



An ISO 9001 Company

Bharat Heavy Electricals Limited  
(High Pressure Boiler Plant)  
Tiruchirappalli-620014, Tamil Nadu, India  
CAPITAL PURCHASE/MM/MANUFACTURING

## **COMMERCIAL TERMS AND CONDITIONS FOR SUBMISSION OF OFFER**

### **1.0 QUOTATIONS**

Bidders shall submit the offer in **TWO INNER ENVELOPES** as indicated below which shall be sealed in one outer envelope.

**Envelope I** This sealed envelope should contain all the copies of technical bid together with un-priced commercial bid. This envelope should be clearly marked **"Part I - Technical and commercial bid"**, indicating Enquiry No., Due Date and Address & Reference of the Bidder.

**Envelope II** This sealed envelope should contain **price details**. This envelope should be clearly marked **"Part II - Price bid"**, indicating Enquiry No., Due Date and Address & Reference of the Bidder.

Both the envelopes ( Part I & II) shall be put in one cover, duly sealed, superscribing as Part I and Part II of Enquiry No., due date of opening and the address and reference of the Bidder.

The above offer should reach this office on or before the due date by 14.00 Hrs (IST). Late offers will not be considered.

Tender should not be addressed to any Individual's name but only by designation to:

**DGM / CAPITAL PURCHASE / MM / MANUFACTURING  
BHARAT HEAVY ELECTRICALS LIMITED  
HIGH PRESSURE BOILER PLANT  
TIRUCHIRAPALLI - 620 014  
TAMIL NADU, INDIA**

Tenders should be free from **CORRECTION AND ERASURES**, Corrections if any, must be attested. All amount shall be indicated both in words as well as in figures. Where there is difference between amount quoted in words and figures, amount quoted in words shall prevail.

Offers should be in **ENGLISH** and accompanied by detailed technical literature, catalogue and detailed dimensional drawings in **ENGLISH** or otherwise, the offers will not be considered.

### **2.0 PART I (TECHNICAL & COMMERCIAL BID)**

#### **2.1 Technical**

This part shall include / indicate the following :

2.1.1. Offer should contain complete scope of supply with all technical details, specifications, delivery and other commercial terms and conditions.

2.1.2. Point by point confirmation for the Technical Specification enclosed is to be provided. If there are any deviations, the same should be clearly specified. Offers received without confirmation to our specification will be rejected.

2.1.3. List of customers to whom same or similar equipment have been supplied along with performance certificates to be enclosed.

2.1.4. Relevant catalogues to be attached

2.1.5. List of spares parts (with part numbers) for two years operation and maintenance should be attached.

2.1.6. Information on shipping weight and cubage (length, width & height) to be provided.

2.1.7. In case of foreign bidder offer, the Principal's technical offer only should be enclosed.

## **2.2 Commercial**

This part shall include / indicate the following :

2.2.1. Port of shipment / Station of despatch

2.2.2. Terms of payment

2.2.3. Taxes & duties applicable.

2.2.4. Delivery Schedule

2.2.5. Offer validity

2.2.6. Country of origin

2.2.7. Percentage of agency commission if any along with a copy of Agency agreement.

2.2.8. A copy of "Un-Priced Part II" i.e., a copy of the Price Bid **without the price details** to be enclosed.

## **3.0 PART II (PRICE- BID)**

This part should contain the schedule of price particulars and to be co-related to the technical details provided in Part I.

## **4.0 OPENING OF TENDERS**

The Part I - Technical & commercial bid alone would be opened on the Tender opening date.

The Part II - Price bid of Technically suitable Bidders alone would be opened. The Technically suitable Bidders would be informed about the tender opening date. Clarifications if any required by BHEL for Technical evaluation would be sought from Bidders before opening of Part II - price bid.

## **5.0 GENERAL**

5.1. Incomplete offers will not be considered.

5.2. **Fixed price:** Prices quoted by the bidder shall be fixed and not subject to any escalation whatsoever during the period of bid validity and execution of the Purchase Order. A bid submitted with an adjustable price will be treated as non-responsive and rejected. Prices shall be written in words and figures. In the event of difference, the price in words shall be valid and binding. Unit prices shall be considered correct in the event of any discrepancy with regard to total price.

5.3. **Bid currency:** Indian bidders should submit the prices only in Indian Rupees. Foreign bidders may submit their bid in their home currency.

5.4. **Terms of Delivery:** Bidders are required to quote their best delivery period. Foreign Bidders should submit their offer for net **FOB / FCA - Nearest Sea Port / Air**

**Port.** Indian Bidders should submit their offer for **FOR Despatching station**. Delivery shall be counted from the date of Letter of Intent.

5.5. **Taxes and Duties :** All Taxes and Duties payable as extra to the quoted price should be specifically stated in offers along with CST & TNGST No / Tariff No. etc., failing which the purchaser will not be liable for payment of such Taxes and Duties. Our TNGST No. 356005 Dt. 04-04-1995, CST. No. 239383 Dt. 11-06-1991.

5.6. **Validity :** The offers for main equipment and spares shall be kept open for acceptance for **120 days (one hundred and twenty days)** from the date of opening of the tender (Part I).

5.7. **Terms of Payment :**

5.7.1. **Indian Bidders**

5.7.1.1. The preferred payment terms are indicated below :

5.7.1.2. 100% payment, within 45 to 90 days, after receipt / acceptance / commissioning of equipment at BHEL, Tiruchi, against submission of 10% Performance Bank Guarantee on total order value.

or

5.7.1.3. 80% payment against documents through bank within 45 to 90 days, (after pre-despatch inspection) and balance 20% payment after receipt / acceptance / commissioning of the equipment within 45 to 90 days, against submission of 10% Performance Bank Guarantee on total order value.

5.7.2. **Foreign Bidders**

An Irrevocable Letter of Credit shall be established for 80% net FOB (excluding Indian Agent's commission) 2 months prior to shipment and valid for 3 months for negotiation against shipment. Letter of Credit shall be opened through a branch of State Bank of India in the country where order shall be placed. In case, in the country where order is placed, State Bank of India is not there, Letter of Credit will be opened through our bankers or as permitted by Government of India. Letter of Credit will not be confirmed by foreign banker. Balance 20% of net FOB value shall be paid through sight draft on receipt / acceptance / commissioning of the goods at BHEL against submission of Performance Bank Guarantee for 10% on total order value, which has to be valid for the guarantee period. All bank charges outside India are to supplier's account. Lump sum erection and commissioning charges, if any, shall be payable after satisfactory erection and commissioning of the equipment by sight draft against certificate issued by the competent authority.

5.7.3 **Common to both Indian & Foreign Bidders**

E&C charges will be released after deduction of Income Tax as per the Govt. of India rules. The TDS certificate will be issued by BHEL. Applicable service tax on E&C charges will be payable extra. The liability of depositing the same to the Govt. will be of the supplier.

5.8. **DUNS** number (allotted by M/s DUN & Bradstreet) shall be mentioned in your offer.

5.9. **Contract Execution Bank Guarantee (CEBG):** The successful tenderer shall furnish a Bank Guarantee for 5% of the Purchase Order value confirming that the order will be executed as per the terms and conditions and this should be valid till the acceptance of the machine / equipment at BHEL, Tiruchirappalli (i.e., after erection and commissioning is completed). In case of foreign supplier, LC will be established only after receipt of CPBG.

**5.10. Performance Bank Guarantee (PBG):** The supplier shall furnish a Bank Guarantee from an Indian Bank approved by BHEL, at no extra cost in a proforma prescribed by BHEL (which shall be sent along with the order), for an amount equivalent to **10% (Ten percent)** of the value of the contract. The PBG shall be valid for period of **24 months** from the date of acceptance of the equipment at BHEL, Tiruchirappalli, with additional claim period of 2 months.

The Performance Bank Guarantee shall be obtained from any one of the following banks that is a member bank in our consortium of banks.

1) State Bank of India, 2) State Bank of Hyderabad, 3) State Bank of Travancore, 4) State Bank of Mysore, 5) Canara Bank, 6) Bank of Baroda, 7) Punjab National Bank, 8) Deutsche Bank, 9) HDFC Bank, 10) Standard Chartered Bank, 11) Citi Bank, 12) Standard Chartered Grindlays Bank, & 13) Bank of America or any Nationalised Bank

**5.11. Liquidated damages :** It is clearly understood among the parties to the contract the **“ Time is the essence of the contract ”**. Therefore, the delivery of the goods specified in the purchase order should be made within the time prescribed. Failure to dispatch the materials in the time as per the delivery quoted in our Purchase Order would make the supplier liable to an un-conditional penalty at the rate of 1/2% of the value of goods for each week of delay subject to a maximum of 15% of the order value.

**5.12. Risk purchase :** Alternatively the purchaser at his option will be entitled to terminate the contract and to purchase elsewhere at the risk and cost of the seller either the whole of the goods or any part which the supplier has failed to deliver or despatch within the time stipulated as aforesaid or if the same were not available, the best and the nearest available substitute therefor. The supplier shall be liable for any loss, which the Purchaser may sustain by reason of such risk purchases.

**5.13. Indian Agent & Agency commission :** An Indian Agent can represent only one Foreign Manufacturer against a particular Enquiry. Agency commission if any, payable to their Indian Agents, shall be shown separately in the Offer. This will be paid by us in Indian Rupees, on satisfactory completion of the Contract. Copies of current Agency Agreement / Authorization Letter in respect of Agency Commission shall be furnished along with offer. For calculation of Rupee equivalent of Agency Commission, exchange rate as prevailing on the date of Purchase Order will be taken.

**5.14. Short shipment / Warranty replacement:** In case of any short shipment in the main equipment / spares, customs duty levied on such supplies, shall be borne by the supplier. Any warranty replacement during the warrantee period shall be on FOR., BHEL, Tiruchirappalli, basis.

**5.15. Inspection & Testing:** All goods shall be subject to inspection by BHEL or its authorized representatives at supplier's works or at BHEL stores or at any other place in India indicated by BHEL as the case may be. The supplier will not charge for the facilities provided for inspection of goods. In case of machine tools, the machine would be inspected and proved at supplier's works prior to dispatch however, final inspection and acceptance of the machine will be carried after installation of the machine at BHEL, Tiruchirappalli.

5.16. **Test certificates / Operating and Maintenance manuals:** The Bidders shall clearly mention in their offer, that Test Certificates and Operating Maintenance Manuals, etc., as called for in the Technical Specification, in the required number of copies will be provided at no extra cost.

5.17. **Modvat credit :** (for Indian Bidders only) The quotation must indicate Tariff item number and rate of Excise Duty applicable. The original Excise Duty Gate Pass will be required to be furnished in case charged to us. If the tender is availing **MODVAT** credit for his input materials, the effect of proforma credit should be passed on to the purchaser.

5.18. **Packing:** The Supplier shall arrange for packing suitably in all respects considering the peculiarity of the material involved for normal transport by sea / rail / road and suitably protected against effect of tropical salt laden atmosphere in the event of shipment being delayed at ports.

5.19. **Salient points of HSE** (Health Safety & Environment) that are to be considered while submission of offer are:

- 5.19.1 Consumption benchmarks related to output shall be provided wherever applicable for key input resources (energy/fuel/chemicals)
- 5.19.2 Competency requirements for operation, maintenance and calibration, if any, shall be communicated
- 5.19.3 If any hazardous chemicals as per MSIHC (Manufacturing, Storage and import of Hazardous Chemicals) Rules 1989/94/2000 are used, the MSDS shall be provided, along with On site & Off site emergency plan (as applicable)
- 5.19.4 The noise level at operator level shall be within 90 dBA
- 5.19.5 OH&S (Occupational Health and Safety) control measures for safe working of machine as applicable shall be specified.
- 5.19.6 The machine / equipment shall be fitted with guard for rolling and moving parts and shall comply with applicable OH&S legislations and Factories Act 1948
- 5.19.7 The supplier shall submit the layout drawing of operating controls, displays etc. and operating instructions to enable ergonomics evaluation and approval
- 5.19.8 The recommended PPE (Personal Protective Equipment) for the equipment shall be furnished
- 5.19.9 Alarm system (both visual and audible) and Automatic switch off of the equipment shall be provided for any intrusion, overloading, short circuiting or any malfunctioning of the equipment
- 5.19.10 Details of all hazardous / harmful substances discharged as by-products / wastes during operations of the machine / equipment, such as fumes, gases, dust particles, aerosols UV./IR (Ultra violet / infra red) radiations, etc. shall be furnished, along with their concentrations and their TLV, (Threshold Limit Value).
- 5.19.11 Appropriate pollution control measures shall be proposed to keep the emissions from the machinery / processes within the prescribed limit as stated in Environment Protection Rules 1986.

- 5.19.12 All furnaces, process units, DG sets, paint booths, shot blasting chambers, etc shall be provided with stack(s) of sufficient height as per guidelines laid down in the Environment Protection Rules 1986.
  - 5.19.13 Wherever industry specific standards are not available for control of pollutants, general emission standards shall be used
  - 5.19.14 Chemicals banned due to their negative impact on the environment shall not be used in the process
  - 5.19.15 Fuels with sulphur content less than 0.05% shall be proposed
  - 5.19.16 Details regarding nature of waste generated and appropriate disposal practices available shall be provided, along with the operation procedure of the plant / process.
  - 5.19.17 Hazardous chemicals and flammable substances shall be transported only through authorized transporters and all safety practices as laid down in applicable legislative requirements such as Central Motor Vehicle Rules, Manufacture, Storage and Import of Hazardous Chemical 1989, etc. shall be followed
  - 5.19.18 Primary materials used in the equipment shall be specified and they shall be eco – friendly
- 5.20. Evaluation of offers shall be on the basis of delivered cost.
- 5.21. BHEL also reserve its right to allow to the Public Sector Enterprises ordering and price preference facilities as admissible under the existing policy.
- 5.22. BHEL reserves its right to reject an tender due to unsatisfactory past performance in the execution of a contract at another project / unit.
- 5.23. BHEL shall be at liberty to reject or accept any tender, part or in full, at their own discretion and any such action is not liable for any question or claim against BHEL.

## (Check List - to be filled and submitted along with Offer)

BHEL Commercial Terms and Conditions applicable for Indian bidders	Bidder's Confirmation (Yes / No) / Comments
Technical confirmation to BHEL's Specification as called for in BHEL Format is furnished.	
Prices have been quoted item wise only as per the model format enclosed.	
Prices have been quoted on "FIRM PRICE" basis only. The prices are on FOR/Dispatching Station basis inclusive of Packing & Forwarding charges if any. Applicable % of ED, Sales Tax & any other taxes have been mentioned.	
Validity of offer is for a minimum period of 120 days from the date of Tender opening	
Delivery period from the date of Letter of Intent has been mentioned in the offer.	
Confirmation for acceptance of Liquidated damages @ ½% per week subject to a maximum of 15% of the order value has been given in the offer.	
Confirmation for acceptance of the following Risk Purchase clause is available in the offer: The Purchaser at his option will be entitled to terminate the contract and to purchase elsewhere at the risk and cost of the seller either the whole of the goods or any part which the supplier has failed to deliver or dispatch within the time stipulated or if the same were not available, the best and the nearest available substitute therefore. The supplier shall be liable for any loss, which the Purchaser may sustain by reason of such risk purchases.	
Confirmation for acceptance of Payment terms is available in the offer: 100% payment, within 45 to 90 days, after receipt / acceptance / commissioning of equipment at BHEL, Tiruchirappalli, against submission of 10% Performance Bank Guarantee on total order value.  or 80% payment against documents through bank within 45 to 90 days, (after pre-despatch inspection) and balance 20% payment after receipt / acceptance / commissioning of the equipment within 45 to 90 days, against submission of 10% Performance Bank Guarantee on total order value. All bank charges to vendor's account only.	
Confirmation to provide Contract Execution Bank Guarantee (CEBG) for 5%, valid till the acceptance of the machine / equipment at BHEL, Tiruchirappalli (i.e., after erection and commissioning is completed), of the Purchase Order value confirming that the order will be executed as per the terms and conditions.	
Erection / commissioning charges if any has been mentioned in the offer or else confirmation that Erection / commissioning shall be done at free of cost is available in the offer.	

Confirmation for submission of Performance Bank Guarantee (PBG) is available in the offer: Vendor should provide a performance Bank Guarantee(PBG) for 10% of the total Purchase order value valid for a period of 24 months from the date of acceptance with an additional claim period of 2 months. This PBG is to be submitted for effecting the balance 20% payment. The Performance Bank Guarantee shall be submitted in Non-judicial stamp paper value not less than Rs. 100/- issued by any one of the following banks. 1) State Bank of India, 2) State Bank of Hyderabad, 3) State Bank of Travancore, 4) State Bank of Mysore, 5) Canara Bank, 6) Bank of Baroda, 7) Punjab National Bank, 8) Deutsche Bank, 9) HDFC Bank, 10) Standard Chartered Bank, 11) Citi Bank, 12) Standard Chartered Grindlays Bank, & 13) Bank of America or 14) Any one of the Nationalised Banks.	
Confirmation that any warranty replacement during warranty period shall be supplied free of charge on FOR BHEL, Tiruchirappalli basis is available in the offer.	
Confirmation that all Equipment ordered will be inspected and proved at vendor's works prior to dispatch. However final inspection and acceptance of equipment will be after installation at BHEL, Tiruchirappalli.	
Confirmation that the equipment shall be guaranteed for a period of 24 months from the date of acceptance.	
Confirmation that the vendor shall provide necessary drawings, Test Certificates and Operating Maintenance Manuals etc., as called for in the Technical Specification, in the required number of copies at no extra cost.	

**NOTE:-**

- a) It is confirmed that all the terms and conditions stipulated in the Enquiry have been fully understood by us and all clarifications & details have been obtained.
- b) Confirmation for acceptance to Payment terms, LD, Risk Purchase Clause & Submission of CEBG & PBG are mandatory and essential for consideration of offer.

Signature & Office Seal of the bidder



## (Check List - to be filled and submitted along with Offer)

BHEL Commercial Terms and Conditions applicable for foreign bidders	Bidder's Confirmation (Yes / No) / Comments
Technical confirmation to BHEL's Specification as called for in BHEL Format is furnished.	
Prices have been quoted item wise only as per the model format enclosed.	
Prices have been quoted on "FIRM PRICE" basis only. The prices are on FOB/FCA basis inclusive of Packing & Forwarding charges if any.	
Validity of offer is for a minimum period of 120 days from the date of Tender opening	
Delivery period from the date of Letter of Intent has been mentioned in the offer.	
Confirmation for acceptance of Liquidated damages @ ½% per week subject to a maximum of 15% of the order value has been given in the offer.	
Confirmation for acceptance of the following Risk Purchase clause is available in the offer: The Purchaser at his option will be entitled to terminate the contract and to purchase elsewhere at the risk and cost of the seller either the whole of the goods or any part which the supplier has failed to deliver or dispatch within the time stipulated or if the same were not available, the best and the nearest available substitute therefore. The supplier shall be liable for any loss, which the Purchaser may sustain by reason of such risk purchases.	
Confirmation for acceptance of Payment terms (for Foreign Principal) is available in the offer: 80% value of the goods will be paid through an irrevocable non-confirmed Letter of Credit established by our bankers. Balance 20% will be paid against acceptance / commissioning of goods for which supplementary invoice and PBG for 10% of total Purchase order value shall be submitted. All bank charges outside India are to vendor's account only.	
Confirmation to provide Contract Execution Bank Guarantee (CEBG) for 5%, valid till the acceptance of the machine / equipment at BHEL, Tiruchirappalli (i.e., after erection and commissioning is completed), of the Purchase Order value confirming that the order will be executed as per the terms and conditions. LC will be established only after receipt of CEBG	
Confirmation for acceptance of Payment terms for Indian Agent is available in the offer: Indian Agency commission, if any, shall be clearly specified in the offer and the same will be paid in Indian Rupees against acceptance / commissioning of the equipment.	
Erection / commissioning charges if any has been mentioned in the offer or else confirmation that Erection / commissioning shall be done at free of cost is available in the offer.	

Confirmation for submission of Performance Bank Guarantee (PBG) is available in the offer: Vendor should provide a performance bank guarantee (PBG) for 10% of the total Purchase order value valid for a period of 24 months from the date of acceptance with an additional claim period of 2 months. This PBG is to be submitted for effecting the balance 20% payment.	
Confirmation that Part Shipment or Transshipment will not be done	
Confirmation that in case of any short shipment in the main equipment / spares, where separate rates are not available in the contract, the customs duty levied on such supplies , shall be borne by the supplier / Indian agent is available in the offer.	
Confirmation that any warranty replacement during warranty period shall be supplied free of charge on FOR BHEL, Tiruchirappalli basis is available in the offer.	
Confirmation that all Equipment ordered will be inspected and proved at vendor's works prior to dispatch. However final inspection and acceptance of equipment will be after installation at BHEL, Tiruchirappalli.	
Confirmation that the equipment shall be guaranteed for a period of 24 months from the date of acceptance.	
Confirmation that the vendor shall provide necessary drawings, Test Certificates and Operating Maintenance Manuals etc., as called for in the Technical Specification, in the required number of copies at no extra cost.	

**NOTE:-**

- a) It is confirmed that all the terms and conditions stipulated in the Enquiry have been fully understood by us and all clarifications & details have been obtained.
- b) Confirmation for acceptance to Payment terms, LD, Risk Purchase Clause & Submission of CEBG & PBG are mandatory and essential for consideration of offer.

Signature & Office Seal of the bidder

**MODEL PRICE BID FORMAT FOR INDIAN BIDDERS**

Enquiry No. &amp; Date:

Bidder's Offer No. &amp; Date:

Sl No.	Description of item	Unit	Quantity	Rate in Rs.	Value in Rs.
	The price indicated shall be inclusive of all accessories, spares etc. as given in the scope of supply. Individual item-wise break-up price shall be attached as an annexure to this price bid format.				
	Ex-Works value in Rs.				
	Packing & Forwarding charges in Rs.				
	FOR Dispatching station value in Rs.				
	Freight charges from Dispatching station to BHEL, Tiruchirappalli				
	Excise Duty (indicate the % as well as value)				
	Taxes (indicate the % as well as value)				
	Surcharge on tax, if any (indicate the % as well as value)				
	Any other taxes/duties applicable (indicate the % as well as value)				
	Approximate transit insurance charges in Rs.				
	Approximate Net weight of the total consignment				
	Approximate Gross weight of the total consignment				

**The price bid should be submitted only as per the above format. No row shall be left blank. Please indicate NA, in case the item is "not applicable"**

**MODEL PRICE BID FORMAT FOR FOREIGN BIDDERS**

Enquiry No. &amp; Date:

Bidder's Offer No. &amp; Date:

Sl No.	Description of item	Unit	Quantity	Rate in (indicate FC)	Value in (indicate FC)
	The price indicated shall be inclusive of all accessories, spares etc. as given in the scope of supply. Individual item-wise break-up price shall be attached as an annexure to this price bid format.				
	Ex-Works value.				
	Packing & Forwarding charges				
	FOB Charges				
	FOB Value (indicate the name of the Port)				
	Freight charges to Chennai Port				
	C&F Value (Chennai Port)				
	Transit Insurance charges				
	CIF Value (Chennai Port)				
	Approximate Net weight of the total consignment				
	Approximate Gross weight of the total consignment				

The price bid should be submitted only as per the above format. No row shall be left blank. Please indicate NA, in case the item is "not applicable"

**Formats for execution of Bank Guarantees:**

**Note:- The Bank Guarantee bonds (BG) are to be submitted on non-judicial stamp paper of Rs. 100/- and should be only from any one of the below mentioned Banks, (1.State Bank of India, 2.State Bank of Hyderabad, 3.State Bank of Travancore, 4.State Bank of Mysore, 5.Canara Bank, 6.Bank of Baroda, 7.Punjab National Bank, 8.Deutsche Bank, 9.HDFC Bank, 10.Standard Chartered Bank, 11.Citi Bank, 12.Standard Chartered Grindlays Bank & 13.Bank of America)**

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**A. CONTRACT EXECUTION BANK GUARANTEE**

**This** deed of guarantee made this ..... day of ..... 200.. by the ..... in favour of **Bharat Heavy Electricals Limited, Tiruchirapalli** having its registered Office at New Delhi with its Unit Office at Tiruchirapalli (Hereafter called the first party) where as M/s..... having its registered office at ..... (hereafter called the contractor) have entered in to contract with the first party for the supply of ..... vide purchase order No ..... dated .....

**And** whereas the contractor M/s ..... have approached the ..... for a guarantee and at their request and in consideration of the arrangement arrived at between the contractor and the BHEL Tiruchirapalli the said ..... has agreed to give such guarantee as herein after mentioned to the aforesaid first party.

**Now** therefore, these present witness that we the ..... do hereby undertake to the first party a sum of Rs ..... (Rupees ..... only) without demur/on demand being made by the said first party and to keep the first party indemnified to the extent of Rs ..... (Rupees ..... only) by virtue of this guarantee against any breach in execution of contract without giving prior information to the party of the same (the decision in this respect being solely the discretion of the first party). We further undertake to pay ..... the aforesaid amount in the lump sum on demand without demur or such part thereof as the first party may demand from time to time, irrespective of the fact whether the said contractor admits or denies such claim or questions its correctness in any court tribunal of arbitration proceedings or before any authority.

**The** aforesaid guarantee will remain in full force and we shall be liable under the same irrespective of any concession for time being granted by the said first party to contractor M/s ..... in or for fulfilling the said agreement between the contractor M/s ..... and the first party and the guarantee will remain in full force till ..... irrespective of any change of terms, conditions or stipulation or any variations in the terms of said agreement irrespective of whether notice of such change or variation is given to us or not and claim to receive such notice of any change and/or variation of the terms and/or conditions of the said agreement is hereby specifically waived by us.

**Further** we shall not be released from this guarantee by any forbearance or the exercise or non exercise of any of the power or rights under the said agreement by the said first party against the contractor irrespective of whether notice of such forbearance enforcement or non-enforcement of any power or rights, modifications or changes made in the said agreement or concessions shown to contractor M/s ..... by the first party is given to us or not.

**The guarantee** herein contained shall not be determined or affected by the liquidation of winding up or insolvency of or change in the constitution of the contractor M./s ..... but shall in all respects and for all purposes binding and operative until all payments of all moneys dues or that may hereafter becomes due to the said first party is paid in respect of any liability or obligation for the contractor under this guarantee subject to however that the first party shall have no right under this guarantee after expiry of six months from the date of completion of the contract unless this guarantee is extended by mutual agreement.

**And** lastly we ..... undertake not to revoke this guarantee during its currency except with the previous consent of the first party in writing. The ..... hereby declares that it has power to issue this guarantee under the Company's memorandum and article of association and the undersigned has full power to do so on its behalf under the power of attorney dated ..... granted to him by the proper authorities of the Company.

**Notwithstanding** anything contained here in before, our liability under this guarantee is restricted to Rs ..... (Rupees ..... only). Our guarantee shall remain in force till ..... unless a claim in writing is presented to us and if unpaid a suit or action to enforce such claim is filed against within 6 months from the date, all your rights under this guarantee shall be forfeited and we shall be released and discharged from all liability there under.

**Dated** ..... the ..... by its constituted attorney.

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## **B. PERFORMANCE BANK GUARANTEE**

1. In accordance of M/s Bharat Heavy Electricals Limited (A Government of India undertaking, a Company incorporated under the Companies Act 1956 having its Registered Office at 'BHEL House", SIRI Fort, New Delhi 110 049) through its High Pressure Boiler Plant Division located at Tiruverumbur, Tiruchirapalli 620014 (hereinafter called "the Company") having entered into a contract with ..... hereinafter called "the said contractor" which term includes 'suppliers' for the purpose of this Bond and under the terms and conditions of the Contract No: ..... dated ..... between BHEL, Tiruchirapalli and as per the contract, the contractor/supplier is to furnish a Performance Bank Guarantee for Rs ..... for the due performance of the equipment to be supplied under

the above referred contract and for the fulfilment of all the terms and conditions of the contract. We ..... (indicate the name of the Bank) (herein after referred to as the Bank) at the request of ..... (contractor(s)) do hereby undertake to pay the Company an amount not exceeding Rs ..... against any loss or damage caused to or suffered or would be caused to or suffered by the Company by reason of any breach by the said contractor (s) of any of the terms and conditions contained in the said agreement.

2. We ..... (indicate the name of the Bank with full address), do hereby undertake to pay the amounts due and payable under this guarantee without any demur, merely on a demand from the Company stating that the amount claimed is due by way of loss or damage caused to or would be caused to or suffered by the Company by reason of breach by the said Contractor(s) of any of the terms and conditions contained in the said Agreement or by the reason of the contractor(s) 'failure to perform' the said Agreement. Any such demand on the Bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs .....
3. We undertake to pay unconditionally to the Company any money so demanded notwithstanding any dispute(s) raised by the Contractor in any suit, or proceedings pending before any Court or Tribunal or Arbitration or before any other authority relating thereto our liability under this present being absolute and unequivocal. The payment under this guarantee would not wait till the disputes have been decided by any Court or Tribunal or in the arbitration proceedings or by any other authority. The payment so made by us under this Bond shall be a valid discharge of liability for payment there under and the Contractor (s) shall have no claim against us for making such payment.
4. We ..... (indicate the name of Bank), further agree that the guarantee herein contained shall remain in full force and effect during the period that would betaken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of the Company under or by virtue of the said Agreement have been fully paid and its claim satisfied or discharged or till ..... Office/Department/Division of the Company certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said Contractor(s) and accordingly discharges this guarantee.
5. (i) Unless a demand or claim under this agreement is made on us in writing on or before the ..... we shall be discharged from all the liability under this guarantee thereafter. But where such claim or demand has been preferred by the Company with the Bank before the expiry of the said date, the claim shall be enforceable notwithstanding the fact that the said enforcement is effected after the said date.

(ii) For the purpose of this clause, any letter making demand on the Bank by M/s BHEL will be dispatched by Registered Post with Ack. Due or by Telegram

or by any Electronic media addressed to the above mentioned address of the Bank shall be deemed to be the claim/demand in writing referred to above irrespective of the fact as to whether and when the said letter reaches the Bank, as also any letter containing the said demand or claim is lodged with the Bank personally.

6. We ..... (indicate the name of the Bank), further agree with the Company that the Company shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said agreement or to extend time of performance by the said Contractor(s) from time to time or to postpone for any time or from time to time any of the powers exercisable by the Company against the said Contractor (s) and to forbear or enforce any of the terms and conditions relating to the said Agreement and we shall not be relieved from our liability by any reason of any such forbearance, act or omission on the part of the Company or any indulgence by the Company to the said Contractor(s) or by any such matter or thing whatsoever which under the law relating would, but for this provision, have effect of not so relieving us.
7. This guarantee will not be discharged due to the change in the constitution of the Bank or the Contractor(s)
8. It shall not be necessary for the Company to proceed against the contractor before proceeding against the guarantor-Bank and the guarantee herein contained shall be enforceable against them notwithstanding any security, which the Company may have obtained or obtain from the Contractor shall, at the time when proceedings are taken against the guarantor hereunder be outstanding or unrealised.
9. Any claim or dispute arising under the terms of this document shall only be enforced or settled in the Courts at Tiruchirappalli.
10. The guarantor hereby declare that it has power to execute this guarantee and the executant has full powers to do so on its behalf under the proper authority granted to him/them by the guarantor
11. We ..... (indicate the name of Bank) lastly undertake not to revoke this guarantee during its currency except with the previous consent of the Company in writing.

In witness whereof we ..... (indicate the name of Bank) have hereunto set out Bank Seal the ..... Day ..... month 200.