. Otherwise the delay in payment will be attributed to the Contractor. Aforesaid timeline shall be applicable from the day on which the last clarification/queries/document sought by BHEL and settled/submitted by the Contractor.
- 3.2.3.** FOR NON MSE Bidders, 100% payment (AMC Charges) would be made on quarterly basis within 90 days from the date of acknowledged receipt & submission of billing documents.
- 3.2.4.** FOR MSE Bidders, 100% payment (AMC Charges) would be made on quarterly basis within 45 days from the date of acknowledged receipt & submission of billing documents.
- 3.2.5.** GST amount shall be paid in line with compliance to Clause "Taxes & Duties".
- 3.2.6.** All the deductions (if applicable) shall be settled before making the payments. Service provider shall not have any objection on the same.
- 3.2.7.** While claiming the payment, the service provider must certify on the bill that the payment being claimed is strictly within terms of the contract and all the obligations on his part for claiming this payment have been fulfilled as required under the contract.
- 3.2.8. NO INTEREST PAYABLE TO CONTRACTOR:** The Contractor agrees that no interest shall be payable by BHEL on any amount due under this contract.
- 3.2.9. DISCREPANT AMOUNTS:**
- 3.2.9.1.** In the event BHEL finds any discrepancy, within fifteen (15) days from receipt, in any invoice raised by the Contractor, BHEL shall give a notice regarding discrepant amount to the Contractor and withhold such part of the invoice value which is discrepant till such time the discrepancy is resolved between the Parties. If the Contractor intends to dispute the discrepant amount, the Contractor shall provide documentary evidence to BHEL within fifteen (15) days of receipt of notice regarding such discrepant amount. If Contractor's documentary evidence is accepted by BHEL, it shall pay the amount as mentioned in the invoice raised by the Contractor. In the event that the Parties are unable to resolve any issue in relation to such discrepant amount(s) within thirty (30) days of issue of the notice by BHEL in relation to the discrepant amount, such dispute shall be resolved in accordance with Clause "Settlement of Dispute".

- 3.2.9.2.** Notwithstanding anything to the contrary in the Contract, the payment of any invoice by BHEL shall not prejudice, at any point of time, any rights of BHEL under the Contract, including the right of BHEL to notify any discrepancy in accordance with Clause herein above in respect of any amounts therein, as may be identified by way of any audit or inspection, that may have been conducted subsequent to the payment of such invoice. In the event any such discrepancy is identified in relation to any invoice that has already been paid by BHEL, BHEL shall have the right to adjust any amount that may be due and payable by the Supplier.
- 3.2.10.** All the penalties/ fine/ interest (if applicable) shall be settled before making the payments. Service Provider shall not have any objection on the same.
- 3.2.11.** Payment shall be made through bank transfer only, in no circumstance cash/ cheque payment shall be made.
- 3.2.12.** The Contractor will have to intimate the bank account number, and other details of the bank to enable BHEL to credit the payments into the account.
- 3.2.13.** The **Contract Price** shall be paid by the Buyer (BHEL) to the Service Provider/Supplier as per the mutually agreed financial terms in the Contract.
- 3.2.14.** The quoted price shall be **all-inclusive**, covering all statutory and regulatory obligations.
- 3.2.15.** No advance payments shall be made under the contract.

3.3. PENALTY CLAUSES:

- 3.3.1.** If the Contractor fails to attend to any complaint within the Response Time specified in the contract, a penalty of Rs. 500 per complaint will be imposed. While calculating the penalty, the following holidays will be excluded: Sundays, National Holidays, Holi, Diwali, Christmas, Eid, and Guru Nanak's Birthday.

The penalty calculation formula is: Total time between the complaint lodgment (via telephone) and the complaint attendance time, minus any holidays within this period.

For example, if a complaint is lodged at 5:00 PM on Saturday and attended at 2:00 PM on the immediate Monday, no penalty will be charged. However, if the same complaint is attended at 2:00 PM on Tuesday, a penalty of Rs. 500 will apply.

- 3.3.2.** The total penalties shall not exceed 10% of the overall contract value and will be deducted from Running Account (RA) bills. If the penalty amount exceeds 10% of the contract value, it may lead to termination of the contract.
- 3.3.3.** BHEL will maintain a complaint register documenting all complaints and their resolution times.

CHAPTER-4

- 4.00 **CONTRACT PERIOD:** The comprehensive maintenance contract will commence on the date as mentioned in the contract/agreement and will remain in force for a period of **12-Months**. However, this Agreement shall be liable for termination by the BHEL at any time by giving minimum 30 days' notice to the Contractor without assigning any reason thereof and without prejudice to the rights of BHEL to recover any amount becoming due under this Agreement.
- 4.01 **PREVENTIVE MAINTENANCE:**
- 4.01.1 **Quarterly Inspections and Servicing:** Conduct periodic inspections and servicing of the plant every quarter, including:
- a) Checking the PACs, comprising of equipment's mentioned below:
 - i. Climaveneta Make PAC – 02 Nos. Model-AxU-Mod-70
 - ii. Bearing Sr. No C19UP00627, C19UP00628
 - b) Lubrication of all bearings wherever found necessary.
 - c) Checking/rectification of alignment of couplings in direct driven components.
 - d) Inspection of the safety and operating chiller controls for proper and safe operation.
 - e) Checking leaks in the Refrigeration system and refrigerant charging (including vacuuming and nitrogen testing).
 - f) To check the log book reading and advice for better performance of the machine.
 - g) Tightening of all Electrical Contacts.
- 4.01.2 **Semi-Annual Tasks:**
- a) Check the operations of all Controls and Safety devices.
 - b) Repair/replacement of the component of the plant if required.
- 4.01.3 **Annual Tasks:**
- a) Changing of the compressor oil if required.
 - b) Cleaning of condensers once in a year.
- 4.02 **RESPONSE TIME:** Breakdown calls or complaints received before 3:00 PM on a working day will be addressed the same day. Calls made after 3:00 PM will be attended to by 12:00 noon on the next working day.
- 4.03 **EXCLUSIONS FROM THE SCOPE OF WORK**
- a) Any routine maintenance, operation, day-to-day servicing and even maintaining temperature inside conditioned space is not covered under this offer.
 - b) Replacement of Compressor, Condenser, Evaporator as a whole and up gradation of control panel etc. however repairing of condenser & evaporator coil is included in the SoW.
 - c) Any kind of wear and tear caused due to atmospheric conditions, corrosion chemical pollution of rusting, pitting of the plant.
 - d) Painting as and when required of the equipment is excluded and can be carried out on a chargeable basis.
 - e) Any kind of repairs and replacement of main electrical incomer, insulation, piping, ducting, false ceiling and any other kind of civil / masonry work.
 - f) Any kind of such statutory levies / duties imposed during the period.
 - g) Any other item not specifically mentioned under scope of work.

CHAPTER-5

- 5.00 The tender is to be submitted as required in single part. This part shall contain the complete tender enquiry downloaded from the portal signed and stamped on each page by tenderer including all the relevant documents sought in tender enquiry and Price-Bid.
- 5.01 Tender submitted by the bidders should strictly be in accordance with the tender terms & condition.
- 5.02 The signed & stamped copy of the tender document along with the Price Bid shall be sealed in an envelope with the following details legibly written on the same:

<i>NIT / Tender Enquiry Ref. No:</i> - <i>Subject:</i> <i>Due Date & time for Submission of bid/offer:</i>
--

- 5.03 The bid in sealed envelope as above shall be submitted in the tender box located at reception of gate No. 3.

No Deviation/Acceptance Certificate

(To be submitted along with Bid)

Notwithstanding anything mentioned in our bid, we hereby accept all the terms & conditions of the above tender. We confirm that the offer submitted by us is confirming to all the terms & conditions mentioned in the tender document. We hereby undertake and confirm that we have understood the scope of work / services / supply properly and shall carry out the job as mentioned in this tender in line with tender terms & conditions.

"I _____ hereby certify that, we do not have any other deviations to the tender No. _____, dated _____. Deviations if any, mentioned elsewhere in our bid may be treated as null and void by BHEL.

Signature

With name, Designation & seal of the firm

Declaration Certificate

(to be submitted along with Bid)

Sir,

Please find herewith our offer in line with requirement of BHEL's Tender document. We confirm that:

1. We hereby confirm that we have not changed/ modified/materially altered any of the tender documents as downloaded from the website/ issued by BHEL and in case of such observance at any stage, it shall be treated as null and void.
2. We confirm to have submitted offer in accordance with tender instructions and as per aforesaid references.
3. We confirm that bid complies with the total techno-commercial requirements / terms and conditions of the bidding document and subsequent addendum / corrigendum (if any) without any assumptions.
4. I / We do hereby declare that I / We have not been suspended / delisted / blacklisted by any other Govt. Ministry/Department/Public Sector Undertaking/ Autonomous Body/Financial institution/Court. We also certify that either our firm or any of the partners are not involved in any scam or disciplinary proceedings settled or pending adjudication. We also commit to adhere BHEL Fraud Prevention Policy, BHEL Guidelines on Suspension of Business Dealings, BHEL Guidelines for Reverse Auction.
5. We hereby confirm that we have gone through and understood the bidding document and that our bid has been prepared accordingly in compliance with the requirement stipulated in the said document. We are submitting Check-List of bidding document as part of our bid duly signed in token of our acceptance. We undertake that the bidding document shall be deemed to form part of our bid and in the event of award of work to us, the same shall be considered for constitution of contract agreement. Further, we shall sign & stamp each page of this bidding document as a token of acceptance and as a part of the Contract in the event of award of Contract to us.
6. We further confirm that we have quoted prices in price bid considering detailed description of scope of work. We confirm that price quoted by us includes price for all works/activities/supply etc. as mentioned in this tender document.
7. We declare that the statement made and the information provided in our offer is true and correct in all respect. In case, it is found that the information/ documents provided by us are incorrect/ false, our application/offer/tender shall be rejected by BHEL without any reference to us.

Thanking you,

Very Truly Yours,

Signature

With name, Designation & seal of the firm

BIDDER'S GENERAL INFORMATION**(To be submitted along with Part-1 Bid)**

Sl. No.	Description	Details
1	Name of tendering company/Firm/Agency	
2	Type of firm	
3	Name of proprietor/ Director of Company/Firm/Agency	
4	Full address of registered office with telephone no., Fax no. & E-mail Address etc.	
5	Full address of operating/branch office with telephone no, Fax no. & E-mail Address etc.	
6	Permanent Account Number (PAN)	
7	Labour Identification Number (LIN) (If Avail.)	
8	EPF Registration No. (If Avail.)	
9	ESI Registration No. (If Avail.)	
10	GST Registration No. (GSTIN)	
11	Udyog Aadhar Registration No. (If Avail.)	
12	Startup recognition Certificate No. (If Avail.)	
13	Corporate Identification Number (CIN) (If Avail.)	
14	Name of Bidder/ Contact Person	
15	Phone No. of Bidder / Contact Person	
16	E-mail Address of Bidder / Contact Person	
17	Name of Authorized Signatory	

Signature

With name, Designation & seal of the firm

E-Banking Mandate Form

(To be submitted along with Part-1 Bid)

1. Vendor/customer / Beneficiary Name:
2. Vendor/customer/ Beneficiary Code:
3. Vendor /customer/ Beneficiary Address:
4. Vendor/customer/ Beneficiary e-mail id:
5. Particulars of bank account:
 - a. Name of Bank:
 - b. Name of branch:
 - c. Branch code:
 - d. Address:
 - e. Telephone number:
 - f. Type of account (current/saving etc.):
 - g. Account Number:
 - h. RTGS IFSC code of the bank branch:
 - i. NEFT IFSC code of the bank branch:
 - j. 9 digit MICR code:

I/We, hereby, declare that the particulars given above are correct and complete. If the transaction is delayed or not effected at all for reasons of incompleteness or incorrectness of information given by me as above, I/We would not hold the user institution responsible.

(.....)

Signature of the Beneficiary

Certified that the particulars furnished above are correct as per the record.

Bank Stamp

Dated

(.....)

Signature of the Authorized Office

PRICE-BID

SL No	Description	Equipment Model	QTY	UOM	Rate per Unit per Quarter (INR)	Taxable Amount per Quarter (INR) <i>(QTY * Rate per Unit per Quarter)</i>	GST (%)	Total Amount per Quarter (INR) incl. GST <i>[Taxable Amount per Quarter * (1 + GST/100)]</i>	Total Amount (Annual) (INR) incl. GST <i>[Total Amount per Quarter (incl. GST) * 4]</i>
1	Non-Comprehensive Annual Maintenance Contract of 2 x 20 Tr Precision Air Conditioner (Climaveneta PAC units) as per scope of work mentioned in the tender	AXU-Mod-70 C19UP00627 C19UP00628	2	Nos.					

Please note: Price to be filled-in strictly as per the Price Bid Format. Price quoted shall be firm, final and not subject to any price escalation.

Signature

With name, Designation & seal of the firm