



# Bharat Heavy Electricals Limited

Sub-Contracting (Turbine)

HEEP, BHEL, Ranipur, Haridwar-249403 (Uttarakhand)

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## TENDER ENQUIRY NO.: X/6600/2022/0010/T/1

### NIT-NOTICE INVITING TENDER (OPEN TENDER IN TWO PART BID) THROUGH BHEL E-PROCUREMENT PORTAL

Salient Details of Notice Inviting Tender (NIT)		
Sl. No.	Issue	Description
1	Item details	As per Annexure-A of Tender Enquiry No. X/6600/2022/0010/T/1
2	Issue of Tender documents	From BHEL eProcurement website <a href="https://eprocurebhel.co.in/nicgep/app">https://eprocurebhel.co.in/nicgep/app</a> (Tender documents will be available for downloading from BHEL e-Procurement website till due date of submission)
3	Tender issue date	<b>23-06-2022</b>
4	Due date of offer submission	<b>Date: 14-07-2022 Time: 13:45 Hrs</b> <b><a href="https://eprocurebhel.co.in/nicgep/app">https://eprocurebhel.co.in/nicgep/app</a></b> <b>Offer to be submitted in online only through e-procurement Portal.</b> (Bidders are requested to visit website to view corrigendum/ addenda/ amendments/ extension/ modification etc. before submitting offer).
5	Opening of Tender (Techno-Commercial Bid)	<b>Date: 14-07-2022 Time: 14:00 Hrs</b> Note: <b><i>This tender being an e-tender, it shall be opened online only through the E-Procurement Portal. Participating bidders may witness the opening online only.</i></b>
6	EMD (Earnest money deposit)	<b>Nil</b>
7	Latest updates	Latest updates on the important dates, Amendments, Correspondences, Corrigenda, Clarifications, Changes, Errata, Modifications, Revisions, etc to Tender Specifications will be hosted in BHEL e-tender portal <a href="https://eprocurebhel.co.in/nicgep/app">https://eprocurebhel.co.in/nicgep/app</a> and not in the newspapers. Bidders to keep themselves updated with all such information.

Please submit your offer only for the above requirement subject to compliance of GENERAL INSTRUCTIONS AND STANDARD TERMS & CONDITIONS (Version: June-2021, Rev.06). Please visit our site [www.hwr.bhel.com](http://www.hwr.bhel.com) for General Instructions and Standard Terms & Conditions (GISTC) for Tender Enquiries.

A Valid MSE certificate such as Udyam Registration Certificate/NSIC/EM (Part-II) etc. issued from competent authority shall be submitted in support of Micro & Small Enterprises (MSEs).

As per the OM No. F. No. 1(2)(1)/2016-MA dated. 09.02.2017 issued from the Office of Development Commissioner (Micro, Small & Medium Enterprises), "Traders and agents should not be allowed to avail the benefits extended under the PP Policy."

**TECHNICAL QUALIFICATION:** Technical Requirements, Pre-Qualifying Requirements (PQR) to be submitted. It is the mandatory requirement. Offer of vendors not meeting these requirements may not be considered.

**Bids shall be submitted by vendors as per General Terms & conditions and Acceptance of Technical & Commercial terms by vendor as per Annexure-B.**

*Drawings of Tender items and other documents will be provided only after receipt of Non-Disclosure and Proprietary Information Agreement (Duly filled, signed and stamped, on each pages) by the vendor. Vendor can provide scanned copy of Non-Disclosure and Property Information Agreement through e-mail and ask for drawings & documents well before opening date and time of enquiry. BHEL Haridwar registered vendors are exempted for submission of Non-Disclosure and Proprietary Information Agreement. Format of Non-Disclosure and Property Information Agreement is attached with tender document.*

Please submit your lowest quotation / offer for the above requirement subject to our terms and conditions.

### **E-Procurement Portal Inputs**

Procedure for Submission of Offer for E-Tender procedure for Submission of Tender is available in the "Bidder Manual for BHEL Bidders" at E-tender portal <https://eprocurebhel.co.in/nicgep/app>.

Terms and conditions mentioned therein shall form integral part of the NIT and bidders shall abide by the same.

### **Hardware and Software requirements for participating in e-tender**

Please refer the website for the minimum system requirements and setting document for Bidders under the link: <https://eprocurebhel.co.in/nicgep/app>

### **Digital Signature**

Bidders against tender will necessarily have to obtain class – III DSCs. Procedure for application available on [www.bhel.com](http://www.bhel.com). To know the procedure for obtaining Digital Signature Certificate (DSC), suppliers who are not having the DSC are advised to visit our website [http://www.bhel.com/home.php/TenderNotifications/Sample Checklist](http://www.bhel.com/home.php/TenderNotifications/SampleChecklist).

### **NIC portal Helpdesk Contacts**

For any technical related queries please call at 24 x 7 Help Desk Number

0120-4001 002

0120-4200 462

0120-4001 005

0120-6277 787

International bidders are requested to prefix 91 as country code

### **Email Support**

A) For any Issues or Clarifications relating to the published tenders, bidders are requested to contact the respective Tender Inviting Authority.

B) For Technical support: [eproc@nic.in](mailto:eproc@nic.in)

**Note:** Offers/tenders submitted in the E-tender portal shall only be considered for further evaluation. Offers sent by FAX / E-mail / any mode other than E-tender would not be entertained.

**SPECIAL NOTE:** All documents to be submitted should be uploaded in respective places in the E-Tender portal as per the list mentioned given in this NIT. BHEL shall not be responsible for incomplete documents.

KINDLY READ “**ESSENTIAL INSTRUCTIONS FOR BID SUBMISSION**” THOROUGHLY. QUOTATION NOT IN ACCORDANCE WITH THE ABOVE INSTRUCTION ARE LIABLE TO BE DISQUALIFIED AND IGNORED.

## **ESSENTIAL INSTRUCTIONS FOR BID SUBMISSION**

### **Clause 1.0 – Tender submission and opening**

The tenders shall be submitted in **TWO PARTS** as described below on or before the due date and time of tender opening:

- a) Part-I (Cover I) : 1. Pre-Qualifying Requirement (PQR) duly filled and required documents as asked in PQR.
2. Techno-Commercial Bid. Techno-Commercial Terms & Conditions as per Annexure-B should be filled by vendor and submitted along with part-1 of tender enquiry.
3. Replica of price bid (un-priced quotation) must be enclosed with part-1 of tender enquiry.
4. Certificate as per Annexure-F (In line with Government Public Procurement Order No. P-45021/2/2017-BE-II dt. 15.06.2017 & P 45021/2/2017-P (BE-II) Dated 28.05.2018).
5. Valid MSE certificate applicable for Micro and small Enterprises as mentioned in Tender Enquiry.
6. Deviation with reference to specification to be laid down on separate sheet. Cost of deviation is to be submitted along with the price bid essentially. In case vendor withdraws the deviation clauses the same will be considered for final evaluation.
7. Any other related documents.
- b) Part-II (Cover II): The Price Bid in BOQ format shall comprise of the price bid only (with price) as per Tender Enquiry.

Part II containing Price Bid will be opened on a separate date for those vendors who have qualified in the Part I. The opening date of Part II will be intimated in advance to the vendors qualified in Part-I.

If replica of price bid (un-priced) is not submitted along with Part-I bid, the offer is liable to be rejected.

- Any corrections / amendments shall be properly & fully authenticated with signature.

The bidders will have to submit signed offer / bid through BHEL NIC portal only. Each page of quotation should be signed and stamped by authorized representative of vendor, else the offer is liable to be rejected.

**Unsigned bids are liable to be ignored.**

Terms and conditions agreed by vendor in techno-commercial bid shall be finalized before price bid opening and any terms mentioned by vendor in price bid shall not be considered.

**Clause No. 2.0:**

**As per directives of CENTRAL VIGILANCE COMMISSION, GOVERNMENT OF INDIA, one agent can not represent two or more suppliers or quote on their behalf in a particular tender. If so found at any stage, BHEL Hardwar is likely to cancel Enquiries / POs to such suppliers. Further, such Indian Agent is likely to be de-listed (Black listed for business from BHEL)**

**Clause No. 3.0:**

**The offers of the bidders who are on the banned list and also the offer of the bidders, who engage the services of the banned firm, shall be rejected. The list of banned firms is available on BHEL website [www.bhel.com](http://www.bhel.com)**

## **General Terms & conditions of Tender Enquiry:**

### **1. Loading Criteria**

- a) The offers of vendors not meeting our delivery requirement, as indicated in enquiry will be loaded @ 0.5% per week for the period by which their delivery exceeds delivery schedule of tender enquiry. This loading will be for price comparison purpose only. Where deliveries quoted by vendors are not suiting, BHEL may ignore the offer of vendor.
- b) Prices should be quoted on F.O.R. Destination basis. The offers quoted on other than F.O.R destination basis may result in non-consideration of such bids. In case BHEL accepts the EX-Works prices such offers will be loaded with actual freight charges as per BHEL freight rate contract.
- c) Please quote your rates on FOR destination basis. However, the insurance will be arranged by BHEL. You can dispatch goods through any Indian Bank Association approved transporters having their branch at Haridwar/destination. For your convenience the names and addresses of transporters approved by IBA & BHEL are posted at <https://hwr.bhel.com/bhelweb/Home.jsp>.” If any bidder still quotes on other than FOR destination basis, then his offer will be loaded by the maximum freight, packing & forwarding charges quoted by any other bidder from the same or nearby station, against the enquiry/freight rate available with BHEL.

### **2. Taxes & Duties:**

- a) The bidder to specify in their offer (part-1 bid) the category of their registration under GST like Registered, Unregistered or composite dealer.
- b) The GST registration number of Bharat Heavy Electrical Ltd, Heavy Electricals Equipment Plant, Ranipur, Haridwar is “05AAACB4146P1ZL” with state Code as “05” and State Name as “Uttarakhand”.
- c) Please quote our GST registration number in all invoices raised for supply of goods and services under GST regime and also ensure filing of timely return and payment of tax and compliance of other applicable provisions on supplier under GST regime.
- d) No GST will be reimbursed to unregistered or composite dealer. In the event, any GST is quoted by composite dealer, the same shall be added to the cost of supply in evaluating the bid.
- e) Since, input credit of GST will be available to BHEL-Haridwar only after correct filing of return and payment of applicable GST by supplier, reimbursement of GST shall be made by BHEL-Haridwar on matching of vendor inputs at GST portal, ensuring availability of input credit to BHEL Haridwar. Payment of GST will be made to vendor after matching of input credit and vendor to ensure submission of their invoices along with consent to accept payment of tax after such matching in all cases where bills are submitted directly to BHEL-Haridwar or through bank or under LC or through any other mode.
- f) Material should come back within one year positively from the date of challan against which material was sent to sub-contractor. In case material is not returned within 12 months period, applicable gst with interest from the date of challan shall become payable on expiry of one year period and the applicable gst with interest will be debited from sub-contractor account.
- g) In the event of any disallowance of input credit or applicability of interest or any other financial liability arises on BHEL-Haridwar due to any default of supplier under GST, such implication shall be to supplier’s account.
- h) In the event of any change in the status of the vendor after the submission of the bid but before the supply, GST applicable at the time of supply or in the bid, based on the registration status of the vendor, whichever is lower shall be payable.

- i) Where ever applicable If PAN (Permanent Account Number) of the recipient is not available, income tax is deductible either at the normal rate or at the rate of 20 percent, whichever is higher as per Section 206AA of Indian Income Tax Act 1961.
- j) The bidder shall clearly indicate HSN (Harmonized System Nomenclature) / SAC (Service Accounting Code), its description and applicable rate of GST for each item in his techno-commercial bid.
- k) Statutory Variation in Taxes & duties as applicable at the time of supply shall be payable. However, in the event of no change in law but bidder quoting certain tax structure in bid document which is lower than the applicable one, such amount shall be the maximum amount of tax that can be claimed by bidder.

***Vendors must ensure compliance of all the applicable rules and procedure as envisaged in the GST Regime. Any loss to BHEL-Haridwar due to fault / non-compliance by the vendor will be to the vendor's account.***

**3. Following MSE conditions shall be followed: -**

MSE Suppliers can avail the intended benefits only if they submit along with the offer, attested copies of either EM II certificate having deemed validity (five years from the date of issue of acknowledgement in EM II) or valid NSIC certificate or EM II certificate along with attested copy of a CA certificate (Format enclosed at Annexure-D where deemed validity of EM II certificate of five years has expired) applicable for the relevant financial year (latest audited). Date to be reckoned for determining the deemed validity will be the date of bid opening (Part 1 in case of two part bid). Attested copy of Udyam Aadhar certificate shall also be considered for availing intended benefit of MSE supplier. Non submission of such documents will lead to consideration of their bid at par with other bidders.

No benefit shall be applicable for this enquiry if any deficiency in the above required documents is found or the requisite documents are not submitted before price bid opening. If the tender is to be submitted through e-procurement portal, then the above require document are to be uploaded on the portal. Documents should be notarized or attested by a Gazette officer. Any new supplier will be eligible for registration with BHEL as MSE supplier provided at least any one of the following documents are submitted along with application for registration :- a) Valid NSIC Certificate or b) Entrepreneurs Memorandum part II (EM II) certificate (valid based on deemed validity of 5 years) or c) EM II certificate along with attested copy of CA Certificate (as per prescribed format at Annexure-D) applicable for the relevant financial year (latest audited), where the deemed validity of EM II is over or d) Udyam Aadhar certificate. However, credentials of all MSE supplier will be verified before advancing the intended benefits. MSE vendors claiming SC/ST status will have to submit SC/ST certificate of the Proprietor from competent authority. Attested (notarized or attested by Gazetted officer) copy to be submitted along with the offer.

In case techno-commercial accepted vendors include MSE source and their prices (based on landed cost to BHEL) are within the price band of 15% w.r.t. L-1 vendor, then BHEL can offer at least 25% of quantity of respective item (rounded off to next higher number) to MSE vendors at L-1 price and in case, more than one MSE vendor is in 15% band and the same is accepted by more than one MSE vendors then at least 25% quantities of respective items will be considered for ordering on proportionate basis amongst MSE vendors. While distributing the 25% quantity amongst MSE vendors the decimal points in quantity shall be ignored for all the vendors except the L-1 amongst MSE vendors. Balance quantity after allocating the quantity to other MSE vendors ignoring the quantities in decimal, shall be given to L-1 (amongst MSE) vendor. However, if there are more than one MSE vendor at the same price level then preference for additional quantities due to ignoring off the decimal (as mentioned above) shall be given to the vendor offering favourable terms to BHEL and if the

conditions offered are also same then preference will be given to the vendor having high SPR rating. In case there are more than one MSE vendors (with different landed cost to BHEL) within 15% price band of lowest bidder and quantity to be offered is 1 no. only, then preference shall be given to the MSE vendor with lowest landed cost. In case there are more than one MSE vendors (with same landed cost to BHEL) within 15% price band of lowest bidder and quantity to be offered is 1 no. only, then preference shall be given first, based on the favorable terms in the bid and in case terms are also same, the vendor with high SPR rating shall be given preference. If L1 vendor is MSE vendor, entire quantity will be given to such MSE vendor only.

**4. Treatment of offers submitted by agents in OT:**

- a) Either the agent could bid on behalf of the manufacturer/ supplier or the manufacturer/ supplier could bid directly but not both.
- b) In case bids are received from both the manufacturer/ supplier and the agent, bid received from the agent shall be ignored.
- c) The agent shall not be allowed to represent more than one manufacturer/ supplier in the same tender.
- d) The authorization letter from the manufacturer, clearly indicating contact details like Name, E-mail & address of manufacturer and relationship with agent and its validity to be submitted with bid. The authorization letter should be tender specific. In case order is to be placed and executed by the agent, the following aspects should be followed:
  - i) The manufacturer should meet the PQR requirement as defined in the tender.
  - ii) In order to establish capability of agent to execute the order, the agent should have annual turnover of at least equal to the estimated value of the goods required under the subject tender during one Financial Year and the Net worth of the bidder(agent) should be positive.
  - iii) Manufacturer and bidder should Jointly confirm Guarantee for the Quality of product and timely delivery as stipulated in the NIT.
- e) BHEL will deal directly with the manufacturers / principal vendors and no correspondence with the agents will be entertained. The agents will not be permitted to visit / interact with BHEL on behalf of their principals. Subsequently also, no correspondence of any type will be made with any agent. (All individuals / companies - representing / Advisor / retainer ship basis or claimed to be part time employees for many OEMs / claiming to be channel or business partner for BHEL work / stockiest not registered specifically etc. are Agents). Communications with only those agents who have submitted agency agreement with their respective principal may be done.

**5. Without explicit written permission from BHEL, Haridwar :**

- a) Vendors shall not pass on any Drawings/Documents or its contents/copy in any form which are being supplied by BHEL Haridwar with the Enquiry/Sub-Contract Order to any other party.
  - b) Vendors shall not Sub-Contract the work or part of it to any sub-vendor.
  - c) The Vendors shall not use BHEL Haridwar Drawings/documents (supplied by BHEL Haridwar) for supplying the item to any other party.
6. BHEL reserves the right to open the price bid (part-II) along with the opening of techno-commercial offer at its option and in that case vendor will be informed accordingly.
7. Prices shall be furnished per piece basis as per tender terms & conditions. *Else, the bid is liable for rejection.* Quotation must be clearly legible.
8. Call for stage/final inspection will be given 10 days in advance. Any delay in deputing inspector shall be added in the part lead time before calculating Late penalty (LD).
9. In the course of Evaluation, if more than one bidder happens to occupy L-1 status, effective L-1 will be decided by soliciting discounts from respective L-1 bidders. In case more than one bidder

happens to occupy the L-1 status even after soliciting discounts, the L-1 bidder shall be decided by a toss/ draw of lots, in the presence of respective L-1 bidder(s) or their representative(s). Ranking will be done accordingly. BHEL decision in such situations shall be final and binding.

10. Any item not included in this tender quoted above and shown separately will not be taken cognizance of and shall be ignored while evaluation.
11. BHEL will evaluate the technical bids against essential criteria/requirements. BHEL may seek clarifications, if required, from the qualified bidders only. These clarifications will be communicated to the eligible vendors through e-mail or they will be asked to attend techno-commercial discussions on specified dates. The bidders will be given 7 days' notice to come prepared with the required documents/ clarifications. No extension will be given. ***The offers of those bidders, who are unable to respond in this time frame, are likely to be ignored.***
12. All the bidders whose offers have been accepted by BHEL will be given notice for opening of their original price bid and supplementary impact bid (if applicable).
13. The quantity may undergo change at the time of ordering.
14. No standard gauges up to M42 shall be provided by BHEL.
15. All enclosures must be sent with the quotation with seal and signature.
16. In case of rejection, total material cost along with other commercial overheads will be recovered from Vendor.
17. Scrap generated during the machining operation is to be retained by the vendor free of cost (Treated as Deemed Sales) and vendor must adjust/pass on the benefit to BHEL while quoting the rates. Scrap generated during the machining operation is non-chargeable, only GST and applicable taxes on scrap value will be recovered from vendor's end. The scrap rate will be calculated based on the monthly market scrap price Published in MSTC Bulletin/any other document under category of scrap. The difference between raw material weight and finalized weight shall be considered for the calculation of scrap generation.
18. Vendor shall confirm that all the prescribed Technical and other requirements in the drawing will be achieved.
19. BHEL material will be supplied by BHEL Haridwar at Vendor's works at BHEL cost against Bank Guarantee and/or Indemnity Bond of vendor.
20. Sub-Contractor shall confirm the availability of Machines/ Measuring equipments of reqd. capacity and accuracy. Measuring equipments must have a valid calibration.
21. For each supply, vendor's are requested to raise separate Invoice along with Running Tally sheet (RTS), GST compliance Certificate (as per Annexure-E), Copy of BHEL GST challan, Material receiving (Material sent by BHEL at vendor's work) document at vendor's works & Guarantee certificate. In case vendor will not submit material receiving document, then GST challan date mentioned in GST challan shall be considered as material receiving date at vendor's work. All invoices must be submitted in AIX-Turbine, BHEL Hridwar for further payment processing.
22. Where Bank Guarantee and/or Indemnity Bond clause not accepted by vendor, BHEL may ignore the offer of vendors.

23. Each page of quotation should contain signature and stamp of authorized representative of vendor, else the quotation is liable to be rejected.
24. All the drawings are proprietary of bhel. In case of misuse, BHEL may take legal action against Vendor as per extant BHEL policy.
25. Prices are to be indicated in both figures and words. In case of any discrepancy of value, prices quoted in words shall be considered for evaluation and establishing L1 status.
26. Prices quoted should not be more than the prices quoted to any other BHEL units/offices/ divisions.
27. **The evaluation of tender shall be on the basis of “Total Landed cost at Destination”. For evaluation of foreign bids, exchange rate (TT selling rate of SBI) as on scheduled date of tender opening (Part-I bid opening) shall be considered. If the relevant day happens to be a bank holiday, then the Forex rate as on the previous bank (SBI) working day shall be taken.**
28. Applicable Taxes & duties should be indicated separately and clearly in the quotation.
29. In the event of BHEL calling for supplementary bid, the part-II price Bid along with supplementary priced bid (if necessary) will be opened at a later date of only those bidders who have qualified in the Part I. The opening date of Part II along with supplementary price bid (if necessary) will be intimated in advance to the vendors qualified in Part-I.
30. 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.
31. The material issued to sub-contractor as free issue material for machining/machining & assembly/ coating operations shall remain the property of BHEL, Haridwar. The sub-contractor shall use the above materials only for BHEL contract and for no other purpose whatsoever. The sub-contractor shall be liable for the loss or damage to above material from whatsoever cause happening while such material is in the possession or under the control of the sub-contractor. All the materials of BHEL, Haridwar shall under no circumstances be hypothecated to any Bank or to any lending institution or to any Party whatsoever. It should not also be shown as the sub-contractor’s assets in any of the statements of sub-contractor to any party. The sub-contractor shall produce document for the free issue material supplied to them to BHEL officials visiting the sub-contractor’s unit for verifications/inspection purposes at any time. If sub-contractor fails to produce or properly account for the material so issued, BHEL Haridwar will take further action as deemed fit including the recovery of the value of material as per BHEL norms from the sub-contractor’s running bills/ encash sub-contractor’s Bank Guarantee.
32. The Bidder declares that they will not enter into any illegal or undisclosed agreement or understanding, whether formal or informal with other Bidder(s). This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process. In case, the Bidder is found having indulged in above activities, suitable action shall be taken by BHEL as per extant policies/ guidelines.
33. New vendor, not registered in BHEL Haridwar for Tender items, may please visit at <https://supplier.bhel.in/> and submit their application with relevant documents.
34. If the war like situation has developed in a country where a vendor’s works involved in this tender is located or there is political instability and Indian Embassy located in that country forbids dealing with the said vendor or advises for not having any business dealing with vendor located in such zone /

region/ country, then BHEL reserves the right not to consider the offer of such a vendor or to cancel the order in case the order has already been placed and suspend further dealings till normalcy in the country/ region is confirmed by Indian Embassy.

35. For this Tender Enquiry, Public procurement (preference to Make in India), Order 2017 dated 04.06.2020 shall be applicable.

For this procurement, the local content to categorize a supplier as Class-I local supplier/ Class II local supplier/Non-local supplier and purchase preference to Class I local supplier, is as defined in Public procurement (preference to Make in India), Order 2017 dated 04.06.2020 issued by DPIIT. In case of subsequent orders issued by the nodal ministry, changing the definition of local content for the items of NIT, the same shall be applicable even if issued after issue of this NIT, but before opening of part-II bids against this NIT.

As defined under public procurement (Make in INDIA) notification dated 04.06.2020, only the 'Class-I local supplier' and 'Class-II local supplier' are eligible to bid against this enquiry. Hence, bids of non-local supplier (if any) will not be considered.

Accordingly, the 'Class-I local supplier' / 'Class-II local supplier' at the time of tender, bidding or solicitation shall be required to indicate the percentage of local content and provide self-certification that the item offered meets the local content requirement for 'Class-I local supplier'/'Class-II local supplier' and shall give details of the location(s) at which the local value addition is made.

**Date** :

**Signature** :

**Name** :

**Designation** :

**Department** :

**M/s**

**Items details of Tender Enquiry No. X/6600/2022/0010/T/1**

<b>S. No.</b>	<b>Drawing No.</b>	<b>Item Description</b>	<b>Qty. (No.)</b>	<b>Material by</b>
1	1203011840300	G. V LEVER	120	BHEL
2	1203012020300	G. V LEVER	60	BHEL

**TECHNO-COMMERCIAL TERMS & CONDITIONS AGAINST TENDER NO. X/6600/2022/0010/T/1**

<b>S. No.</b>	<b>BHEL Standard Terms &amp; conditions</b>	<b>Vendor's Acceptance/ Comments</b>
<b>1</b>	<b>Scope of Work:</b> <ul style="list-style-type: none"><li>• Machining of items (Refer Annexure-A) with BHEL material is to be carried out as per drawing/standard, Sketch for Tool relief slots, Technical requirements and quality requirements.</li><li>• With reference to TR-B6 of drawing, Hole for Shear Pin is not to be machined by vendor.</li></ul>	
<b>2</b>	<b>Quality Requirements:</b> <p>Inspection by BHEL/BHEL nominated inspection agency as per drawing/standard and quality plan requirements. Quality Plan no. QP/QA/20220010 rev 00 dtd. 15.06.2022 is attached, should be followed.</p> <ul style="list-style-type: none"><li>• Vendor should provide a summary sheet of documents for correlation.</li><li>• Vendor should mention relevant QP clauses on all reports for every lot.</li></ul>	
<b>3</b>	<b>Payment terms:</b> <p>90% payment will be done after receipt and acceptance of items in HEEP, BHEL, Haridwar and balance 10% payment will be done after final account of materials (i.e Scrap Accountal). Currency of payment will be Indian Rupees(₹). Quotation containing payment term other than above, is liable to be rejected.</p>	
<b>4</b>	<b>Validity:</b> <p>Validity of the offer should be minimum 120 days from tender opening date.</p>	
<b>5</b>	<b>ORDER ACCEPTANCE:</b> Order acceptance (ink-signed/ email) shall be given by vendor within 7 days after receipt of Purchase order through email otherwise it will be assumed that Order is acceptable to vendor.	
<b>6</b>	<b>Submission of Indemnity bond:</b> <p>Indemnity Bond (IB) of value ₹ 76.84 Lacs in BHEL prescribed format (Annexure-C) should be submitted. Without submission of Indemnity Bond, materials shall not be handed over to vendor. (The value of Indemnity Bond is for complete quantities of all items of the enquiry. <i>The vendor has to submit the Indemnity Bond for the value of item quantities issued/ordered on him, which will be communicated to vendor separately after placement of order</i>). BHEL reserves the right to ask for the Indemnity Bond for increased amount depending upon the material availability with the SUB-CONTRACTOR from time to time.</p>	

7	<p><b>TAXES:</b></p> <p>A. All statutory taxes, if any, will be deducted at source &amp; to be borne by the beneficiary. Tax deduction certificate shall be issued at the end of financial year if required. Quantum of TDS will be as per prevailing rates based on Availability / Non-availability of PAN. At present TDS rate without PAN is 20% and with PAN as per DTAA with the particular country.</p> <p>B. <b>Goods &amp; Service Tax (GST):</b> As applicable against documentary proof.</p> <p>C. Vendor status regarding registration (registered/un-registered/registered under composite scheme) under GST.  Vendor should mention GST registration no. in case of registered/registered under composite scheme.  In case of un-registered in GST, vendor should confirm with reason of not registration.</p> <p>D. <b>Input Tax Credit:</b> Input Tax Credit will be applicable for registered vendor only against documentary proof. No Input Tax Credit is applicable for unregistered/ composite registered supplier.</p>	
8	<p><b>Delivery and Transportation: -</b></p> <p>A. <b>Delivery Period:</b> Within 75 days of receipt of materials from BHEL Haridwar at vendor's works.</p> <p>B. <b>Transportation of BHEL Material:</b> By BHEL at vendor works on freight paid basis.</p> <p>C. <b>Delivery basis:</b> Delivery of finished item must essentially be FOR BHEL Haridwar basis. Freight for sending finished components from vendor works to BHEL Haridwar shall be borne by vendor at its own cost &amp; responsibility.</p>	
9	<p><b>Late delivery penalty Clause:</b> LD clause is applicable @0.5% per week or part thereof with a maximum limit of 10% of unexecuted portion.</p>	
10	<p><b>Guarantee Certificate:</b> Vendor should submit Guarantee Certificate along with each supply of components. Components shall warrant for requirements as per BHEL drawings and other technical conditions. If the same are found defective owing to faulty workmanship/incomplete work within a period of 18 Months from the date of receipt, the supplier shall make good of it / replace/ repair/ complete the same free of cost. If rework/ repairing/Completion etc. is done by BHEL, the charges for same shall be deducted from the Sub-Contractor account.</p>	
11	<p><b>Attending to any complaint during Guarantee period:</b> For any type of complaint (such as poor quality of machining/ machining &amp; assembly/ coating, poor performance etc.), vendor has to rectify the job without any financial implication (free of cost).</p>	

12	<p><b>Risk Purchase Clause:</b> In case of delays in supplies / defective supplies or non-fulfillment of any other terms and conditions given in the Purchase Order the purchaser may cancel the purchase order in full or part thereof, and may also make the purchase of such material from elsewhere / alternative source at the risk and cost of the supplier. In case vendor does not agree to above risk purchase clause, their offer is liable to be rejected. In case any vendor accepts risk purchase clause initially and subsequently declines to honor the term in the eventuality of RISK PURCHASE, they may be banned for business with BHEL.</p>	
13	<p><b>Settlement of Disputes:</b></p> <p>If any dispute, controversy or claim arising out of, relating to, or in connection with, this contract, or the breach, termination or validity thereof, arises, both parties hereto shall endeavor to settle such dispute amicably. Should this attempt fail, the disputes between the parties shall be resolved through arbitration in accordance with the Arbitration and Conciliation Act, 1996. The attempt to bring about an amicable settlement is considered to have failed as soon as one of the parties hereto, after reasonable attempts (which attempt shall continue for not less than 30 days); give 30 days' notice, in writing, invoking arbitration and calling upon the other party to constitute the tribunal as provided.</p> <p>All or any such disputes or differences arising between the parties to this contract shall be referred to an Arbitral Tribunal consisting of three arbitrators. Both the parties shall appoint one arbitrator each and the arbitrators appointed so by the parties shall appoint a presiding arbitrator.</p> <p>The venue of arbitration shall be Haridwar Courts, which will have exclusive jurisdiction.</p>	
14	<p><b>Force Majeure Clause:</b></p> <ol style="list-style-type: none"> <li>a) Either party shall be entitled to suspend performance of his obligations under the contract to the extent that such performance is impeded or made unreasonably onerous by any of the following circumstances: fire, war, flood, riots, earthquake etc.</li> <li>b) The party claiming to be affected by force majeure shall notify the other party in writing immediately without delay on the intervention and on the cessation of such circumstances. If force majeure prevents the purchaser from fulfilling his obligations, he shall not be forced to compensate the contractor for expenses.</li> <li>c) Regardless of what might otherwise follow from these general conditions, either party shall be entitled to terminate the contract by notice in writing to the other party if performance of the contract remains suspended under Clause Force Majeure for more than 6 months.</li> <li>d) Evidence for this would be "Force Majeure" certificate issued by chamber of commerce of the concerned country.</li> </ol>	

15	<p><b>RIGHT OF ACCEPTANCE.</b></p> <p>a) BHARAT HEAVY ELECTRICALS LIMITED HARIDWAR reserves the right to reject any or all the bids/quotations without assigning any reason thereof. BHEL also reserves the right to increase or decrease the tendered quantities. Bidders should be prepared to accept order for reduced quantity without any extra charges.</p> <p>b) Any discount/revised offer/bids submitted by a bidder on its own shall be considered, provided it is received on or before the due date and time of offer/bid submission (Part-1). Conditional discounts shall not be considered for evaluation of tenders.</p> <p>c) Unsolicited discounts/revised offers/bids given after Part-1 bid opening shall not be accepted. No change in price will be permitted within the validity period asked for in the tender enquiry.</p> <p>d) In case of changes in scope and/or technical specification and/or commercial terms &amp; conditions having price implication, techno-commercially acceptable bidders shall be asked by BHEL to submit the impact of such changes on their price bids. In case a bidder opts to submit revised price bid instead of impact called for, then latest price bid shall prevail. However, in both situations, original price bid will be necessarily opened.</p> <p>e) The bidder whose bid is technically not accepted will be informed &amp; EMD wherever submitted shall be returned after finalization of contract. EMD shall be forfeited in the event of bidder opting out after tender opening.</p> <p>f) BHEL reserves the right to short close the existing Purchase Order / Rate Contract / Work Order or any extension thereof at any stage.</p>	
16	<p><b>Reverse Auction:</b> BHEL shall be resorting to Reverse Auction (RA) (Guidelines as available on <a href="http://www.bhel.com">www.bhel.com</a>) for this tender. RA shall be conducted among the techno-commercially qualified bidders. Price bids of all techno-commercially qualified bidders shall be opened. same shall be considered for RA. In case any bidder(s) do(es) not participate in online Reverse Auction, their sealed envelope price bid along with applicable loading, if any, shall be considered for ranking.</p>	
17	<p>BHEL will evaluate the technical bids against essential criteria/requirements. BHEL may seek clarifications, if required, from the qualified bidders only. The clarifications will be communicated to the eligible vendors. The offers of those bidders, who are unable to respond in specified time frame, are likely to be ignored.</p>	
18	<p>Details of Contact Person Name, Designation, Department complete postal, E-mail address &amp; Fax no, phone, Mobile no. to be mentioned.</p>	
<p><b>Note:</b> Attach separate sheet for additional information if necessary. The above terms &amp; condition supersedes the terms &amp; conditions found contradictory written elsewhere in the tender enquiry</p>		

(Vendor's Signature with seal)

**INDEMNITY BOND**

This Indemnity Bond made on this \_\_\_\_\_ day of \_\_\_\_\_ by \_\_\_\_\_ a company registered under the Indian Companies Act 1956 and having its registered office at \_\_\_\_\_ (hereinafter referred to as the Contractor) in favour of M/s Bharat Heavy Electricals Ltd., Ranipur Hardwar, registered under the Company Act 1956 having its registered office at BHEL House Siri Fort New Delhi (hereinafter referred to as the 'Purchaser').

Whereas the purchaser places an order ref. no. \_\_\_\_\_ with the contractor for the machining of \_\_\_\_\_ on mutually settled terms & conditions of said order ref. no. \_\_\_\_\_. The Purchaser has to supply certain materials to the contractor against bank guarantee so as to enable the contractor to execute the said order.

And whereas on the request from the contractor, the Purchaser has agreed to waive off the condition of submission of Bank guarantee and has agreed to issue the said materials to the contractor on submission of an Indemnity Bond by the contractor as hereinafter appearing to cover the free issue material supplied against the order ref. no. \_\_\_\_\_ placed by the purchaser on contractor.

Now therefore in consideration of the Purchaser agreeing to issue the said materials to the contractor, the contractor does hereby indemnify the Purchaser and agree at all the time responsible for the loss, destruction or deterioration of the materials issued or to be issued by the Purchaser to the Contractor as per terms of the said order for any reason whatsoever while the goods in his custody. It is clearly understood by the contractor that the materials issued by the Purchaser to the contractor in the terms of the terms of the aforesaid order shall continue to be the property of the Purchaser and the contractor shall not sell or dispose off or transfer or otherwise part with the said materials nor than compliance with and performance of the contract which is the subject matter of the aforesaid orders. The contractor shall make all arrangement for the safe custody and proper utilization of the materials issued by the Purchaser and contractor shall be responsible for the Loss destruction or deterioration of all any of the materials issued by the purchaser even if he has taken reasonable precautions and care.

The contractor further indemnifies the Purchaser in respect of all direct and indirect losses which may be suffered by the Purchaser in case the contractor fails to deliver to the Purchaser the materials issued to contractor as aforesaid without demand as soon as the time specified in the respective order has expired or the purposes for which they were issued has been accomplished whichever is earlier.

This bond and the trust hereby created shall remain in valid and bring on the contractor till the \_\_\_\_\_ and till such time as the above said order have been fully and finally executed and the contractor has delivered all the materials as per the order placed with the contractor and material accounted for as laid down in the respective order. It is mutually agreed that the liability of the contractor in respective of the Indemnity Bond shall be limited to Rs. \_\_\_\_\_ for machining as aforesaid.

In witness where of the parties here to have set their hand in this deed on the day and year herein above mentioned.

For and on behalf of

Witness:

- 1)
- 2)

**Certificate by Chartered Accountant on letter head**

This is to Certify that M/S ..... ,  
(hereinafter referred to as 'company') having its registered office at .....is  
registered under MSMED Act 2006, (Entrepreneur  
Memorandum No (Part-II)..... dtd: .....  
Category: ..... {Micro/Small}). (Copy enclosed).

Further verified from the Books of Accounts that the investment of the company as per the latest audited  
financial year .....as per MSMED Act 2006 is as follows:

1. For Manufacturing Enterprises: Investment in plant and machinery i.e. original cost excluding land and  
building and the items specified by the Ministry of Small Scale Industries vide its notification No.S.O.1722  
(E) dated October 5. 2006: Rs..... Lacs.

2. For Service Enterprises: Investment in equipment {original cost excluding land and building and furniture,  
fittings and other items not directly related to the service rendered or as may be notified under the MSMED  
Act, 2006: Rs ..... Lacs.

**(Strike off whichever is not applicable)**

The above investment of Rs..... Lacs is within permissible limit of Rs..... Lacs  
for ..... Micro / Small **(Strike off which is not applicable)** Category under MSMED  
Act 2006.

· Or

The company has been graduated from its original category (Micro/ Small) **(Strike off which is not  
applicable)** and the date of graduation of such enterprise from its original category is.....  
(dd/mm/yyyy) which is within the period of 3 years from the date of graduation of such enterprise from its  
original category as notified vide S.O. No. 3322(E) dated 01.11.2013 published in the gazette notification  
dated 04.11.2013 by Ministry of MSME.

**Date:**

**(Signature)**

**Name-**

**Membership number -**

**Seal of Chartered Accountant**

**Certificate of Goods and Service to be furnished by Supplier with each bill / invoice**

We hereby undertake that:

1. Goods and Service Tax charged in the following Invoices / Bill Numbers are in compliance with the provision of GST Act & Rules prevailing thereon:

<b>Sl.No</b>	<b>PO No / Work Order</b>	<b>Invoice No</b>	<b>Invoice date</b>	<b>GST Amount</b>

2. Goods and Service Tax charged in the Bill / Invoice shall be paid by us within due time.
3. Any liability due to any delay / default in payment of GST, return filling or any other NON-compliance under GST Law / Rules, shall be to our account.
4. In the event of any non-compliance on our part, we indemnify BHEL for any financial burden / loss on account of GST / interest / penalty.
5. We give our consent to BHEL to recover any such financial burden if arises on BHEL due to any non-compliance from any outstanding bills. In the event of Nil outstanding, same shall be paid by us to BHEL.
6. In the event of any such default, we agree BHEL to pay all future GST reimbursement after verification of GST compliance under the law.
7. We understand that this arrangement shall be valid till the credit of Input Tax Credit (ITC) is available without online validation or further amendment if any affecting admissibility of ITC to BHEL.

Signature of Authorized Signatory  
GST No:

**Certificate**

**In line with Government Public Procurement Order No. P-45021/2/2017-BE-II dt. 15.06.2017 & P-45021/2/2017-PP (BE-II) dated 28.05.2018, we hereby certify that we M/s \_\_\_\_\_(supplier name) are local supplier meeting the requirement of minimum local content (50%) as defined in above orders for the material against Enquiry No. \_\_\_\_\_**

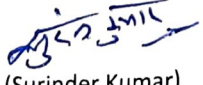
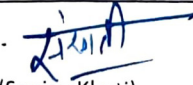

**Details of location at which local value addition will be made is as follows:**

\_\_\_\_\_

**We also understand, false declarations will be in breach of the Code of Integrity under Rule 175(1)(i)(h) of the General Financial Rules for which a bidder or its successors can be debarred for up to two years as per Rule 151 (iii) of the General Financial Rules along with such other actions as may be permissible under law.**

Seal and Signature of Supplier



**Pre-Qualifying Requirement (PQR) for Indent No: 20220010**  
**G.V. LEVER - Drg. no. 12030118403; 12030120203**

SL.No	REQUIREMENT	REMARKS
1.	Only those vendors should quote who have following machine installed & operational at their works for following operations for machining 'Guide Vane Lever' ( Drg No: 12030118403; 12030120203). :-	Vendor to confirm.
A.	<b>Turning operation:-</b>	
i.	Lathe Machine, suitable for turning operations of Guide Vane Lever as per drawing & TR requirements.	Vendor to confirm & provide machine details / specification for referred operation.
B.	<b>Milling Work :-</b>	
i.	Milling machine, suitable for milling operations of Guide Vane Lever as per drawing & TR requirements.	Vendor to confirm & provide machine details / specification for referred operation.
C.	<b>Drilling work :-</b>	
i.	Drilling machine, suitable for machining of different holes as per drawing & TR requirements.	Vendor to confirm & provide machine details / specification for referred operation.
D.	<b>Slotting work :-</b>	
i.	Slotter machine, suitable for machining of keyway slot as per drawing & TR requirements.	Vendor to confirm & provide machine details / specification for referred operation.
2	Vendor must have suitable facility such as Marking Table / Machine Bed etc., to facilitate marking of job.	Vendor to confirm.
3	Vendor to confirm that above machines ( as per pt. no. A, B, C & D) are available at their works & are in good working condition with capability of achieving accuracies & tolerances as per drawing & Technical requirements. If necessary, Vendor can suggest alternate machines (other than specified in pt. no. A, B, C & D) for machining job with accuracies & tolerances as per drawing, for review & acceptance by BHEL.	Vendor to confirm & submit details.
4	A sketch has been provided along with drawings, showing position of technological relieving holes. These holes shall act as relieving for slotting operation. Keyway slot depth also has been marked in this sketch, as specified in TR-B7 of G.V. Lever drawing.	Vendor to note & confirm.
5	With reference to TR-B6 of drawing, Hole for shear pin is not to be machined by vendor. It will be machined at BHEL.	
6	Vendor to confirm that all the dimensions, accuracies & surface finish of the component shall be met as per TR & drawing.	Vendor to confirm.
7	Vendor to note that all tools, technological items etc. required for manufacturing of subject item shall be arranged by vendor, in case of order.	Vendor to confirm.
8	BHEL reserves the right to verify the information provided by vendor. BHEL may also visit vendor works if so desired by BHEL. In case, the information provided by vendor is found to be false/ incorrect, their offer shall be rejected.	Vendor to note & agree.
<div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;">               (Surinder Kumar)              Mgr., TTX         </div> <div style="text-align: center;">               (Sanjay Khati)              Mgr., NCT         </div> <div style="text-align: center;">               (Niranjan Kumar)              Mgr., PPC-T         </div> </div>		

Manufacturer Name and Address		MANUFACTURING QUALITY PLAN						APPLICABILITIES TO	
BHEL Haridwar accepted sub contractors	ITEM/EQUIPMENTS	GV LEVER				Q.P. NO	QP/QA/20220010	PROJECT	Kaleshwaram
	WORK ORDERS.	20275T20201, 20277T20201, 20279T20201, 20281T20201, 20282T20201, 20283T20201				DATE	15.06.2022		
						REV. NO.	00	CONTRACTOR	BHEL (HEEP) HWR
						PAGE NO.	Page 1 of 1	Indent	20220010 rev 01 dated 10.06.2022

S. No.	COMPONENT OPERATION	CHARACTERISTIC CHECKED	CATEGORY	TYPE/METHOD OF CHECKED	QUANTITY OF CHECK	REFERENCE DOCUMENT	ACCEPTANCE DOCUMENT	FORMAT OF RECORD	AGENCY				REMARK
									D	M	B	C	
1	2	3	4	5	6	7	8	9	10	11	12	13	14
1.0	Material Receiving Inspection at sub-contractor's work	Verification of identification of material	Major	Visual inspection	100 %	As per Drg./ Standard	As per Drg./ Standard	PPMIV/ Q.no.	✓	P	V	-	Material will be supplied by BHEL. Transfer of identification to be ensured.
		Verification of dimensions and visual Inspection	Major	Measurement	100 %	As per drg./ Standard	As per drg./ Standard	Obs. Sheet	-	P	-	-	
2.0	<b>INPROCESS-INSPECTION</b>												
2.1	Dimensions (after machining)	Dimensional check & visual inspection	Major	Measurement	100%	As per Drg.	As per Drg.	Obs. Sheet/ Logsheets	✓	P	W*	-	*RANDOM 10% WITNESS
3.0	<b>FINAL-INSPECTION</b>												
3.1		Painting, protection, Completeness of Job, Documentation	Major	Visual	100%	As per drg./ Standard	As per drg./ Standard	Record	✓	P	V	-	Item shall be dispatched to BHEL after acceptance by BHEL/ BHEL nominated agency after duly identifying by P.O. No., drg no. Plant Order No. and I.R.No

1. All requirements of P.O., standard and drawing shall be fulfilled.
2. Preservation of machined surfaces to be done with grease or oil (as per indent).
3. BHEL reserves the right for conducting repeat test, if required.

Manufacturer/Subcontractor	Legends:	For BHEL Use	
	P Perform by; W Witness by; V Record review; C Customer ; B BHEL/BHEL Representative; M Manufacturer/ sub-contractor; D: documents with tick mark shall be submitted by vendor to BHEL.	Worked by:	Approved by:
		 Sugandh Agarwal (QAX-Mfg.)	 Sunil Pandey , Manager (QAX-Mfg.)

## Unpriced Bid

Quotation no.....Dated.....

Tender Enquiry No.: **X/6600/2022/0010/T/1** Due on **14.07.2022**

<b>S. No.</b>	<b>Drawing No.</b>	<b>Item Description</b>	<b>Qty. (No.)</b>	<b>Material by</b>	<b>Quoted/ Not Quoted</b>
1	1203011840300	G. V LEVER	120	BHEL	
2	1203012020300	G. V LEVER	60	BHEL	

(Vendor's Signature with seal)

## **NON-DISCLOSURE AND PROPRIETARY INFORMATION AGREEMENT**

BETWEEN

\_\_\_\_\_ (**Name of the Vendor**),, having its registered offices in \_\_\_\_\_ (**Address of Vendor**), registered under the no. \_\_\_\_\_ of the Companies' register of \_\_\_\_\_ (**Name of Place and Country**), capital stock of \_\_\_\_\_ (**Value**), with a place of business in \_\_\_\_\_ (**Name of Place and Country**) (hereinafter referred to as "**\_\_\_\_\_ (Name of Vendor)**");

AND

**Bharat Heavy Electricals Ltd** a company incorporated under the Indian Companies Act 1956 having its registered offices at BHEL House, Siri Fort, New Delhi -110 049 and having one of its works at Heavy Electrical Equipment Plant, Ranipur, Haridwar-249403 ( Uttarakhand), India registered under the No. 4281 of 1964-65 of the companies register of Delhi, capital stock of Rs 4895.2 million with a place of registered office in New Delhi (hereinafter referred to as “BHEL”) hereinafter also referred to individually as “the Party” or collectively as “the Parties”.

### **BACKGROUND**

This Agreement sets forth the rights and obligations of the Parties with respect to the use, handling, protection and safeguarding of Proprietary Information that is disclosed by and between the Parties.

**WHEREAS**

A) the Parties wish to pursue exploratory discussions concerning a possible collaboration between them in relation to the Program defined in Exhibit 1;

B) during the ensuing discussions and negotiations it may occur that either Party discloses to the other technical, financial or business information of a proprietary or confidential nature, which the Parties intend to protect against, making it available, by any means to any third person, and other unauthorized use and/or further disclosure by the recipient, in accordance with the terms and conditions set forth herein;

**NOW, THEREFORE,** the Parties have agreed as follows:

1. The term “Proprietary Information” shall mean any information or data of whatsoever kind of a confidential or proprietary nature, including but not limited to, commercial information, know how and technical information in the form of designs, drawings, concepts, requirements, specifications, software, interfaces, components, processes, or the like, that have been or will be disclosed by either Party to the other pursuant to this Agreement, either in writing, orally or other form, which is designated as “Proprietary” or “Confidential” by the disclosing Party by means of formal declaration or an appropriate stamp, legend or any other written or orally notice .
  
2. Proprietary Information may be conveyed, without limitation, through any written or printed documents, samples, models, electronic form on disk, tape, other storage media or any other means of disclosing such Proprietary Information that either Party may elect to use during the life of this Agreement, but if an originating Party originally discloses information orally or visually, the receiving Party will protect such information as Proprietary Information to the extent that the originating Party :
  - identifies the Information as Proprietary at the time of original disclosure,
  - summarizes the Proprietary Information in writing .

Information stored in electronic form on disk, tape, other storage media will be adequately marked if a proprietary legend displays when the information originally runs on a computer system and when the information is printed from its data file.

Proprietary Information also includes any information which can be obtained by examination, testing or analysis of any hardware or material substance or any component part of such hardware or material substance provided by the Disclosing Party even though the requirements in Clause 1 for marking and designation have not been fulfilled.

3. Each Party, to the extent of its rights to do so, shall disclose to the other only the Proprietary Information which the disclosing Party deems appropriate to fulfil the objectives of this Agreement. The Parties hereby represent that the disclosure of Proprietary Information by and between themselves shall be made in compliance with, and subject to the laws and regulations of the Disclosing Party's country.
  
4. The receiving Party hereby agrees and covenants that, from the effective date of this Agreement until the expiry date as per article 11 and the following period as per article 12, the Proprietary Information that either Party receives from the other shall:
  - a) be protected and kept in strict confidence by the receiving Party which must use the same degree of care it uses to protect its own confidential information and in no case less than a reasonable care;
  
  - b) be only disclosed to and used by those persons within the receiving Party's organization or that of its parent or controlled companies who have a need to know and solely for the purposes specified in this Agreement, and be treated by such persons or entities with the same degree of care and subject to the same restrictions;
  
  - c) to procure that each third party to whom Proprietary Information is disclosed under this Agreement is made aware of the provisions of this Agreement prior to such disclosure to it and that each such third party is

bound by obligations of confidentiality which are no less onerous than those contained in this Agreement;

- d) neither be disclosed nor caused to be disclosed or made available, either directly or indirectly, to any third Party or persons other than those mentioned in subparagraph b) above or other persons upon which both of the contractual Parties shall agree in an amendment to this Agreement;
- e) not to copy, reproduce or reduce to writing any part of such Proprietary Information except as may be reasonably necessary for the purpose referred to in the Recitals of this Agreement

PROVIDED THAT the Receiving Party shall be entitled to make any disclosure required by court order or government or regulatory requirement of the Disclosing Party's Proprietary Information subject to notifying the Disclosing Party as soon as possible of such requirement

- 5. Any Proprietary Information and copies thereof disclosed by either Party to the other shall remain the property of the disclosing Party and shall be immediately returned or destroyed by the receiving Party upon request.
- 6. The receiving Party shall have no obligations or restrictions with respect to any Proprietary Information for which the receiving Party can prove that:
  - a) is in or which comes into the public domain otherwise than as a result of a breach of this Agreement by any person to whom a disclosure of Proprietary Information is made as permitted under this Agreement or of any other duty of confidentiality relating to the Proprietary Information of which the Receiving Party has knowledge; or
  - b) it has been in its possession without restriction at the time of the disclosure, as evidenced by written documentation in its files; or
  - c) it has been lawfully received from a third Party without breach of this Agreement; or

- d) it has been or is published without violation of this Agreement; or
  - e) it has been independently developed in good faith by employees of the receiving Party who did not have access to the Proprietary Information; or
  - f) it has not been properly declared, designated or confirmed as Proprietary or Confidential; or
  - g) the protection period has expired according to articles 11 and 12 of this Agreement.
7. With respect to any exchange of Proprietary Information which may occur as a result of this Agreement, it is expressly understood and agreed that the persons listed in Exhibit 2 shall, on behalf of the respective Parties, be the exclusive individuals authorized to receive from and transmit to the other Party Proprietary Information under this Agreement. Each Party may replace at any time its respective authorized individuals identified in such Exhibit 2, within its own organization. Any such new designation by a Party shall be made by written notice to the other at the address indicated in such Exhibit 2.
8. Any Proprietary Information which is identified as “Classified Information”, or whose export is subject to an export license, shall be identified as such by the disclosing Party at the time of disclosure and the disclosure, protection, use and handling thereof, shall remain subject to the security procedures and restrictions imposed by the disclosing Party's Government.
9. The disclosure of Proprietary Information under this Agreement by either Party to the other shall not be construed as granting to the receiving Party any right, whether express or implied by licence or otherwise, on the matters, inventions or discoveries to which such information pertains, or as granting any trademark, patents, copyrights, trade secret right or other form of intellectual property right.

10. Nothing in this Agreement may be construed as an obligation of either Party to disclose any Proprietary Information to the other, or to enter into any subsequent contractual relationship with such other Party.
11. This Agreement covers the exchange of Proprietary Information which may be made by either Party to the other until ten years from signing of the agreement or any extension thereto which may be agreed upon by the Parties in writing. Proprietary information relevant to the Program detailed in Exhibit 1, already made available to the other contractual Party before the effective date, shall also be protected under this Agreement.

It is understood by the parties that, prior to disclosure, the Disclosing Party shall have obtained any government authorisation needed for the export of the Proprietary Information

12. The expiry of the period contemplated in Article 11 of this Agreement shall not relieve the receiving Party from complying with the obligations imposed by Article 4 here above with respect to the use and protection of the Proprietary Information, received prior the date of such expiry, for a period of ten (10) years after such expiry.
13. The Parties are independent contractors. Each will bear all costs and expenses in connection with this Agreement. This Agreement is intended to facilitate only the exchange of Proprietary Information and is not intended to be, and shall not be construed to create a teaming agreement, joint venture, association, partnership, or other business organisation or agency arrangement and no Party shall have the authority to bind the other without the other Party's separate prior written agreement .
14. This Agreement shall be governed by and shall be interpreted in accordance with the substantive Indian laws. Irrespective of the foregoing each Party shall remain

bound by the provisions of its own national laws and regulations with respect to the transfer or use of Classified Information or information whose export is subject to an export license.

15. All disputes among the Parties, in connection with or arising out of the existence, validity, construction, performance and termination of this Agreement (or any terms thereof), which the Parties are unable to resolve among themselves, shall be finally settled by an Arbitration. The Arbitration shall be held in Haridwar (India), in English language, in accordance with the rules laid down in the arbitration and reconciliation act of India.
16. The foregoing constitutes the entire Agreement among the Parties with respect to the subject matter hereof and supersedes and cancels all prior representations, negotiations, commitments, undertakings, communications, either oral or written, acceptances, understandings and agreements among the Parties with respect to or in connection with any of the matters to which such Agreement applies or refers.
17. Notices to \_\_\_\_\_ (**Name of Vendor**) shall be made at the following address:

**(Complete Address of Vendor)**

Attention: Mr. \_\_\_\_\_ (**Name of the Authorised Person of Vendor**)

Notices to BHEL shall be made at the following address:

BHARAT HEAVY ELECTRICALS LIMITED,  
HEAVY ELECTRICAL EQUIPMENT PLANT,  
Ranipur, Haridwar-249403 (Uttarakhand), India

Attention: \_\_\_\_\_ (**Name of the PPX Incharge**)

18. The effective date of this Agreement shall be the date of the last signature appearing herein.

**IN WITNESS WHEREOF**, each of the Parties has caused this Agreement, to be executed by its duly authorized officer.

Date :

Signed for and on behalf of

Signed for and on behalf of

**(Name of Vendor)**

BHEL

By:

By:

Title:

Title:

Signature:

Signature:

**EXHIBIT 1**

to the

**NON-DISCLOSURE AGREEMENT**

between

\_\_\_\_\_ **(Name of Vendor)**

and

**BHARAT HEAVY ELECTRICALS LIMITED**

dated:

\_\_\_\_\_

The Non Disclosure Agreement covers the exchange of Proprietary Information which may occur during the discussions and negotiations in view of a possible cooperation between the Parties in the following programs:

-Description of Material or Services for which the order is placed

\_\_\_\_\_ **(Name of Vendor)** list of products that require an exchange of Proprietary Information which may be occur during the discussions and negotiations in view of a possible cooperation for the above programs :

**EXHIBIT 2**

to the  
NON-DISCLOSURE AGREEMENT

between

\_\_\_\_\_ (Name of Vendor)

and

Bharat Heavy Electricals Ltd.

dated:

Personnel of the Parties authorized to receive and/or transmit Proprietary Information under this Agreement:

For (Name of Vendor)

(Name of Person)

Tel.

Fax

Address.

For Bharat Heavy Electricals Ltd.

Mr.

Tel. 01334

Fax 01334

Address. Main Administration Building

BHEL, HEEP, Haridwar

India

Mr.

Tel. 01334

Fax 01334

Address. Main Administration Building

BHEL, HEEP, Haridwar

India

Tel.

Fax

Address.