

	<b>Bharat Heavy Electricals Limited</b> (A Government of India Undertaking) <b>Power Sector – Southern Region</b> Tek Towers, No. 11, Old Mahabalipuram Road Okkiyam Thoraipakkam, Chennai - 600097 Phone: 044 24342458 / 2828 6769 / 6874 / 6875, Email: narayanan@bhel.in; sprabhu@bhel.in; hena@bhel.in;
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ENQ:22:PS:0005:PUR:3

Date: 23/08/2022

**Offers are invited for Supply of 26480 MT of PORTLAND SLAG CEMENT IS 455-2015 through e-procurement portal <https://eprocurebhel.co.in> to 2X660MW Udangudi STPP**

This is an E-tender floated online through our E-Procurement <https://eprocurebhel.co.in>. The bidder should respond by submitting their offer online only in our e-Procurement platform at <https://eprocurebhel.co.in>. Offers are invited in two-parts only. No Hard copy bid or bids through email/ fax shall be accepted. Bids shall be submitted as described below:

**Contact Details**

Agency	Contact Details	
BHEL, PSSR, Chennai	Address	BHEL,PSSR(HQ) CHENNAI Tek Towers, No. 11, Old Mahabalipuram Road Okkiyam Thoraipakkam, Chennai - 600097
	Name & Ph. no	1) Narayanan S (MANAGER / Purchase) - ph 044 2458 9445; email: narayanan@bhel.in 2) HENA EBEN (DGM/purchase) – ph 044 2458 9542; email hena@bhel.in 3) S. PRABHU KUMAR (AGM/Purchase) – ph 044 2458 9541; email sprabhu@bhel.in
Place of Delivery of Goods as per MDCC		BHEL SITE OFFICE 2X660MW Udangudi STPP, UDANGUDI VILLAGE TIRUCHENDUR TALUK, TUTICORIN DIST - 628203

SL	Item description	Quantity	Delivery
1.	Portland Slag Cement as per IS 455	26,480 MT	12 months from the date of PO progressively as per the MDCC being issued from time to time by site. terms of MDCC given at Special conditions of contract.

1. **DOCUMENTS TO BE UPLOADED & MODALITY OF UPLOADING**

<b>OFFER DESCRIPTION</b>	<b>DOCUMENTS TO BE UPLOADED &amp; MODALITY OF UPLOADING</b>
<b>TECHNICAL OFFER</b>	1. Scanned copy of (a) Power of Attorney document mentioned with Tender Number / date in <b>Non-Judicial Stamp paper. (Mandatory)</b> . To be attached in Attachment section. Vendor offer may be liable to be rejected if not submitted) (b). Scanned copy of duly filled and signed Integrity Pact (IP) document – <b>Applicable</b> 2. Scanned copy of special conditions of contract and the corrigendum, if any. 3. Supporting documents meeting PQR and standalone profit and loss statement for the years - 2018-19, 2019-20 or 2020-21. 4. No deviation certificate as per format given forms and procedures. (Mandatory. To be attached in Attachment section. Vendor offer liable to be rejected if not submitted). 5. Make in India certificate- under preference to Make in India order Certificate 6. An Undertaking that the imports are not from restricted countries.
<b>PRE-QUALIFICATION PART</b>	8. Pre-qualifying documents as per PQR. ( <b>Mandatory</b> -To be attached in Technical bid Attachment section in e-procurement portal)
<b>PRICE BID</b>	9. Duly filled in Price Schedule. (in price bid section in e-procurement portal). <b>Rates quoted shall be excluding GST.</b>

**NOTE:**

- Offer & documents submitted with the offer shall be signed and stamped in each page by authorized representative of the bidder. No overwriting/correction in tender documents by bidders shall be allowed.
  - All documents / Annexures submitted with the offer shall be properly annexed and uploaded in respective places of the offer as per enclosure list mentioned in the covering letter. BHEL shall not be responsible for any missing documents.
  - The bidder may have to produce original document for verification if so decided by BHEL
2. Taxes and Duties – PLEASE REFER ANNEXURE-II
  3. BHEL reserves the right to accept or reject any or all offer without assigning any reasons thereof. BHEL also reserve the right to cancel the offer wholly or partly without assigning any reason thereof. BHEL also reserve the right to split the job. BHEL also reserve the right to reject the bidder with unsatisfactory past performance in the execution of a contract. BHEL's decision in this regard shall be final & binding.
  4. The Rates Quoted should be FIRM till the Completion of the Order. No revision in rate shall be entertained after opening of the tenders. **Rates quoted shall be excluding GST.** Supplier should furnish all GST details separately in their offer / invoice, for BHEL to avail GST CREDIT benefits. The

Value exclusive of GST will be considered while comparing your offer to arrive L1 status. BHEL will not furnish any 'Concessional " Form.

5. Bidders are free to visit the site and study the prevailing site condition including law & order etc. before quoting.
6. BHEL may decide holding pre-bid conference [PBC] with bidders. On such communication from BHEL, the bidder shall ensure participation for the same at the appointed time, date and place or through Emails as may be decided by BHEL.
7. In case of absence of any queries from bidder(s), their quoted price will be PRESUMED to be final and complete with reference to the tender documents (including TCNs, clarifications, corrigendum issued by BHEL, if any). Bidders are requested to study the tender documents in detail and prepare their queries/clarifications accordingly. All such queries / clarifications shall be cleared/replied by BHEL. Such clarification letters, corrigendum and/or Tender change notes (TCNs), if issued by BHEL, shall form part of tender document.
8. In the event of any conflict between requirement of any clause of this specification/ documents /drawings /data sheets etc or requirements of different codes/ standards specified/ contradictions between any two clauses of tender document, the same to be brought to the knowledge of BHEL by bidders in writing for clarification before due date of seeking clarification, otherwise, more stringent requirement as may be interpreted by BHEL shall prevail and shall be binding on you. Any typing error/missing pages/ other clerical errors in the tender documents, noticed by you must be pointed out before submission of offer, or else, BHEL's interpretation shall prevail & binding on you.
9. Offers satisfying the PQC and Techno Commercial conditions will be sent for Customer's acceptance and only such bidders approved by Customer, will be considered for further processing.
10. For any clarification on the tender document, you may seek the same in writing within 3 days from publishing of NIT, from the office of the undersigned which will be clarified to all the bidders. BHEL shall not be responsible for receipt of queries after due date of seeking clarification due to postal delay, and receipt of any query after due date shall not be entertained.
11. BHEL reserves the right to open the price bid of the offers in camera/online.
12. **Delivery of Goods** as per MDCC. Delivery location is BHEL SITE OFFICE 2X660MW Udangudi STPP, UDANGUDI VILLAGE TIRUCHENDUR TALUK, TUTICORIN DIST - 628203
13. **Terms of payment is:** 100% payment will be released within number of days as given below from SRV (store receipt voucher) and submission of bills and other documents to the consignee. For reimbursement of GST, refer taxes and duties clause

Sl	Type of Bidder	Payment terms (number of days)
1.	MSE	45 days
2.	Medium Enterprise	60 days
3.	Non-MSE	90 days

14. Paying Authority: SITE FINANCE, BHEL Site OFFICE, 2 X 660 MW, Udangudi STPP - on 'F.O.R' Site Basis
15. Guarantee and warrantee are as per Special conditions of contract. Bidder may refer same.
16. **Reverse Auction is applicable.** BHEL shall be resorting to Reverse Auction (RA) (Guidelines as for Reverse Auction-as available on [www.bhel.com](http://www.bhel.com)) for this tender. RA shall be conducted among all

the techno-commercially qualified bidders. Price bids of all techno-commercially qualified bidders shall be opened and same shall be considered as initial bids of bidders in 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

17. **Preference to Make in India:** For this procurement, Public Procurement (Preference to Make in India), Order 2017 dated 15.06.2017 & 28.05.2018 & 04.06.2020 and subsequent Orders issued by the respective Nodal Ministry shall be applicable event if issued after issue of this NIT but before finalization of contract/PO/WO against this NIT. In the event of any Nodal Ministry prescribing higher or lower percentage of Purchase preference and/or local content in respect of this procurement, same shall be applicable. Certification for local supplier category as per latest Government circular shall be provided and uploaded in Attachment section.

“For this procurement, the local content to categorize a supplier as a 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 the NIT, the same shall be applicable even if issued after issue of this NIT, but before opening of Part-II bids against this NIT”

18. Commitment, performance of the contract and punitive action thereof:

- 18.1. Commitment by BHEL:

BHEL commits to take all measures necessary to prevent corruption in connection with the tender process and execution of the contract. BHEL will during the tender process treat all Bidder(s) in a transparent and fair manner, and with equity.

- 18.2. Commitment by Bidder / Supplier / Contractor:

- 18.2.1. The bidder / supplier / contractor commit to take all measures to prevent corruption and will not directly or indirectly influence any decision or benefit which he is not legally entitled to nor will act or omit in any manner which tantamount to an offence punishable under any provision of the Indian Penal Code, 1860 or any other law in force in India.
- 18.2.2. The bidder / supplier / contractor will, when presenting his bid, disclose any and all payments he has made, and is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract and shall adhere to relevant guidelines issued from time to time by Govt. of India/ BHEL.
- 18.2.3. The bidder / supplier / contractor will perform / execute the contract as per the contract terms & conditions and will not default without any reasonable cause, which causes loss of business / money / reputation, to BHEL.
- 18.2.4. If any bidder / supplier / contractor during pre-tendering / tendering / post tendering / award / execution / post-execution stage indulges in mal-practices, cheating, bribery, fraud or and other misconduct or formation of cartel so as to influence the bidding process or influence the price or acts or omits in any manner which tantamount to an offence punishable under any provision of the Indian Penal Code, 1860 or any other law in force in India, then, action may be taken against such bidder / supplier / contractor as per extant guidelines of the company available on [www.bhel.com](http://www.bhel.com) and / or under applicable legal provisions.

19. **Tender Conditions for MSE supplier: MSE suppliers can avail the intended benefits only if they submit the following documentary evidence/Govt. Certificate etc. in support of the same along with their techno-commercial offer:**

BHEL shall take decision on Purchase Preference to MSEs as follows:

**1) IF L-1 BIDDER IS OTHER THAN Micro and Small Scale Enterprises (MSEs).**

a) In tender, participating Micro and Small Scale Enterprises (MSEs) quoting price within price band of L1+15% shall also be allowed to supply a portion of requirement by bringing down their price to L1 price in a situation where L1 price is from someone other than a MSE and such MSE shall be allowed to supply up to 25% of total tendered value. In case of more than one such MSE (L1+15%), L-3 onwards bidders will be given opportunity to match the L-1 prices, provided their predecessors in terms of Price standing refuses to match L-1 prices..

b) Total tendered quantity shall be divided as follows:

In the ratio of 75 : 18.75 : 6.25 (if L-1 bidder is non MSE), where 75% order will be placed on L-1 bidder, 18.75% on MSE and 6.25% on MSE (owned by SC/ST) subjected to following conditions:

- I. MSEs Matches L-1 price.
- II. If no MSE owned by SC/ST has participated in the tendering process, portion earmarked (6.25%) will be awarded entirely to other MSE (not owned by SC/ST) i.e. total 25% will be awarded to them. In case of tender item is non-splitable or non dividable, etc. MSE quoting price within price band L1+15% may be awarded for full/complete supply of total tendered value to MSE.

c) If no MSE matches the L-1 price, then entire order shall be awarded to L-1 bidder.

**2) IF L-1 BIDDER IS Micro and Small Scale Enterprises (MSEs) (NOT OWNED BY SC/ST).** In tender, participating MSEs, owned by SC/ST, quoting price within price band of L1+15% shall also be allowed to supply a portion of requirement by bringing down their price to L1 price. MSE (owned by SC/ST) shall be allowed to supply up to 25% of total tendered value/quantity. In case of more than one such MSE (L1+15%), L3 onwards bidders will be given opportunity to match the L-1 prices, provided their predecessors in terms of Price standing refuses to match L-1 prices.

**3) IF L-1 BIDDER IS Micro and Small Scale Enterprises (MSEs) (OWNED BY SC/ST).**

100% order will go to the L-1 bidder

**4)** Participating MSEs should be registered with District Industries Centers or Khadi and Village Industries Commission or Khadi and Village Industries Board or Coir Board or National Small Industries Corporation or Directorate of Handicrafts and Handloom and their ownership is established in case they are claiming the portion earmarked for MSEs owned by SC/STs.

**5)** Bidder who is claiming 6.25% of the quantity earmarked for MSEs owned by SC/STs are required to submit the documentary evidence to establish the ownership of MSE firm.

Bidder should also mention the same in their techno-commercial bid. After opening of Price bids no such claim shall be entertained.

- 6) Bidder who is claiming 6.25% of the quantity earmarked for MSEs owned by SC/STs are required to submit the documentary evidence to establish the ownership of MSE firm.
- In case of proprietary MSE, proprietor(s) shall be SC/ST.
  - In case of partnership MSE, the SC/ST partners shall be holding at least 51% shares in the unit.
  - In case of Private limited companies, at least 51% share shall be held by SC/ST promoters. Bidder should also mention the same in their techno-commercial bid. After opening of Price bids no such claim shall be entertained.
- 7) Minimum of 3% reservation for women owned MSEs within the above mentioned 25% reservation shall be applicable. Bidder who is claiming 3% of the quantity earmarked for Women entrepreneurs are required to submit the documentary evidence to establish the ownership of MSE firm owned by Women entrepreneurs.
- In case of proprietary MSE, proprietor(s) shall be a Women.
  - In case of partnership MSE, the Women partners shall be holding at least 51% shares in the unit.
  - In case of Private limited companies, at least 51% share shall be held by Women promoters. Bidder should also mention the same in their techno-commercial bid. After opening of Price bids no such claim shall be entertained.

**Note:** All these preferences are applicable, subject to the submission of applicable certificates (i.e. District Industries Centers OR Khadi and Village Industries Commission OR Khadi and Village Industries Board OR Coir Board OR National Small Industries Corporation OR Directorate of Handicrafts and handloom OR Udyog Aadhaar Memorandum OR any other body specified by Ministry of Micro Small and Medium Enterprises). **Declaration of UAM number on CPPP portal is mandatory for MSE bidders to enjoy the benefits as per Public Procurement Policy for MSEs order 2012 for tenders invited electronically through CPPP only.**

- 8) MSE suppliers can avail the intended benefits only if they submit along with offer, attested copies of either ENTREPRENEUR MEMORANDUM PART II certificate having deemed validity (Five years from the date of issue of acknowledgement in EM-II) or valid NSIC certificate or ENTREPRENEUR MEMORANDUM PART II certificate along with CA certificate (Format enclosed as per MSE Annex - I) applicable for the year, certifying quantum of investment in plant and machinery within the permissible limit as per the act for relevant status (Micro or small) where the deemed validity of ENTREPRENEUR MEMORANDUM PART II is over. Date to be reckoned for determining the deemed validity will be the last date of technical bid submission. Non submission of such documents will lead to consideration of their bids at par with other bidders and MSE status of such suppliers shall be shifted to Non MSE supplier till the supplier submits these documents.

Type under MSME	SC/ST owned	Women owned	Others
Micro			

Small			
Medium			

However credentials of all MSE suppliers will be verified before considering the intended benefits for MSE suppliers as per above clause ( Public procurement policy 2012 and MSMED act 2006 ) at time of tender evaluation. “ Non submission of such documents will lead to consideration of their bids at par with other bidders and MSE status of such suppliers shall be shifted to Non MSE supplier till the supplier submits these documents”.

Payment Terms: Payment shall be made to Successful Bidders (MSEs) within 45 days from receipt of clear invoice.

BHEL shall take decision on Relaxation of norms for Startups MSEs: Start-ups MSEs are relaxed to condition of prior turnover and prior experience subject to meeting of quality and technical specifications in accordance with the relevant provisions of GFR,2005. However, BHEL may not relax the Start-up MSEs, where there is procurement of items related to safety, health, critical security operations and equipment's etc.,

20. Other (Non MSE) bidders shall note that preferences will be given / facilities will be extended to eligible MSE bidders as per the extant Public Procurement Policy of Government of India, as applicable.
21. All the bidders are requested to note that all the errata / technical clarifications / corrigendum / extension etc. shall be published in website [www.bhel.com](http://www.bhel.com) & <https://eprocurebhel.co.in>. As such, all the bidders are requested to be in continuous touch with these websites.
22. Bidders must visit site/ work area and study the job content, facilities available, availability of materials, prevailing site conditions including law & order situation etc. before quoting for this tender. They may also consult this office before submitting their offers, for any clarifications regarding scope of work, facilities available at sites or on terms and conditions. No additional claim shall be entertained by BHEL in future, on account of non-acquaintance of above. The offers of the bidders who are on the banned list as also the offers of the bidders, who engage the services of the banned firms, shall be rejected. The list of banned firms is available on BHEL web site [http://www.bhel.com/vender\\_registration/vender.php](http://www.bhel.com/vender_registration/vender.php).
23. All the above terms and conditions, post-bid agreements/MoMs (during Techno- Commercial evaluation) shall become a part of the Order/Contract after its finalization.
24. In case there is no change in the technical scope and / or specification and / or commercial terms and conditions, the bidder/s shall not be allowed to change his / their price bids after the due date within the validity period. If any bidder has mentioned the term Not Applicable / Not required / Not Quoted in BHEL price format, the same to be substantiated by the bidder. If such item is required to be supplied for system completion in future, same will be supplied free of cost by Vendor. Purchaser shall be under no obligation to accept the lowest or any other tender and shall be entitled to accept or reject any/all tender(s) in part or full without assigning any reason whatsoever.
25. **Integrity Pact: Applicable.** Comply to Furnish Scanned Copy of duly filled in Integrity Pact (IP) document as in Format and Procedures.
26. Our requirement is for use at BHEL Site office, (refer NIT for site office location) Quantity : As per NIT. Quoted rates shall remain firm for the purchase order placed by BHEL on bidder.

27. Offers are invited to submit in two-parts. The Technical -Cum-Commercial offer will be opened first, discussed, finalized and only then the price bid of technically acceptable offers will be opened. Tenders will be received up to said due date. **BHEL will not be responsible for any technical snag in the web due to last hour rush in uploading of offers, hence the bidders are advised to upload their offers well in advance. If the bidder submits offer i.e. Technical & Price bid together in single attachment, the offer shall be liable for rejection. Price should be submitted as per tender format only & uploaded in the price section.**
28. In case of joint bidding, bidders to furnish scope matrix which should be clearly defined between foreign bidder and their indian representative along with the offer for the complete scope.
29. CIF content is permitted but preference will be given as per Public Procurement Policy 2017, Preference to Make in India is applicable. Bidders are requested to quote their CIF content (if any) in Techno Commercial Page. Essential certificate for concessional duty for the import content is available and can be provided. Bidders mandatorily provide CIF content if any to avail concessional duty. In case BHEL is not able to avail concessional duty on imports, same may be recovered from Bidder. Bidders may refer of Taxes and Duties (Annexure-II)
30. In case the above declaration is not given, it is presumed that there is no import content in the value of supplies of the bidder and hence Essentiality certificate will not be issued.
31. Bidders to note that offers shall be submitted strictly in accordance with the requirements of all the enclosed Tender documents. Post-bid agreements/MoMs (during Techno-Commercial evaluation) shall automatically become the part of the Order/Contract after its finalisation.
32. DPE vide OM No.DPE/7(4)/2017-Fin.(Part-I) dated 30.07.2020 has enclosed Department of Expenditure's (DOE) OM and Order (Public Procurement No.1 and No.2 ) vide ref.F.No.6/18/2019-PPD dated 23.07.2020 on Restrictions under Rule 144 (xi) of the GFR and subsequent clarification Order (Public Procurement No.3) dated 24.07.2020 for compliance by CPSEs. Please may refer Annexure-III (Model Clause/Certificate to be inserted in tenders etc.,)

**Compliance to Restrictions under Rule 144 (xi) of GFR 2017**

- I. Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority. The Competent Authority for the purpose of this Clause shall be the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade (DPIIT).
- II. "Bidder" (including the term 'tenderer', 'consultant' or 'service provider' in certain contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by such person, participating in a procurement process.
- III. "Bidder from a country which shares a land border with India" for the purpose of this Clause means: -
  - a. An entity incorporated established or registered in such a country; or
  - b. A subsidiary of an entity incorporated established or registered in such a country; or
  - c. An entity substantially controlled through entities incorporated, established or registered in such a country; or



- d. An entity whose beneficial owner is situated in such a country; or
- e. An Indian (or other) agent of such an entity; or
- f. A natural person who is a citizen of such a country; or
- g. A consortium or joint venture where any member of the consortium or joint venture falls under any of the above

IV. The beneficial owner for the purpose of (III) above will be as under:

1. In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together or through one or more juridical person, has a controlling ownership interest or who exercises control through other means.

Explanation

- a. "Controlling ownership interest" means ownership of or entitlement to more than twenty-five per cent of shares or capital or profits of the company.
- b. "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements.
2. In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership or entitlement to more than fifteen percent of capital or profits of the partnership.
3. In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person has ownership of or entitlement to more than fifteen percent of the property or capital or profits of the such association or body of individuals.
4. Where no natural person is identified under (1) or (2) or (3) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;
5. In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.

V. An Agent is a person employed to do any act for another, or to represent another in dealings with third person.

VI. The successful bidder shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority.

**Note:**

- (i) The bidder shall provide undertaking for their compliance to this Clause, in the Format provided in Annexure-11.
- (ii) Registration of the bidder with Competent Authority should be valid at the time of submission as well as acceptance of the bids.

33. Terms & Conditions of Reverse Auction

- a) Against this enquiry for the subject item/ system with detailed scope of supply as per enquiry specifications, BHEL may resort to "REVERSE AUCTION PROCEDURE" i.e., ON LINE BIDDING

- (THROUGH A SERVICE PROVIDER). The philosophy followed for reverse auction shall be English Reverse (No ties).
- b) For the proposed reverse auction, technically and commercially acceptable bidders only shall be eligible to participate.
  - c) BHEL will engage the services of a service provider who will provide all necessary training and assistance before commencement of online bidding on internet.
  - d) In case of reverse auction, BHEL will inform the bidders the details of Service Provider to enable them to contact & get trained.
  - e) Business rules like event date, time, bid decrement, extension etc. also will be communicated through service provider for compliance.
  - f) Bidders have to email the Compliance form (annexure III of business rule document of Reverse Auction) before start of Reverse auction. Without this, the bidder will not be eligible to participate in the event.
  - g) Reverse auction will be conducted on scheduled date & time.
  - h) At the end of Reverse Auction event, the lowest bidder value will be known on auction portal.
  - i) The lowest bidder has to e-mail the duly signed and filled-in prescribed format for price breakup including that of line items, if required, (Annexure VII) as provided on case-to-case basis to Service provider within two working days of Auction without fail.
  - j) Bidders shall be required to read the "Terms and Conditions" section of the auctions site of Service provider, using the Login IDs and passwords given to them by the service provider before reverse auction event. Bidders should acquaint themselves of the 'Business Rules of Reverse Auction', which will be communicated before the Reverse Auction.
  - k) If the Bidder or any of his representatives are found to be involved in Price manipulation/ cartel formation of any kind, directly or indirectly by communicating with other bidders, action as per extant BHEL guidelines, for suspension of business dealings (as available on [www.bhel.com](http://www.bhel.com)), shall be initiated by BHEL.
  - l) The Bidder shall not divulge either his Bids or any other exclusive details of BHEL to any other party.
  - m) Bidders are requested to go through Guidelines as for Reverse Auction-2021 as available on [www.bhel.com](http://www.bhel.com)
34. In case of any conflict / inconsistency in any clause of the tender or between various sections of the tender, bidder should bring the same in writing to BHEL for clarification before submission of the bid, failing which the most stringent interpretation of the clause in favor of BHEL shall be adopted and the same shall be binding to the bidder.
35. Any deviation sought by the bidder should be indicated in the techno-commercial offer.

## ANNEXURE-II

### 1.1. TAXES AND DUTIES CLAUSE

- 1.1.1. All taxes including GST with applicable cess (mentioned elsewhere in the Bid) and including, Charges, Royalties, any State or Central Levy and other Taxes for materials if any obtained for the work and for the execution of the contract shall be borne by the bidder and shall not be payable extra by BHEL.
- 1.1.2. Any increase in the above at any stage during execution including extension of the contract, if any, shall have to be borne by the contractor. Quoted/ accepted rates/ price shall be inclusive of all such requirements.
- 1.1.3. The successful bidder shall furnish proof of GST registration with GSTN Portal covering the services under this contract. Registration should also bear endorsement for the premises from where the billing shall be done by the successful bidder on BHEL for this project/ work.
- 1.1.4. Bidder's quoted rates/ price should be after considering the Input Credit under GST law at their end.
- 1.1.5. TDS under Income Tax shall be deducted at prevailing rates on gross invoice value from the running bills unless exemption certificate from the appropriate authority/ authorities is furnished.
- 1.1.6. TDS under GST shall be deducted at applicable rates on gross invoice value from the running bills.
- 1.1.7. Bidder shall note that the GST Tax Invoice complying with GST Invoice Rules (Section 31 of GST Act & Rules referred there under) wherein the 'Bill To' details shall be as per following.
- 1.1.8. In case of delay in submission of the above mentioned documents on the date of dispatch, BHEL may incur penalty / interest for not adhering to Invoicing Rules under GST Law. The same will be liable to be recovered from the successful bidder, if such delay is attributable to the bidder.
- 1.1.9. In case of raising any Supplementary Tax Invoice (Debit / Credit Note) Bidder shall issue the same containing all the details as referred to in Section 34 read with Section 31 of GST Act & Rules referred there under.
- 1.1.10. Bidder shall Comply with the Time limit prescribed under the GST Law and rules thereof for raising of the tax invoice. If any supply of goods is applicable, Bidder shall also ensure prompt delivery of Goods after dispatch.
- 1.1.11. Bidder shall note that in case GST credit is delayed/ denied to BHEL due to delayed / non receipt of goods and /or tax invoice or expiry of the timeline prescribed in GST Law for availing such ITC, or any other reasons attributable to the bidder, GST amount shall be recoverable from the bidder along with interest levied / leviable on BHEL, as the case may be.
- 1.1.12. Bidder shall upload the Invoices raised on BHEL in GSTR-1 within the prescribed time as given in the GST Act. Bidder shall note that in case of delay in declaring such invoice in your return and GST credit availed by BHEL is denied or reversed subsequently as per GST Law , GST amount paid by BHEL towards such ITC reversal as per GST law shall be recoverable from the bidder along with interest levied / leviable on BHEL.
- 1.1.13. Way Bill: Successful Bidder shall arrange way bill / e-waybill for any transfer of goods for the execution of the contract.
- 1.1.14. The Bidder has to make their own arrangement at their cost for completing the formalities, if required, with Issuing Authorities, for bringing materials, plants & machinery at site for execution of the works

under this contract, Road Permit/ Way Bill, if required, shall be arranged by the contractor and BHEL will not supply any Road Permit/ Way Bill for this purpose.

- 1.1.15. Any new taxes & duties, if imposed subsequent to the due date of offer submission as per NIT & TCN, by statutory authority during contract period (including extensions for which delay is not attributable to the bidder), shall be reimbursed by BHEL on production of relevant supporting document to the satisfaction of BHEL. However, bidder shall obtain prior approval from BHEL before depositing any such new taxes and duties.
- 1.1.16. Benefits and/or abolition of all existing taxes must be passed on to BHEL against new taxes, if any, introduced at a later date.
- 1.1.17. In case of LD recovery, the applicable GST shall be also be recoverable from the suppliers.

**2. INCOME TAX:**

- 2.1. TDS u/s 194Q as applicable under Income Tax Act, 1961 or rules made thereunder shall be deducted from contractor's bill.

**BIDDER TO NOTE THE FOLLOWING:**

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

1. Amendments/Clarifications/Corrigenda/Errata etc issued in respect of the tender documents by BHEL
2. Notice Inviting Tender (NIT)
3. Price Bid
4. Special Conditions of Contract (SCC)
5. General Conditions of Contract (GCC)
6. Forms and Procedures as per NIT

**Pre-Qualification Requirements (PQR) for supply of Portland Slag Cement at 2 x  
660MW UDANGUDI**

**A Technical:**

Bidder shall essentially meet all the Qualifying Requirements described below: A.1).

Bidder should be a manufacturer of Portland Slag Cement (PSC as per IS:455 (latest)). BIS certificate for the same shall be submitted.

and

A.2). Bidder should have experience of supplying Portland Slag Cement at any Power Plant or other infrastructure project or any other industry in last two years as on the latest date of submission of tender. To comply this qualification requirement, bidder shall have to furnish Purchase Order and at least one number proof of supply (LR, Invoice, Way Bill etc.). of cement against the same Purchase Order.

**B Financial Turnover:** Average Turnover for three consecutive financial years 2018- 19,2019-20 or 2020-21 should be Rs. 450 lakhs.

- a) In case audited balance sheet and profit & loss account has not been submitted for that three consecutive years indicated above, then the applicable financial audited statements submitted by the bidders against the requisite years will be averaged for three years.
- b) If financial statements are not required to be audited statutorily, then instead of audited financial statements, financial statements are required to be certified by chartered accountant.

Bidder to submit

- 1. PAN Copy
- 2. GSTIN copy (Registration status)

**C Customer Approval:** Applicable

List and Credentials of only those Technically and Financially Qualified Bidders as per A and B above shall be forwarded to BHEL's customer ( TANGEDCO) for approval.

**D Price Bid Opening**

Price bids of those bidders who stand qualified subsequent to the compliance of PQR criteria A and B and approved by the customer, shall be opened, or RA shall be conducted amongst those customers approved bidders as per the tender conditions.

## **SPECIAL CONDITIONS OF CONTRACT**

### **SUB : Tender Document for Supply of PORTLAND SLAG CEMENT (PSC) as per IS:455 : 2015 /(latest edition) to 2 x 660 MW Udangudi Thermal Power Project**

#### **1. SCOPE OF WORK:**

PORTLAND SLAG CEMENT (PSC) shall be Supplied, conforming to IS:455:2015, / (latest edition) with more than 50% slag content.

Unloading of materials at Destination/ Site shall be in the BHEL's scope. However, demurrages on account of delay in unloading due to improper packing, non-availability of proper dunnage, not adhering to the tender conditions and other reasons attributable to supplier shall be on supplier's accounts only. Prior dispatch clearance shall be obtained by vendor from BHEL. The unloading of material will be done by BHEL in a reasonable time at site.

#### **2. DELIVERY:**

90% to 100% of the ordered quantity material shall be delivered in bulkers by the authorized transporters of the supplier. Limited to maximum 10% of the material in bags of 50kg, if required by site, should be delivered in original manufacturer's tamper proof sealed packing. Packing shall be in non-returnable 50 kg bags only. However, the percentages may vary according to the requirement at site.

#### **3. MODE OF DISPATCH & ROAD PERMIT:**

Quoted rate shall include transportation to site. The packing and transportation of the material shall be done at the expense of the successful tenderer. E-way bill / road permit (if applicable) to be arranged by supplier.

#### **4. TRANSIT INSURANCE:**

Transit Insurance of material is in Supplier's scope. Successful tenderer shall insure the material at their cost for transportation. Responsibility of delivering cement to the project site lies with the Cement supplier. Necessary transit insurance, other statutory certifications, etc. to be taken care by the supplier.

#### **5. MATERIAL DISPATCH CLEARANCE CERTIFICATE (MDCC):**

Material Dispatch Clearance of required quantity of cement would be issued by BHEL site. No material shall be dispatched by supplier unless and until MDCC is issued. Complete delivery of the MDCC quantity should be made at site within 30 days from date of dispatch clearance (MDCC). Liquidated Damages is applicable thereafter.

However, for each MDCC issued by site, the first shipment of cement should start within 7 days (one week) from the date of MDCC and balance supply shall be uniformly distributed within the balance period of 23 days (total 30 days period from the date of MDCC) or shall be supplied based on the site requirement.

In case, the 30 days' period after issuance of MDCC falls beyond the delivery completion

date specified in the PO, to that extent no LD will be levied on the vendor for the completion of supply of total MDCC quantity within the 30-day period. However, LD shall be applicable thereafter incase vendor does not supply the complete MDCC quantity beyond 30 days from date of dispatch clearance (MDCC).

Vendor should consider above aspect in their quote for this tender and in any case cannot refuse supply of cement on account of MDCC release date.

**6. WEIGHMENT:**

Weighing of the consignment shall be done through automatic weigh bridge as indicated by BHEL/Site. Variation/tolerance up to  $\pm 10$  Kg is acceptable.

**7. INSPECTION:**

Final inspection will be done at site. Pre dispatch inspection is not required. However, Test certificate of third party test for 3 days, 7 days and 28 days shall be required under billing documents.

BHEL will reserve the right to inspect/ test the material during/ after manufacturing at suppliers' works, and/or at BHEL Site. In case of rejection at any stage, supplier shall be liable to replace the materials at his own cost.

Site test of cement shall be conducted as per BHEL/customer's field quality plan, BHEL reserves the right to conduct necessary test at vendor's works if required for confirmation of quality of cement.

The representative of the vendor should be available at site whenever required as per BHEL site requirement to provide single window expeditious service and quality checks as per IS codes. The representative shall arrange adequate quantity of cement at the test location for carrying out cement test and design mix of concrete (till establishing the design mix), as per requirement of BHEL. The quantity of such cement shall be as per recommendation/ requirement of testing laboratories finalized by BHEL site or as per recommendation of BHEL Engineer-in charge.

**8. GUARANTEE / WARRANTY:**

Guarantee Certificate to be sent along with supply. Quality of cement is associated with shelf life. The material shall be guaranteed for a period of three months from the date of receipt at Site against any manufacturing defects. If any discrepancy noticed during testing, the cement will have to be replaced to Site free of cost. However, test results of third party test i.e. 3/7/28 days shall be final and binding on the vendor. Removal of defective material from our Site shall be arranged by vendor at their own cost failing which BHEL shall arrange disposal at the risk & cost of bidder and subsequent replacement with a fresh acceptable material without jeopardizing project schedule and without any additional cost implication. Guarantee Certificate to be furnished.

**9. TEST CERTIFICATE:**

Material Test certificates to be sent along with supply.

**10. ORDERING QUANTITY TOLERANCE:**

During the currency of the order, BHEL at its sole discretion, reserves the right to vary the



order quantity at the Rate, Terms and Conditions of the purchase order without assigning any reason. The quantities given in the tender are tentative and may change to any extent on minus side. The quoted rates shall remain firm irrespective of any such reduction in the quantities. No compensation shall be payable for the reduction of quantities.

#### **11. QUANTITY VARIATION**

In case Quantity Variation clause on +25% is required to be operated by BHEL, the same will be informed to vendor prior to schedule delivery completion period (including extended period, if any), the contractor shall supply such quantity, as required by BHEL, for which rates shall be firm and remain unchanged. Delivery extension on pro-rata basis shall be given for supply of these additional quantity & PVC payable shall be as per Clause no.13 below.

BHEL reserves the right to cancel the order in case of delay in delivery of cement by vendor and failure to comply with quality requirements. BHEL also reserves the right to place the order on the other bidder who has taken part in this tender. Subject to his compliance of procedures of BHEL in terms of price.

12. BHEL reserves the right to short close the purchase order at any point of time, at its own discretion, without assigning any reason for the same and the same shall be binding on the contractor. No compensation on this account shall be payable.

#### **13. PRICE VARIATION COMPENSATION**

- i. In order to take care of variation in cost of cement during the extended period, Price Variation Formula as described herein shall be applicable.
- ii. 85% component of the rate/amount shall be considered for PVC calculations. The basis for calculation of price variation and the Base Index, shall be as under:

S NO.	CATEGORY	INDEX	PERCENTAGE COMPONENT (K)
1	CEMENT	Name of Commodity: ORDINARY PORTLAND CEMENT Commodity Code: 1313050003	85 %

Index shall be as per the 'MONTHLY WHOLE SALE PRICE INDEX' for the respective Commodity and Type, published by Office of Economic Adviser, Ministry of Commerce and Industry, Government of India. (Website: [eaindustry.nic.in](http://eaindustry.nic.in)). Revisions in the index or commodity will be re-adjusted accordingly.

Base Date shall be the calendar month of the original purchase order expiry date.

- iii. Payment/ recovery due to variation in index shall be determined on the basis of the following notional formula in respect of the identified COMPONENT ('K') viz. CEMENT.

$$P = K \times R \times (X_N - X_0)/X_0$$

Where,

- P = Amount to be paid/recovered due to variation in the Index for Cement
- K = Percentage Component ('K') applicable for Cement
- R = Value of supplies for the billing month (Excl. Taxes and Duties)
- $X_N$  = Revised Index for Cement for the billing month under consideration
- $X_0$  = Index for Cement as on the Base date

- iv. PVC shall be worked out on the basis of the indices applicable for the respective month in which dispatch is done with base index as on "base date".
- v. The supplier shall furnish necessary monthly bulletins in support of the requisite indices from the relevant websites along with his Bills.
- vi. The supplier will be required to raise the bills for price variation payments on a monthly basis along with the running bills irrespective of the fact whether any increase/decrease in the index for relevant categories has taken place or not. In case there is delay in publication of bulletins (final figure), the provisional values as published can be considered for payments and arrears shall be paid/ recovered on getting the final values.
- vii. PVC shall be applicable only, for the supplies (incl. any additional quantity required by BHEL as per Clause no. 11 above) dispatched during the extended period of purchase order beyond the original Purchase order expiry date provided there is no delay attributable to the supplier.
- viii. However, PVC shall not be applicable for the 25% additional quantity ordered against quantity variation clause, if the supply of the same are made during the original Purchase order period.
- ix. The total amount of PVC shall not exceed 5% of the cumulatively executed contract value. Executed contract value for this purpose is exclusive of PVC.


# GENERAL CONDITIONS OF CONTRACTS (GCC)



**BHARAT HEAVY ELECTRICALS LIMITED**

Not for Publication

For Official Use

	<p align="center"><b>PROJECT ENGINEERING MANAGEMENT</b></p>	<p align="center"><b>GENERAL CONDITIONS OF CONTRACT (GCC)</b></p> <p align="center"><b>Revision no. 07</b></p>	<p align="center"><b>DEFINITION OF TERMS</b></p>
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### **DEFINITION OF TERMS**

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


- 1 **Purchaser** shall mean **M/s Bharat Heavy Electricals Limited** (A Govt. of India Undertaking) incorporated under the Companies Act 1956 acting through its **Project Engineering Management Division (PEM)**, PPEI Building, HRD & ESI Complex, Plot No. 25, Sector – 16A, NOIDA – 201 301 (UP) which expression shall include its successors and assigns. It may also be referred to as **BHEL**.
- 2 **Owner** shall mean the **Customer** or **Client** for whose project the enquiry is issued by Purchaser and shall include its successors and assigns as well as authorized officer(s)/ representative(s).
- 3 **Consultant** shall mean the agency appointed by Owner or Purchaser to provide consultancy services for the project and shall include its successors and assigns as well as authorized officer(s)/ representative(s).
- 4 **Tenderer** shall mean the Person(s) / HUF/ AOP (Association of Persons)/ Firm / Company / a Joint Venture/ Consortium or any such other Organization/ Enterprise which quotes against the Tender Enquiry issued by **Purchaser/ Buyer**. It may also be referred as **Bidder** or **Vendor**.
- 5 **'Order / Contract'** shall mean and include the **Purchase/ Work Order** along with bid/ tender/ offer, the bidding conditions, clarifications issues by the buyer as regards the tender or the bidding conditions, covering letter, letter of intent / acceptance / award, specific agreement, the General Conditions of Contract and Special Conditions of Contract for commercial conditions of Purchase, specific agreement on technical conditions, special technical conditions and technical conditions/ specifications, Inspection/ Quality Plan, Schedule of Prices and Quantities, Drawings, if any enclosed or to be provided by the Buyer or his authorized nominee, Integrity pact (as and when if applicable), and any subsequent amendments hereto as may be mutually agreed upon, (It may also be referred to as the "Order"). Any conditions or terms stipulated by the bidder in the tender/offer or subsequent letters shall not form part of the Contract unless specifically accepted in writing by BHEL before award of the order. 'Parties to the Contract' shall mean the Seller and the Buyer as named in the main body of the Purchase Order.
- 6 **Seller/ Contractor** shall mean the Firm/ Company/ Organization with whom the Order/ Contract is made and shall be deemed to include its successors, representatives, heirs, executors, administrators and assigns *as agreed between parties to the contract*, as the case may be. It may also be referred as **Supplier or Vendor**.
- 7 **Sub-Contractor/ sub-vendor** shall mean the person/ firm/ company/ organization to whom any part of the work has been sub-contracted by Seller/ Contractor, with the written consent of Purchaser, and shall include sub-contractor's heirs, executors, administrators, representatives and assigns *as agreed between Seller and BHEL*.

*Note - The terms used in this document like Tenderer/ Bidder/ Vendor/ Seller/ Contractor/ Supplier can be used interchangeably. In the same way the terms used in this document like Purchaser/Buyer/BHEL can be used interchangeably.*

- 8 **Engineer** shall mean the authorized officer of Purchaser to act as the engineer on its behalf for the purpose of the Order/ Contract.
- 9 **Site** shall mean and include the land and place on which the project station related facilities are to be constructed and any adjacent land which may be allocated or used by Owner, *buyer* or Seller/ Contractor in performance of the Order/ Contract.
- 10 **Acceptance Tests** shall mean such tests as prescribed in specifications and/ or tests mutually agreed upon by Purchaser and Seller/ Contractor, to be performed by Seller/ Contractor during the process at vendors'/ sub vendors' works and after/ *during the erection/ commissioning* of equipment to establish its satisfactory operation as per specifications.


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<p>11</p>	<p><b>Commissioning</b> shall mean successful/ satisfactory completion of Trial Operation and readiness of the contracted/ ordered package / plant and materials unit wise/ set wise/ lot wise/ individual sub-system etc. including associated stand by for commercial use. This will include all consumables and inputs required for pre-commissioning.</p>
<p>12</p>	<p><b>Initial Operation or Trial Operation or Reliability Run</b> shall mean continuous integrated operation of the contracted/ ordered plant and materials under varying loads as proof of satisfactory operation for a specified period. The procedure to be agreed during detailed engineering.</p>
<p>13</p>	<p><b>Inspection Agency</b> (IA) shall mean person(s) authorized by Purchaser / Owner to inspect the stores as per Order/ Contract at <i>Vendor's/ Contractor's/ Sub-Contractor's</i> works. Vendors to raise inspection call on BHEL – CQS website.</p>
<p>14</p>	<p>Month shall mean calendar month and week shall mean 7 days.</p>
<p>15</p>	<p><b>Consignee</b> shall mean the official(s)/ person(s) to whom the stores are required to be delivered in the manner indicated in the Order/ Contract.</p>
<p>16</p>	<p><b>Plant/ Equipment/ Stores</b> shall mean the goods, machinery, components, parts, spares etc. required to be supplied by Seller/ Contractor as per Order/ Contract.</p>
<p>17</p>	<p><b>Contract Engineer</b> (CE) shall mean the official who signs the Order/ Contract on behalf of Purchaser.</p>
<p>18</p>	<p><b>Site Engineer</b> shall mean official authorized by owner to receive and verify the in-coming stores, and issue Material Receipt Certificate (MRC)/ Stores Receipt Voucher (SRV).</p>
<p>19</p>	<p><b>Site Inspection Agency</b> (Site IA) shall mean person(s) authorized by Purchaser/ Owner to inspect the stores/ works included in Order/ Contract at the Project Site.</p>
<p>20</p>	<p><b>Performance Guarantee Test:</b> A test to be conducted by the vendor and witnessed by owner/ purchaser, as per procedure submitted by the vendor and approved by owner/ purchaser describing the objective of the test, detailed procedures to test the guaranteed parameters, obligations as per the order/ contract, results presentation procedure and verification and acceptance criterion.</p>
<p>21</p>	<p>Technical Specification / Specification shall mean the all the Specifications wherein detailed description of the design and materials based on which project is to be delivered by Supplier.</p>
<p>22</p>	<p>Wherever term 'Due date and time' is referred, it implies Indian Standard Time and date.</p>
<p>23</p>	<p><b>GENERAL</b> - The words incorporating singular shall include plural and vice-versa, the words incorporating masculine gender shall include feminine gender and vice-versa, and the words incorporating persons shall include bodies, corporate, limited liability companies, partnership and other legal entities.</p>


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### **ABBREVIATIONS**

AWB	Airway Bill
AMC	Annual Maintenance Contract
BG	Bank Guarantee
BL	Bill of Lading
BOCW	The Building and other Construction Workers (Regulation of Employment & Conditions of Service) Act
BOQ	Bill of Quantity
CAN	Cargo Arrival Notice
C&F/ CFR	Cost and Freight
CFS	Container Freight Station
CIF	Cost, Insurance and Freight
COO	Certificate of Origin
CQ	Corporate Quality
DDP	Delivery Duty Paid
DMS	Document Management System
EMD	Earnest Money Deposit
E&C	Erection and Commissioning
FCA	Free Carrier
FCL	Full Container Load
FIR	First Information Report
FOB	Free on Board
FOR	Free on Rail/ Road
FTL	Full Truck Load
GCC	General Conditions of Contract
GR	Goods Receipt
GST -	CGST/IGST/UTGST Central/ Integrated/ Union Territory Goods and Services Tax
H1 Bidder	Bidder quoting highest cost to BHEL
HSE	Health Safety and Environments Guidelines
HQ/ Hqrs	Headquarter
HUF	Hindu Undivided Family
ICC	International Chamber of Commerce
IGM	Import General Manifest
IP	Integrity Pact
IEM	Independent External Monitor
L1 Bidder	Bidder quoting lowest cost to BHEL
LC	Letter of Credit
LD	Liquidated Damages
LOA	Letter of Award
LR	Lorry Receipt
MCE	Marine cum Erection

	<b>PROJECT ENGINEERING MANAGEMENT</b>	<b>GENERAL CONDITIONS OF CONTRACT (GCC)</b>  <b>Revision no. 07</b>	<b>ABBREVIATIONS</b>
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MDCC	Material Dispatch Clearance Certificate
MRC	Material Receipt Certificate
MSMED	Micro Small and Medium Enterprises Development
NCR	National Capital Region
NIT	Notice Inviting Tender
NND	Non Negotiable Document
OBL	Ocean Bill of Lading
O&M	Operation & Maintenance
ORC	Over run charges
PBG	Performance Bank Guarantee
PEM	Project Engineering Management
P&ID	Process & Instrumentation Diagram
PO	Purchase Order
PQR	Pre-Qualification Requirement
PTL	Part Truck Load
PVC	Price Variation Clause
QA	Quality Assurance
QS	Quality Surveillance
RA	Reverse Auction
RBI	Reserve Bank of India
RFQ	Request for Quotation
RR	Railway Receipt
SBI	State Bank of India
SCC	Special Conditions of Contract
SCE	Storage cum Erection
T&P	Tools & Plants
TReDS	Trade Receivables Discounting System


	<b>PROJECT ENGINEERING MANAGEMENT</b>	<b>GENERAL CONDITIONS OF CONTRACT (GCC)</b>  <b>Revision no. 07</b>	<b>INSTRUCTIONS TO BIDDERS</b>
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## INSTRUCTIONS TO BIDDERS

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## 1.0 **GENERAL INSTRUCTIONS**

- 1.1 Tenderers are advised to study all the tender documents carefully. Any submission of tender by the tenderer shall be deemed to have been done after careful study and examination of the tender documents and with full understanding of the implications thereof. The specifications and terms & conditions shall be deemed to have been accepted unless otherwise specifically commented upon in 'Deviation' sheet (refer annexure-II-Cost of Withdrawal) by the tenderer in his offer. Non-compliance with any of the requirements and instructions in the Tender Enquiry may result in rejection of the tender.
- 1.2 The general terms of business or sale of the bidder shall not apply to the Buyer or the Contract unless specifically agreed to otherwise in the Contract. Any other terms and conditions of the bidders attached/ referred in the bid of the Bidder against the tender enquiry will be treated as rejected by the Buyer unless specifically agreed to in the Contract.
- 1.3 Any deviations from or additions to these 'General Conditions of Contract' require Buyer's express written consent before awarding the order/ contract.
- 1.4 Acceptance, receipt of shipments or services or effecting payment as regards any such shipments or services shall not mean that the general terms of business or sale of the seller have been accepted. Any additional and new terms & conditions mentioned in any of the document submitted by vendor after award of contract shall have no effect.
- 1.5 Purchase orders/ Work orders/ Contracts, agreements and amendments thereto shall be binding if made or confirmed by the Buyer in writing. Only the Purchasing/ *Contracting* department of the Buyer is authorized to issue the Purchase Order (Contract/Work Order) or any amendment thereto. Any document purporting to be a Contract/Order or an amendment thereto issued by any person not from the Purchasing

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Department of the Buyer will not be binding on the Buyer and will not be deemed to create any mutual rights and obligations for the Buyer and the Seller/Bidder.

1.6 In the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the following order of precedence:

- i. Amendments to Purchase Order/ Work Order/Framework Agreement
- ii. Purchase Order/ Work Order/Framework Agreement
- iii. Letter of intent (LOI)/ Letter of Award (LOA)
- iv. Clarifications agreed between Buyer and Seller as regards to the tender or the bidding conditions
- v. Corrigenda to NIT, with those of later date having precedence over those of earlier date
- vi. Enquiry letter and annexures except documents listed in point no (vii) to (ix) below
- vii. Technical specifications
- viii. Special Conditions of Contract (SCC)
- ix. General Conditions of Contract (GCC)

1.7 In the GCC, wherever references are being made for any particular web links, bidder to properly apprise itself about these web links before submission of the bid.

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

2.1 Bids shall be submitted strictly in accordance with the requirements of tender documents. Incomplete offers are liable to be rejected.

2.2 Tenders shall be submitted in **Two parts** (or as specified in NIT) on or before the Due Date and time indicated in the NIT/ RFQ.

### **PART – I: Techno-Commercial Bid**

comprising of Technical Offer, Annexure-I of GCC, Commercial Terms & Conditions, Unpriced copy of Price Bid & Annexure II of GCC, PQR documents (if applicable) in two sets or as specified in NIT.

### **PART – II: Price Bid**

Containing Prices, cost of withdrawal of deviation as per Annexure-II of GCC, to be submitted in original, strictly, as per Price Schedule of BHEL for complete scope of Tender Enquiry.


### **NOTE:**

Offers are liable to be rejected for changes made by bidders in the Price Schedule, except those specified in the unpriced bid and accepted by Purchaser.

Where-ever it is specified in NIT that the bids are to be submitted on BHEL e-procurement portal, bidder to upload the bid documents on specified portal and no paper bids are required to be submitted.

2.2.1 PART-I (Techno-Commercial bid) shall be opened on Due Date and time specified in the NIT/ RFQ, or extension thereof, in presence of bidders who may like to attend. In case of e-bid, system generated intimation of bid opening to bidders will be applicable (i.e. presence of bidders is not applicable in case of e-bid). Incomplete offers are liable to be rejected. Purchaser reserves the right to open both Part-I and Part-II together.

2.2.2 PART-II containing prices shall be submitted along with Part-I but in a separate sealed cover. Corrections/ amendments shall be properly authenticated; else the offer is liable to be rejected. Intimation for Part-II opening shall be given to all the techno-commercially acceptable bidders and opening of bids shall be

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done in presence of tenderers who may like to attend. In case of e-bid, system generated intimation of bid opening to bidders will be applicable (i.e. presence of bidders is not applicable in case of e-bid).

- 2.2.3 Any discount/ revised offer submitted by a bidder on its own shall be accepted provided it is received on or before the due date and time of offer submission. The discount shall be applied on pro-rata basis to all items unless specified otherwise by the bidder.

Unsolicited discounts/revised offers given after due date and time of offer submission shall not be accepted.

In case there is no change in the technical scope and/or specifications and/or commercial terms & conditions, the bidder/s shall not be allowed to change his/their price bids after the due date, within the validity period.

In case of changes in scope and/or technical specification and/or commercial terms & conditions, having price implications, techno-commercially acceptable bidders shall be asked by BHEL (after freezing the scope, technical specifications and commercial terms & conditions) to submit the impact of such changes on their price bid. A cut-off date and time shall be given to all the techno-commercially acceptable bidders to submit the impact on their price bids.

In the event of any bidder, after finalizing the technical specification & scope of supply, opting to revise and submit their latest price bid instead of submitting impact on their price bid asked by BHEL, then their original price (i.e. the previous bid) shall also be opened.

Price Impact/ Discount/ Revised Price Bid shall be duly superscribed as:

*“Price Impact / Discount/ Revised Price Bid (Part-II) (delete whichever is not applicable), Revision No. against Tender Enquiry No. \_\_\_\_\_ dated \_\_\_\_\_”*

- 2.3 After technical & commercial examination of the offers received and clarifications obtained (if required), Part-II (Revised Price Bid/ Original Price Bid along with Price Impact and Discount, if any) shall be opened, for which the date and time shall be intimated to technically and commercially acceptable bidders in case of public opening. BHEL may opt to finalize the prices through Reverse Auction amongst technically and commercially acceptable bidders. BHEL reserves the right to open the earlier price bids, if any, submitted by the bidder(s), if required.

- 2.4 No correspondence shall be entertained from the tenderers after opening of Part-II (Price bid), except clarifications (if any) asked by BHEL in writing.


- 2.5 Only one representative of the bidder will be permitted to be present for tender opening. The representative to be present for tender opening should have proper authentication/ Photo Identity Proof which needs to be produced on demand by BHEL.

- 2.6 Purchaser may negotiate the tender with L1 bidder after price bid opening.

## 2.7 BID SUBMISSION

### 2.7.1 E- Bid

- 2.7.1.1 Bidders shall have to visit BHEL E-Procurement web site and have to upload their quotation on BHEL e-bid portal in line with NIT requirement by due date and time.

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2.7.1.2 For uploading Bids, bidders have to use their organization's authorized Digital signature (DSC class-III/ applicable class for bidding) registered with PEM. In case the same is not registered with PEM or not available with the bidder then such bidders have to purchase the same and get it registered with PEM as the same is required to upload the bid on BHEL E-bid portal.

2.7.1.3 Bidders to note that hard copy of the bid is not required to be submitted and Bid is to be uploaded on BHEL e-bid portal only. In case paper bids are received from any of the bidder against e-bid, same shall be ignored

#### 2.7.2 Paper Bid:

2.7.2.1 Bid/ Quotation must be enclosed in sealed cover(s) as per requirements of the tender enquiry, on which the tender enquiry number and the due date MUST BE written. Covering letter of tender submission shall be as per Annex I.

#### MARKING ON ENVELOPES

2.7.2.2 Following shall be superscribed on the envelopes which shall be addressed by name and designation to the official inviting tender:

- |          |  |
|----------|--|
| PART-I:  | 1. TENDER ENQUIRY No. AND ITEM DESCRIPTION<br>2. DUE DATE FOR OPENING<br>3. "TECHNO-COMMERCIAL BID". |
| PART-II: | 1. TENDER ENQUIRY No. AND ITEM DESCRIPTION<br>2. DUE DATE FOR OPENING<br>3. "PRICE BID".             |

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

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


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

2.7.2.5 Tenders shall be addressed to BHEL officials by name & designation as given in NIT and sent to the following address:

Tender Room  
Bharat Heavy Electricals Ltd.  
Project Engineering Management  
PPEI Building, HRD & ESI Complex,  
Plot No. 25, Sector – 16A, NOIDA – 201 301 (U.P.)

Attention: 1) Mr.  
2) Mr.

2.7.2.6 Tenders can either be deposited in tender room in person or sent by Courier/ Registered or Speed Post to the above mentioned address. It shall be bidders' responsibility to ensure that tenders are delivered in time.

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2.7.2.7 Name of vendor's dealing person with Contact No(s), Email ID and Address of correspondence shall be provided in the bid.

2.7.2.8 Tenders received after the Due Date and Time of submission shall be rejected.

2.7.2.9 Unsolicited tenders will not be entertained.

Note: Bid should be free from Erasure, cutting, overwriting, whitener or 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

### 3.0 **MINIMUM E&C CHARGES**

Total **Erection & Commissioning charges** (excluding GST) should be minimum 20% (or as specified in NIT) of the total quoted price of main equipment supply (including freight & excluding GST) and erection & commissioning (excluding GST); failing which the break-up of prices shall be adjusted accordingly for ordering. However, while doing adjustments, vendor quoted prices for mandatory spares, PG test charges, O&M spares, O&M charges, etc. will not be changed.

### 4.0 **AUTHORITY FOR TENDER SIGNING**

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

#### **Notes:**

- Bids of Indian supplier shall be in Indian Rupee only.
- Bids of foreign suppliers shall preferably be in currency of the country of origin and on C&F basis.
- An authorized representative/ agent can represent only one bidder for the given package.

### 5.0 **CLARIFICATIONS REQUIRED BY BIDDERS**


Technical and commercial clarifications required before submission of the tender should be addressed to the official(s) inviting the tender.

### 6.0 **DEVIATIONS - LISTING**

6.1 Tenders shall be submitted strictly in accordance with the requirements of tender documents. In case of deviations from NIT, the tenderer shall give cost of withdrawal of such deviation in the Annexure-II (i.e. in cost of withdrawal sheet). Any deviation not mentioned in deviation sheet and shown separately or found hidden in offer, will not be taken cognizance of.

6.2 If bidder insists for price variation clause (PVC) where NIT specifies firm price, the offer should contain:

- PVC Formula
- Ceiling for PVC
- Base date and applicable indices for the base date.

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

#### **7.0 VALIDITY OF OFFER**

Vendors' offers shall be submitted with the following validity periods:

- i. Original offer shall be valid for six months from Part-I opening date unless specified otherwise in NIT.
- ii. If revised price bid/ price impact is asked by BHEL, the validity of the same shall be two months from the date of price bid opening or six months from Part-I opening, whichever is later.
- iii. In case where Reverse auction (RA) is conducted, the validity of the same shall be two months from the date of successful RA completion or six months from Part-I opening, whichever is later.
- iv. In case of negotiation, validity of offer shall be two months from receipt of revised price /negotiated final price or six months from Part-I opening, whichever is later.
- v. Offers with shorter validity than above are liable to be rejected
- vi. Prices of Recommended Spares, O&M Spares and Mandatory Spares (wherever these are Optional items) shall be valid till three years from the date of PO (for placement of order) unless specified otherwise in NIT.
- vii. Unit prices for scope addition/ deletion shall be valid till three years from the date of PO (for amendment of PO).


#### **8.0 LANGUAGE & CORRECTIONS**

- i. The Bid shall be in English language. All correspondence and documents relating to the bid exchanged between the bidder and the purchaser shall also be in ENGLISH language. However, any technical document/ literature etc. printed in a language other than English shall be accompanied by its true English translation duly signed for its correctness. Any document submitted with the bid but not in English language shall not be treated as part of the bid document. The responsibility for the correctness of the translations if any solely rests on the bidder and purchaser shall not be responsible for any loss/likely loss arising out of error in translation whatsoever. In such cases, for the purpose of interpretation of the bid, the English translation shall prevail.
- ii. Tenderer shall quote the rates in English language and Indo-Arabic numerals only. Total Price shall be entered in figures as well as in words. For the purpose of tender, metric system of units shall be used.
- iii. All entries in the tender shall either be typed or written legibly in ink. Cancellations, corrections, insertions, erasements, over-writing (if unavoidable) shall be authenticated with signature and seal by the bidder.

#### **9.0 PRICE DISCREPANCY**

Following shall be considered for evaluation and ordering for non-conformities/ errors/ discrepancies in price bid:

- i. Bidders should quote total price in "figures" with corresponding words in price bid format.
- ii. If, in the price structure quoted for the required goods/ services/ works, there is discrepancy between the unit price and the total price (which is obtained by multiplying the unit price by the quantity), the unit price shall prevail and the total price corrected accordingly., unless in the opinion of the Purchaser there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price corrected accordingly.

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- iii. If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected.
- iv. If there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject of (ii) and (iii) above.
- v. If there is such discrepancy in an offer, the same shall be conveyed to the bidder with target date up to which the bidder has to send his acceptance on the above lines and if the bidder does not agree to the decision of the Purchaser, the bid is liable to be ignored.

**10.0 TENDERER TO INFORM HIMSELF FULLY**

- 10.1 Tenderer shall closely peruse all clauses, specifications & drawings etc. indicated in tender documents before quoting. In case of any doubt about meaning of any portion of tender specifications or discrepancies or omissions in drawings/ tender document or clarifications regarding scope of work etc., tenderer shall contact the official(s) inviting the tender for clarifications, before submitting the offer.
- 10.2 Tenderer shall make independent enquiries as to conditions and circumstances affecting cost estimates, and possibility of executing supplies/ works as described. Tenderer shall be deemed to have inspected and examined the site and its surroundings and to have satisfied himself as to the form and nature of the site, the quantities and materials necessary for completion of the work and means of transport and access to the site, the accommodation required, general labour position at site and to have quoted prices taking into consideration the risks, contingencies and other circumstances which may influence or affect execution of the Order/ Contract.
- 10.3 It is the responsibility of tenderer to keep himself informed about all taxes & duties applicable on materials/ services as prevailing at the time of tendering. If the rates assumed by tenderer are less than the tariff rates prevailing at the time of tendering, the tenderer will be himself responsible for such under quotations.


**11.0 ETHICS IN BUSINESS DEALINGS/ SUSPENSION OF BUSINESS DEALINGS**

In order to protect the commercial interests of BHEL, it becomes necessary to take action against bidders/ sellers/ suppliers / contractors by way of suspension of business dealings, who either fail to perform or are in default without any reasonable cause, cause loss of business/ money/ reputation, indulge in malpractices, cheating, bribery, fraud or any other misconduct or formation of cartels so as to influence the bidding process or influence the price etc. Suspension of Business Dealings could be in the form of "Hold" or "Banning" a bidders/ sellers/ suppliers / contractors. Detailed guidelines are available at [www.bhel.com/www.bhelpem.com](http://www.bhel.com/www.bhelpem.com). Bidders should get themselves acquainted with these guidelines.

**12.0 INTEGRITY PACT (IP)**

IP is a tool to ensure that activities and transactions between the Company and its Bidders/ Contractors are handled in a fair, transparent and corruption free manner. A panel of Independent External Monitors (IEMs) have been appointed by BHEL with the approval of CVC. The names of the IEMs in panel are mentioned in NIT.

Integrity Pact (IP) will be applicable for all tenders/ contracts valuing more than a specific value as specified in NIT/ RFQ.

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The IP as enclosed as per annexure-VIII is to be submitted (duly signed by authorized signatory) along with techno-commercial bid (Part-I, in case of two/three part bid). Only those bidders who have entered into such an IP with BHEL would be competent to participate in the bidding. In other words, entering into this pact would be a preliminary qualification. (Refer Annexure-VIII for Integrity pact).

Please refer Section-8 of IP for Role and Responsibilities of IEMs. In case of any complaint arising out of the tendering process, the matter may be referred to the any of the IEMs mentioned in the NIT. All correspondence with the IEMs shall be done through email only.

*"No routine correspondence shall be addressed to the IEM (phone/ post/ email) regarding the clarifications, time extensions or any other administrative queries, etc. on the tender issued. All such clarification/ issues shall be addressed directly to the tender issuing (procurement) department officials whose contact details are provide in NIT".*

#### 12.1 INTEGRITY COMMITMENT:

Integrity commitment, performance of the contract and punitive action thereof:

##### 12.1.1 Commitment by BHEL:

- BHEL commits to take all the measures necessary to prevent corruption in connection with the tender process and execution of the contract. BHEL, during the tender process will treat all Bidder(s) in a transparent and fair manner, and with equity.

##### 12.1.2 Commitment by Bidder/Seller:


- The Bidder/Seller commit to take all measures to prevent corruption and will not directly or indirectly influence any decision or benefit which it is not legally entitled to nor will act or omit in any manner which tantamount to an offence punishable under any provision of Indian penal code, 1860 or any other law in force in India.
- The Bidder/Seller will, when presenting his bid, disclose any and all payments he has made, and is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract and shall adhere to relevant guidelines issued from time to time by GOVT. OF India/BHEL.
- The Bidder/Seller will perform/execute the contract as per the contract terms & conditions and will not default without reasonable causes, which causes loss of business/money/reputation, to BHEL.

If any Bidder/Seller during Pre-tendering/tendering/post tendering/award/execution/post-execution stage indulges in mal-practices, cheating, bribery, fraud or and other misconduct of formation of cartel so as to influence the bidding process or influence the price or acts or omits in any manner which tantamount to an offence punishable under any provision of the Indian penal code, 1860 or any other law in force in India, then, action may be taken against such Bidder/Seller as per the extent guidelines of the company (Fraud Prevention Policy, suspension of Business dealings with suppliers/contractors etc.) available on [www.bhel.com](http://www.bhel.com) and/or under applicable legal provisions.

#### 13.0 REVERSE AUCTION

- BHEL reserves the right to go for Reverse Auction (RA) instead of opening the sealed envelope price bid, submitted by the bidder. This will be decided after techno-commercial evaluation. All bidders to



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give their acceptance for participation in RA. Non-acceptance to participate in RA may result in non-consideration of their bids, in case BHEL decides to go for RA.

- ii. Those bidders who have given their acceptance to participate in Reverse Auction will have to necessarily submit 'Process compliance form' (to the designated service provider) as well as 'Online sealed bid' in the Reverse Auction. Non-submission of 'Process compliance form' or 'Online sealed bid' by the agreed bidder(s) will be considered as tampering of the tender process and will invite action by BHEL as per extant guidelines for suspension of business dealings with suppliers/contractors (as available on [www.bhel.com](http://www.bhel.com)).
- iii. The bidders have to necessarily submit online sealed bid less than or equal to their envelope sealed price bid already submitted to BHEL along with the offer. The envelope sealed price bid of successful L1 bidder in RA, if conducted, shall also be opened after RA and the order will be placed on lower of the two bids (RA closing price & envelope sealed price) thus obtained. The bidder having submitted this offer specifically agrees to this condition and undertakes to execute the contract on thus awarded rates.
- iv. If it is found that L1 bidder has quoted higher in online sealed bid in comparison to envelope sealed bid for any item(s), the bidder will be issued a warning letter to this effect. However, if the same bidder again defaults on this count in any subsequent tender in the unit, it will be considered as fraud and will invite action by BHEL as per extant guidelines for suspension of business dealings with suppliers/contractors (as available on [www.bhel.com](http://www.bhel.com))."
- v. *In cases of failure of RA, sealed envelope price bids (of item(s) for which RA has failed) of all the techno-commercially qualified bidders shall be opened and the tender shall be processed accordingly. However, the envelope sealed bid(s) of techno-commercially acceptable bidder(s) who had agreed to participate in the RA and had failed to submit the online sealed bid shall not be opened.*

Detailed terms and conditions for RA are available on [www.bhel.com](http://www.bhel.com). Business Rules for RA shall be sent to the bidders before conducting RA.

#### **14.0 REJECTION OF TENDER AND OTHER CONDITIONS**

- 14.1 Acceptance of tender will rest with Purchaser and does not bind him to accept the lowest or any tender and reserves to itself full rights for the following without assigning any reasons whatsoever:
  - i. To reject any or all the tenders.
  - ii. To increase or decrease the quantities.
  - iii. To reject any commercial or technical deviation given in offer.
  - iv. To split the work amongst two or more bidders.
  - v. To award the work in parts.
- 14.2 Standard pre-printed conditions of tenderer attached to offer will not be accepted.
- 14.3 Purchaser will not be bound by any new power of attorney granted by tenderer or by changes in composition of the firm made subsequent to award of Order/ Contract. Purchaser may, however, recognize such power of attorney and changes after obtaining proper legal advice, the cost of which will be chargeable to the Seller/ Contractor concerned.
- 14.4 If tenderer gives wrong information/furnishes false documents/certificates etc., whether during the bidding stage or subsequent to award of contract then the purchaser reserves the right to reject such an offer at any stage or cancel the Order/ Contract, if awarded, and forfeit the security deposit and bank

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guarantee. Such actions/omission may also invite action by BHEL as per extant guidelines for suspension of business dealing with supplier/contractor (as available on [www.bhel.in](http://www.bhel.in))

#### **DEALING WITH BIDDERS UNDER SUSPENSION**

The offers of the bidders who are under suspension as also the offers of the bidders, who engage the services of the banned firms, shall be rejected. The list of banned firm is available on BHEL web site [www.bhel.in](http://www.bhel.in)

#### **15.0 DEVIATIONS FROM NIT**

Deviations (Commercial as well as Technical) from NIT are generally not acceptable. In case of deviations from NIT, the tenderer shall give cost of withdrawal of such deviations as per Annexure-II.

#### **16.0 LOADING FOR COMMERCIAL DEVIATION (WHERE COST OF WITHDRAWAL NOT GIVEN)**

For deviations w.r.t. Payment terms, Liquidated damages, PVC against Firm prices, if a bidder chooses not to give any cost of withdrawal of deviation, loading as per Annexure-VII will apply.

#### **17.0 INTEREST RATE FOR LOADING**

Interest Rate for loading will be taken as Base rate of SBI on the date of bid opening, (Techno-commercial bid, in case of 2 part bids) + 6% for the period of relaxation sought by the bidders. If the bid opening day happens to be non-working day for SBI, then previous bank working day shall be considered.

#### **18.0 DISCOUNT**

Discount offered by any bidder in the original price bid, against the present Tender Enquiry, which is also indicated to be applicable to any other Enquiry, shall be considered against the present Tender Enquiry only. In case only percentage discount is indicated, the same shall be applicable to optional prices also. Discount offered shall be valid for full duration of offer validity. Any conditional discount shall not be considered for evaluation.

#### **19.0 EVALUATION CRITERIA**


##### **19.1 TENDER EVALUATION**

Techno-commercial evaluation shall be carried out on the basis of technical specifications, commercial terms and conditions and PQR (if applicable) specified in the tender documents and changes/clarifications thereof, if any.

Bidders (other than cases of single part bids) shall be given an opportunity to withdraw the deviations/ furnish clarifications/ documents by appropriate cut-off date by authorized purchase executive.

If the bidder does not withdraw its deviation(s) and the deviation(s) is/are acceptable to BHEL, loading of offers shall be done as per the loading criteria mentioned in this document/NIT.

If no loading criteria is defined for any deviation it will be derived and communicated to the Bidder. If the Bidder does not withdraw its deviation(s) and the deviation(s) is/are not acceptable to BHEL, the bid will be liable to be rejected.

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In case of changes in scope and/or technical specification and/or commercial terms & conditions, having price implications, techno-commercially acceptable bidders shall be asked to submit the impact (either positive or negative, as decided by BHEL) of such changes on their price bid on or before the cut-off date. If the bidder submits impact opposite of the asked for (positive or negative), the impact will be considered as ZERO for evaluation as well as ordering. If BHEL does not specify the type of impact (positive or negative), bidders shall be free to quote the impact in positive or negative. Bidder's query/ correspondence etc. with respect to this tender shall not be entertained after opening of Price bid, except from L1 bidder. The offers of the bidders who are under suspension by BHEL and also the offers of the bidders, who engage the services of the banned firms, shall be rejected. The list of banned firms is available on BHEL web site [www.bhel.com](http://www.bhel.com). Please also see clause no. 11 and other provisions in GCC.

## 19.2 **COST EVALUATION**

Tenders will be evaluated on the basis of total cost to BHEL, taking into consideration loadings, if any, and all available financial advantages, including those available from Owner, taxation authorities etc.

For evaluation, exchange rate (TT selling rate of State Bank of India) as on date of tender opening (Part-I bid in case of two part bid) 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.

In case of foreign bidders for supply packages, the quoted C&F price shall be loaded by following factors to arrive at total evaluation price:

- Insurance for evaluation purposes shall be @ 0.1 % of quoted C&F price.
- Port handling/clearing charges @ 1% of C&F value
- Custom duty with applicable cess as per special conditions of contract-as prevailing on date of price bid opening.
- Inland freight (Indian port to project site) @ 3% of C&F value


## 20.0 **FOREIGN SUPPLIERS & INDIAN AGENTS OF FOREIGN SUPPLIERS**

Please refer our website [www.bhelpem.com](http://www.bhelpem.com) , [www.bhel.com](http://www.bhel.com) for details.

## 21.0 **MICRO, SMALL & MEDIUM ENTERPRISES**

Extant regulations of Govt. of India will be applicable.

Preferences as mentioned in "Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012" shall be given to Micro and Small enterprises. Payment to MSEs will be governed as per the prevailing Act. MSE Bidders/ as defined by the MSMED Act as amended from time to time can avail the intended benefits only if they submit along with the offer, attested copies of either EM II certificate/ Udyog Aadhar Memorandum certificate having deemed validity (five years from the date of issue in acknowledgement in EM III Udyog Aadhar) or valid NSIC certificate or EM III Udyog Aadhar Memorandum certificate along with attested copy of a CA certificate (Format enclosed as per Appendix I where deemed validity of EM II certificate/Udyog Aadhar Memorandum certificate of five years have expired) applicable for the relevant financial year (latest audited) or such other document as may be stipulated in the MSMED Act or its rules/regulations as amended from time to time and/or by the Buyer. The deemed validity will be assessed on the date of bid opening (Part 1 in case of two part bid). Non submission of such documents as stipulated hereinbefore will lead to consideration of their bids at par with other Bidders. No benefit shall be applicable for the concerned for the tender enquiry, if any deficiency in the above required documents is not submitted before the price bid opening. If the tender is to be submitted through e-procurement portal, then the above required documents are to be uploaded on the portal. Documents should be notarized or attested by a Gazetted officer. This provision for MSE will apply subject to the condition that the participating MSE meets the tender requirements.

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In case of any change in the MSE status of the Bidder. it shall be the responsibility of the Bidder to notify the change as a part of the bid document. If at a later date it comes to the knowledge of BHEL, that the change in the status has not been intimated by the Bidder and the order was obtained under the premise of an MSE then BHEL may reject the bid or, as the case may be, cancel the order and take necessary steps for suspension of the business dealing against the Bidder as per the extant guidelines for suspension of business dealings with suppliers/ contractors of BHEL (as available on [www.bhel.com](http://www.bhel.com)). In case if all the items being procured under the enquiry fall under category of reserved items as defined in "Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012" and if any of the MSE bidder(s) is techno-commercially qualified then the price bids of only MSE bidders shall be opened. If no MSE bidder is techno-commercially qualified, then price bids of all techno-commercially qualified Bidders shall be opened.

**22.0 BHEL FRAUD PREVENTION POLICY**

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

**23.0 TENDERING COST**

Tender documents are free of cost. However, Bidder shall bear all costs associated with the preparation and submission of its bid at its end. BHEL, shall in no case, be responsible or liable for these costs, regardless of the conduct or the outcome of the bidding process.

**24.0 AVAILABILITY OF SPARES**

Vendor to keep BHEL informed by giving six-month (or specified in SCC) advance notice for discontinuation of manufacturing of the spares, mentioned/ required in the order.

**25.0 SPLITTING OF ORDER**


BHEL reserves the right to award tendered quantities to one or more Bidders. In case splitting is desired, the ratio of splitting shall be as mentioned in NIT, subject to acceptance of L1 price by L2, L3 etc., in order of their ranking.

If no splitting is mentioned in the NIT but it is later discovered that the quantity needs to be distributed on more than one Bidder the intention and manner of splitting shall be disclosed to all the techno-commercial acceptable bidders before price bid opening.

However extant Guidelines/ Instructions of Govt. of India shall prevail.

**26.0 MAKE IN INDIA**

For this procurement, Public Procurement (Preference to Make in India), Order 2017 dated 15.06.2017, 28.05.2018 & 29.05.2019 and subsequent Orders issued by the respective Nodal Ministry shall be applicable even if issued after issue of the NIT but before finalization of contract/ PO/WO against the NIT. In the event of any Nodal Ministry prescribing higher or lower percentage of purchase preference and /

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or local content in respect of this procurement, same shall be applicable. Vendors are requested to go through the above mentioned orders and furnish the required documents as specified in the NIT.

**27.0 START UP VENDORS**

MSME/ Start up vendors to submit applicable documents along with their offer for availing the benefits as per GOI guidelines.

**28.0 RXIL (TReDS) PLATFORM**

PEM is registered with RXIL (TreDS) platform. MSME Bidders are requested to get registered with RXIL (TReDS) platform to avail the facility as per the GOI guidelines.


**29.0 EXPORT ADMINISTRATION REGULATIONS**

If a delivery includes such technology and / or supply that is subject to the export regulations, the Seller shall obtain due permissions, approvals, license etc. as applicable from time to time under laws in force.

**30.0 AGENCY AGREEMENT**

For Indian agents of foreign principals:

- i. BHEL shall deal directly with foreign bidders/vendors, wherever required, for procurement of goods. However, if the foreign principal desires to avail the services of an Indian agent, then the foreign principal should ensure compliance to regulatory guidelines- which require mandatory submission of an Agency Agreement.
- ii. It shall be incumbent on the Indian agent and the foreign principal to adhere to the relevant guidelines of Government of India, issued from time to time.
- iii. The Agency Agreement should specify the precise relationship between the foreign OEM / foreign principal and their Indian agent and their mutual interest in the business. All services to be rendered by agent/ associate, whether of general nature or in relation to the particular contract, must be clearly stated by the foreign supplier/ Indian agent. Any payment, which the agent or associate receives in India or abroad from the OEM, whether as commission or as a general retainer fee should be brought on record in the Agreement and be made explicit in order to ensure compliance to laws of the country.
- iv. Any agency commission to be paid by BHEL to the Indian agent shall be in Indian currency only.
- v. Tax deduction at source is applicable to the agency commission paid to the Indian agent as per the prevailing rules.
- vi. In the absence of any agency agreement, BHEL shall not deal with any Indian agent (authorized representative/ associate/ consultant, or by whatever name called) and shall deal directly with the foreign principal only for all correspondence and business purposes.
- vii. The "Guidelines for Indian Agents of Foreign Suppliers" (refer [www.bhel.com](http://www.bhel.com)) shall apply in all such cases.
- viii. The supply and execution of the Purchase Order (including indigenous supplies / service) shall be in the scope of the OEM / foreign principal. The OEM / foreign principal should submit their offer inclusive of all indigenous supplies / services and
- ix. evaluation will be based on 'Total cost to BHEL'. In case OEM / foreign principal recommends placement of order(s) towards indigenous portion of supplies / services on Indian supplier(s) / agent


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on their behalf, the credentials / capacity / capability of the Indian supplier(s) agent to make the supplies / services shall be checked by BHEL as per the extant guidelines of Supplier Evaluation, Approval & Review Procedure (SEARP), before opening of price bids (if required as per NIT). It will be the responsibility of the OEM / foreign principal to get acquainted with the evaluation requirements of Indian supplier/ agent as per SEARP available on [www.bhel.com](http://www.bhel.com).

The responsibility for successful execution of the contract (including indigenous supplies / services) lies with the OEM/ foreign principal. All bank guarantees to this effect shall be in the scope of the OEM/ foreign principal.

BHEL prefers to deal directly with the manufacturers. In case any Manufacturer insists for submission of offer from their agent and subsequently placement & execution of PO through their agent:

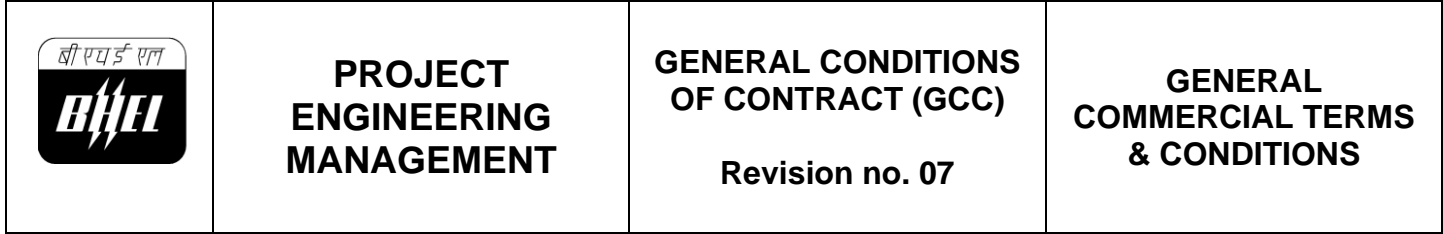
- i. Agent should submit authorization letter from the manufacturer, clearly indicating name and address of Manufacturer & agent. The authorization letter should be tender specific and clearly define that the manufacturer has authorized only the referred agent for participating in the tender. Manufacturer, should take responsibility for Quality and Guarantee. In case offer of one Manufacturer received from more than one agent (i.e. Manufacturer authorizing more than one agent), all such offer will be ignored.
- ii. Manufacturer should necessarily meet PQR defined in NIT for manufacturers in either case (i.e. In case of Submission of Offer Directly by manufacturer or Participating through agent). Offers of Manufacturers forwarded by their agent (i.e. Offer are of manufacturer and agent is only forwarding their offer with their covering letter), should be treated as direct offer from manufacturer.
- iii. The C&F price quoted will be deemed to be inclusive of Indian Agency commission. Agency commission if payable shall be converted to Indian Rupees at TT buying rates of exchange ruling on tender opening date which shall not be subjected to any further exchange rate variation, as disclosed by the bidder in his quoted C&F price will be paid in Indian Rupees on receipt & acceptance of Materials or it's installation at destination, as the case may be. The lower of the TT buying rate prevailing on the date of technical bid opening shall be considered for computation of Agency commission.
- iv. In a tender either the Indian Agent on behalf of Principal / OEM or the Principal / OEM itself can bid, but both cannot bid simultaneously for same item / product in the same Tender. If both OEM and its authorized agent submit their bids separately in that case only the offer of OEM can be considered.

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## GENERAL COMMERCIAL TERMS & CONDITIONS

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# GENERAL CONDITIONS OF CONTRACT (GCC)

## Revision no. 07

## GENERAL COMMERCIAL TERMS & CONDITIONS

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## 1.0 **ISSUANCE OF PURCHASE ORDER AND RECTIFICATION OF ERRORS**

Issuance of Purchase order by the Purchaser shall result in a binding contract between the Seller/ Contractor and Buyer. Seller/Contractor shall acknowledge the LOA/ Purchase Order issued by BHEL (Purchaser) within 7 days of its receipt. Seller/ Contractor should examine the LOA/ Purchase Order immediately upon receipt and bring to the notice of BHEL, within 7 days of receipt, any discrepancy/errors with regard to scope of work, rates, taxes & duties, agreed terms & conditions etc. for due rectification. If the Seller/ Contractor fails to give such acknowledgement within seven days, *LOA/ Purchase order issued shall be deemed as having no discrepancy/ errors. In case of any clerical error in the LOA/ Purchase order with respect to agreed Terms & Conditions, BHEL reserves the right to issue correction(s) as and when noticed.*

## 2.0 **INTENT OF CONTRACT**

Nothing in this document, unless otherwise specified, is intended to, or shall be deemed to, establish any partnership or agency between the parties.


## 3.0 **PRICES**

Prices shall be firm / with PVC (wherever applicable) for the entire scope of work in line with the tender documents and subsequent clarifications/ confirmations till completion of contract.

## 4.0 **TAXES AND DUTIES**

### 4.1 **GST is defined and includes CGST/ SGST/ UTGST/ IGST**

- 4.1.1 Seller/ Contractor is required to ensure that GST is quoted as per the existing tariff on the date of the offer and all benefits as per existing laws have been considered.
- 4.1.2 It is the responsibility of the seller/contractor to issue the Tax Invoice strictly as per the format prescribed under the relevant applicable GST law. Vendor to indicate the proper GSTN Registration/ HSN/SAC code in their tax invoice.
- 4.1.3 The purchaser is registered in the State of Uttar Pradesh vide GST registration number: **09AAACB4146P2ZC**. The purchaser is also registered in other states and state wise GST reg. code of BHEL units as per annexure no XI.
- 4.1.4 Seller/contractor is required to mention the GST registrations number as: **09AAACB4146P2ZC** in their tax invoice unless stated otherwise in NIT/SCC.
- 4.1.5 In general, GST shall be paid at actuals against Tax Invoice but restricted to the amount and percentage in the order/contract. **However, BHEL will reimburse the actual applicable tax even if the same is higher than the amount quoted by the bidder and considered in the order/contract in case BHEL is able to take the input tax credit. The decision of BHEL in this regard will be final and binding on the seller/contractor.**

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#### 4.2 **OTHER TAXES & LEVIES**

All taxes/ duties/ Cess other than GST shall be deemed to be included in the Ex-Works prices. No variation for such taxes and levies shall be paid in any circumstance unless specifically agreed upon even if the same are mentioned anywhere in the bids by the bidders.

#### 4.3 **CUSTOM DUTY**

4.3.1 Applicable Customs Duty/ IGST/ Goods and Services Compensation Cess under Goods and Services Tax (Compensation to States) Act, 2017 element for imported items shall be included in the Ex-Works prices unless specified in the price format of the NIT.

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

4.3.3 For items where CIF is available, as specified in NIT- Essentiality Certificate or Project Authority Certificate (PAC) as per Import Policy, if required to avail concessional customs duty, shall be clearly mentioned in the offer. Import content (CIF value in rupees) with list of items, quantity, foreign currency, Country of origin etc., shall be submitted by the bidder as part of Price bid.

#### 4.4 **DIRECT TAX**

4.4.1 Seller is required to update himself on its own and comply with provisions of Indian Income Tax Act as notified from time to time. Purchaser shall not be liable towards liability of income tax accruing to the Seller of whatever nature including variations thereof, arising out of this Order/ Contract, as well as tax liability of the Seller/ Contractor and his personnel.

4.4.2 Deductions of Tax at source at the prevailing rates shall be effected by the Purchaser before release of payment, as a statutory obligation, if applicable. TDS certificate will be issued by the Purchaser as per statutory provisions. The Seller/Contractor has to mention their Permanent Account Number (PAN) and GSTIN in all invoices.


#### 4.5 **GST COMPLIANCES**

4.5.1 The bidder should be registered with the appropriate authority under relevant GST laws.

4.5.2 **The bidder to specify in their offer (part 1 bid) the category of registration under GST i.e. registered dealer and composite dealer.**

4.5.3 **In the event of any GST quoted by a bidder (registered as a composite dealer), the GST shall be considered for evaluation and ordering purpose.**

4.5.4 **In the event of any change in the status of vendor from composite to regular dealer after the submission of the bid but before the supply, no reimbursement of additional GST will be made. However, the vendor has to raise the invoice strictly, as per the law, by adjusting their ex-works price.**

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4.5.5 Vendor/Supplier will share the Tax invoice along with LR/RR (as applicable) to BHEL immediately on removal of goods from vendor/supplier works.

4.5.6 All payments against Tax Invoice to vendors/contractors shall be released only after:

- i. Vendor/ contractor declaring such invoice in GSTR-1/GST-ANX-1 as per the relevant GST Act.
- ii. The tax component charged by the vendor in the invoice should match with the details uploaded by vendor in GSTR-1/GST-ANX-2.
- iii. Confirmation of payment of GST thereon by vendor on GSTN portal. In case, any GST credit is delayed/denied to BHEL due to non/delayed receipt of goods and/or tax invoice or expiry to timeline prescribed in the relevant GST Act for availing such ITC, or any other reasons not attributable to BHEL, tax amount shall be recoverable from the vendor/contractor along with interest levied/ leviable on BHEL.

4.5.7 Wherein GST liability arises on BHEL under reverse charge, any interest levied/leviable due to any reasons not attributable to BHEL shall be recovered from the vendor/contractor.

4.5.8 The applicable TDS under GST/ Goods and Services (Compensation to States) Act will be deducted from the payments.

#### 5.0 **STATUTORY VARIATION**

5.1 In general, Statutory variation for GST is payable to the Seller during currency of the contract between Buyer and Seller. Further, for period beyond the currency of the contract, BHEL will reimburse the actual applicable tax even if the same is higher than the amount applicable within the contractual period in case BHEL is able to take the input tax credit. However, the decision of BHEL in this regard will be final and binding on the seller/contractor otherwise vendor/contractor has to bear the differential upward increase in tax and ex- works price is to be adjusted accordingly


5.2 No other variations such as on Custom Duty, exchange rate, minimum wages, prices of controlled commodities, any other input etc. shall be payable by the purchaser unless specifically agreed upon.

#### 6.0 **VARIATION OF CONTRACT VALUE**

Prices shall remain Firm (or with PVC as specified in NIT) for any increase or decrease in the Order/ Contract value (Ex-works) up to plus or minus 30% (for any amendment) within three years from the date of original PO unless specified otherwise in NIT. The Purchaser shall have the right to increase or decrease quantities and scope up to the above extent of value and Seller/ Contractor shall be bound to accept the same at the contracted prices without any escalation.

Note:

GCC CLAUSES FROM 7 TO 21 ARE DELETED . HENCE NOT GIVEN HERE

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**15.0 MATERIAL DESPATCH CLEARANCE CERTIFICATE (MDCC)**

refer Special conditions of contract

**16.0 DELIVERY FAILURE AND TERMINATION / LIQUIDATED DAMAGES**

16.1 Timely dispatch/delivery and completion of other schedules as stipulated in Order/Contract shall be the essence of Order/Contract. If the Seller/Contractor fails to complete the dispatch/delivery and other schedules within the time period stipulated in Order/Contract, or within any extension of time granted by Purchaser, it shall be lawful for purchaser to recover damages for breach of Order/Contract and hereunder.

**16.2 DELAYED DELIVERY**

16.2.1 a) Purchaser reserves the right to recover from the Seller/ Contractor, as agreed liquidated damages and not by way of penalty, a sum equivalent to half (½) percent and applicable GST thereon, of the total main supply contract price excluding GST per week or part thereof, subject to a maximum of ten (10) percent of the total main supply contract price excluding GST, if the Seller/ Contractor fails to deliver any part of the ordered goods/stores within the period stipulated in the Order/ Contract.

b) LD on service portion (demonstration charges, PG test, installation check, supervision of erection / commissioning charges, engineering charges, O&M, study, calibration charges, type test, AMC, etc.) where delivery for services are defined separately in the NIT. LD shall be applicable @ ½ percent and applicable GST thereon, of the total service portion contract value excluding GST per week or part thereof. However, total LD (main supply and services) shall be limiting to 10% of cumulative total contract value (main supply +services) excluding GST.


NOTE:

i. LR/RR date for indigenous supplies (Bill of Lading/AWB for Foreign supplies) shall be treated as the date of dispatch for levying LD as per clause 16. However, if receipted LR date for indigenous supply is beyond 30 days for FTL/ 45 days for PTL from the date of LR (PTL to be clearly mentioned in LR), such excess period shall be considered for LD purpose irrespective of dispatch date. Import General Manifest (IGM)/Bill of entry date (whichever is earlier), for foreign supplies, is beyond 90 days from the date of Bill of Lading/AWB, such excess period shall be considered for LD purpose irrespective of dispatch date.

ii. In case of any amendment/ revision, LD shall be linked to the amended/ revised contract value and delivery date(s).


iii. If Order/ Contract involves two or more Units/ Sets/ Lots/ Stages, then Liquidated Damages shall be levied on order/ contract value excluding GST of the delayed Unit/ Set/ Lot/ Stage, provided delivery stipulated in the Order/ Contract is Unit/ Set/ Lot/Stage wise, however total LD amount shall be limited to 10% of total order/ amended order value excluding GST of delayed Unit/ Set/Lot/Stage. Any subsequent lot released (not envisaged in original contract) due to increase in quantity within permissible quantity variation shall be treated as separate lot for the purpose of LD.

iv. The sum specified above is not a penalty but a genuine pre-estimate of the loss/ damage which will be suffered by purchaser on account of delay on the part of the Contractor/Seller and the said amount will be deductible without proof of actual loss or damage caused by such delay

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16.2.2 Purchaser reserves the right to purchase from elsewhere on account of and at the risk and cost of Seller/ Contractor, with notice to Seller/ Contractor, the plant/ equipment/ stores due for delivery but not so delivered, or their equivalent without cancelling the Order/ Contract in respect of plant/ equipment/ stores not yet due for delivery. The manner and method of such purchase shall be at the discretion of the Purchaser.

Purchaser reserves the right to cancel the Order/ Contract or a portion thereof for the plant/ equipment/ stores not so delivered at the risk and cost of the Seller/ Contractor and the Seller/ Contractor shall be liable to the Purchaser for any excess cost thereof.  
Seller/ Contractor shall continue performance of the Order/ Contract, under all circumstances, to the extent not cancelled.

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

22.1 Notwithstanding any approval of Purchaser or Engineer in respect of plant/ equipment/ stores or materials or other particulars or work or workmanship involved in performance of order/ contract (with or without any test carried out by Seller/ Contractor or Inspection Agency or under direction of Contract Engineer), and notwithstanding delivery of the plant/ equipment/ stores where so provided to the consignee, it shall be lawful for the consignee, on behalf of the Purchaser, to reject the plant/ equipment/ stores or any part/ portion of consignment thereof, within 60 days after actual delivery at the stipulated place or destination, if such plant/ equipment/ stores or part/ portion of consignment thereof is not in conformity with terms and conditions of order/ contract whether on account of any loss, storage, deterioration or damage before dispatch or otherwise, whatsoever.

22.2 Rejected goods or materials shall be removed by Seller/ Contractor within a period of 30 days from the date of receipt of notice of such rejection. The expenses to be incurred in respect thereof shall be borne entirely by the Seller/ Contractor.

## 23.0 **RISK IN STORES (FOR TURNKEY CONTRACTS)**

Seller/ Contractor shall perform the order/ contract in all respects in accordance with terms and conditions thereof. Stores and every constituent part thereof, whether in possession or control of the Seller/ Contractor, his agents or servants, or a carrier, or in joint possession of Seller/ Contractor, his agent or servants and Purchaser, his agents or servants, shall remain in every respect at the risk of Seller/ Contractor until their actual delivery to consignee at the stipulated place or destination or where so provided in acceptance of offer, until their delivery to a person specified by Purchaser as interim consignee for the purpose of dispatch to the consignee. Seller/ Contractor shall be solely responsible for all losses, destructions, damages or deterioration to the plant/ equipment/ stores from any cause whatsoever, while the plant/ equipment/ stores await dispatch after approval by the Inspection Agency.

## 24.0 **SHORTAGES / DAMAGES**

### 24.1 **FOR SUPPLY PACKAGES**


- a) Shortage in sound cases shall be replenished free of cost by the vendor, as early as possible.
- b) For shortages/damages during transit/handling at site, vendor shall supply replacements, as early as possible, at the old contractual rates upon intimation to vendor within 3 months of receipted LR.

### 24.2 **FOR TURNKEY PACKAGES**

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

## 25.0 **CONFIDENTIALITY**

Seller/ Contractor shall, at all times, undertake to maintain complete confidentiality of all data, information, software, drawings & documents, etc. belonging to the Purchaser and also of systems, procedures, reports, input documents, manuals, results and any other company documents discussed and/ or finalized during the course of execution of order/ contract. i.e. Seller/Contractor shall in no way

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share or use such intellectual property of BHEL/purchaser to promote his own business with others. Purchaser reserves the right to claim damages from the Seller/Contractor, or take appropriate penal action as deemed fit against the Seller/Contractor, for any infringement of the provisions contained herein.

## 26.0 **INTELLECTUAL PROPERTY & LICENCES**

If any patent, design, trademark, trade secret or any other intellectual property rights apply to the delivery or accompanying documentation/drawings, Buyer or its customer shall be entitled to the legal use thereof free of charge by means of a non-exclusive, assignable, transferrable, sub-licensable, worldwide, perpetual license. All intellectual property rights that arise due to the execution of the delivery by the Seller and by its employees or third parties involved by the Seller for the performance of the contract shall be promptly notified by the Seller to the Buyer and shall be deemed to belong to the Buyer. The Seller shall be obligated to cooperate with the Buyer and do everything necessary to obtain or perfect the above mentioned rights in favor of the Buyer.

The Seller represents and guarantees that the delivery does not infringe on any of the intellectual property rights of third parties. In the event a third party makes a claim, the Seller shall also be obligated to do everything necessary to obtain or establish the alternate acceptable arrangement pending resolution of any (alleged) claims by third parties.


The Seller agrees to indemnify, defend and hold harmless the Buyer, its officers, employees, agents, representatives, successors, assignees or any of the Buyer's customers buying or using the goods or services specified herein, against any actual or alleged infringement of such intellectual property interests, claims by third parties in this regard and shall pay to the Buyer merely on demand without demur and without requiring the Buyer to furnish any proof of such claim, such sum as indicated in the demand towards any liabilities, damages, penalties, injuries, claims, demands, actions, cost and expenses etc. suffered as a result thereof.

The Seller agrees that its liability under this clause shall be unlimited

## 27.0 **DEFAULT/ BREACH OF CONTRACT, INSOLVENCY AND RISK PURCHASE**

- 27.1 In case of delays (beyond the maximum late delivery period as per LD clause) in supplies, or if there be defective supplies or non-fulfilment of any other terms and conditions of the Contract as enumerated subsequently in this clause, then, without prejudice to its right to recover any expenses, losses or damages to which the Buyer may be put to incur or sustain by reason of the Seller/Contractor's default or breach of Order/Contract or to suspend business dealings with the Seller/Contractor in terms of the Buyers' Guidelines for Suspension of Business Dealings as applicable from time to time, the Buyer shall also be entitled to cancel the Order/ Contract either in whole or portion thereof without compensation to Seller. On the occurrence of any of the acts/omissions mentioned below, the Buyer may if it so desires, procure upon such terms and in such manner as deemed appropriate, plant/ equipment/ stores not so delivered or others of similar description where plant/ equipment/ stores exactly complying with particulars are not, in the opinion of the Buyer (which shall be final), readily procurable, at the risk and cost of the Seller.

The Seller shall be liable to the Buyer for any excess costs incurred thereof and the Seller shall continue the performance of the Order/Contract to the extent not cancelled under the provisions of this clause. The Seller shall on no account be entitled to any gain on such repurchases. If the Bidder does not agree to this Risk Purchase clause, BHEL reserves the right to reject the bid/offer of the Bidder.

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The order/contract may be cancelled in whole or part thereof and Risk & Cost Clause in line with terms and conditions of PO/Contract may be invoked by the Buyer in any of the following cases:

- i. If the Seller/Contractor fails to deliver the goods or materials or any installment thereof within the period(s) fixed for such delivery or the Seller's poor progress of the supply/services vis-à-vis delivery/execution timeline as stipulated in the contract, backlog attributable to the Seller including unexecuted portion of supply does not appear to be executable within balance period available;
- ii. delivers goods or materials not of the contracted quality and failing to adhere to the contract specifications/execution methodology;
- iii. withdrawal from or repudiation/abandonment of the supply/services by the Seller before completion as per contract or if the Seller refuses or is unable to supply goods or materials covered by the order/Contract either in whole or in part or otherwise fails to perform the Order/Contract.
- iv. Non supply by the Seller within scheduled completion/delivery period as per contract or as extended from time to time for reasons attributable to the Seller;
- v. Termination of Contract on account of any other reason(s) attributable to the Seller.
- vi. Assignment, transfer, sub-letting of Contract without BHEL's written permission resulting in termination of Contract or part thereof by BHEL.
- vii. If the Seller be an individual or a Sole Proprietorship, in the event of death or insanity of the Seller.
- viii. If the Seller/Contractor being an individual or if a partnership firm thereof, shall at any time be adjudged insolvent or shall have a receiving order for administration of his estate made against him or shall take any proceeding for composition under any Insolvency Act for the time being in force or make any assignment of the order/Contract or enter into any arrangement or composition with his creditors or suspend payment or if the firm dissolved under the Partnership Act;
- ix. If the Seller/Contractor being a Company is wound up voluntarily or by order of a Court or a Receiver, Liquidator or Manager on behalf of the debenture holders and creditors is appointed or circumstances have arisen which entitles the Court of debenture holder and creditors to appoint a receiver, liquidator or manager
- x. Non- Compliance to any contractual condition or any other default attributable to the Seller.

Such defaulting vendor/Seller shall not be eligible to participate in re-tendering conducted on account of risk purchase made due to fault of such vendor/Seller.


27.2 BHEL's right to go for Risk and Cost, Calculation of Risk and Cost amount & LD, recovery options to BHEL are given in detail in Annexure-V hereto.

## 28.0 **TERMINATION OF CONTRACT**

28.1 Purchaser shall have the right to cancel Order/ Contract, wholly or in part, in case they are obliged to do so on account of any decline, diminution, curtailment or stoppage of their business and in that event, the Seller/ Contractor compensation claim shall be settled mutually.

Purchaser shall have the right to cancel order/ contract at the risk and cost of Seller/ Contractor in case either the Seller/ Contractor himself or any of his representative or agent is found to have been a previous employee (rank of Executive Director or General Manager Incharge having powers of Executive Director or General Manager having powers of Executive Directors) of the Purchaser immediately before retirement and has within a period of one years of such retirement accepted the employment of the Seller/ Contractor either as a Seller/ Contractor or as an employee without having obtained prior permission of Purchaser.



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

**29.0 TRANSFER, SUB-LETTING/ ASSIGNMENT/ SUB-CONTRACTING**

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

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

29.3 Decision of Purchaser that legal representatives of deceased seller/ contractor or surviving partners of the seller's/ contractor's firm cannot carry out and complete the order/ contract shall be final and binding on the parties hereto.


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

**30.0 FORCE MAJEURE**

30.1 Notwithstanding anything contained in the contract, neither the Seller nor the Buyer shall be held responsible for total or partial non execution/non- performance of any of the contractual obligations, in case such execution/performance is impeded/prevented due to occurrence of a 'Force Majeure' event not within the reasonable control of the party affected, which materially interferes or directly affects the performance of the obligations or duties under the contract.

Force Majeure event means an event beyond the control of the parties to the contract including but not limited to war, Military operations of any nature, Act of God, earthquakes, floods, fire, quarantine restrictions, acts of public enemy, blockades, civil war, explosion, epidemics, insurgency, change in law or government policy etc.

30.2 The party claiming to be affected by such Force Majeure event shall notify/inform the other party in writing without delay within a reasonable period of the occurrence and cessation of such event specifying the Force Majeure event and its effect on performance of contractual obligations. In the event of the parties hereto not agreeing that a force majeure event has occurred, the parties shall submit the dispute(s) for resolution pursuant to the provisions hereunder, provided that the burden of proof as to whether a force majeure event has occurred shall be upon the party claiming such an event.

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30.3 If it is agreed between the parties that a Force Majeure event has occurred and its effect continues for a period of 36 months, then either party shall be free to cancel the contract. However, if the effect of such event ceases within this period of 36 months, the performance of the obligations put on hold shall be resumed immediately.

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

30.5 If a war like situation has developed in a country where Sellers's works (of this PO) is located or there is political instability or civil war and Indian Embassy located in that country/Indian Government forbids or advises for not having any business dealings in that country/ region/zone, then BHEL reserves the right to cancel the order/Contract without incurring any liability for any kind of payment or compensation to the Seller on that account.

### 31.0 **INDEMNIFICATION**

Seller/ Contractor shall fully indemnify and keep indemnified the Purchaser against all claims /losses/damages/demands/expenses of any nature of whatsoever nature arising during the course and out of the execution of this Order/ Contract on in connection of this contract.

### 32.0 **SETTLEMENT OF DISPUTES**

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

32.2 Any dispute or difference shall be, to the extent possible, settled amicably between the parties hereto, failing which the disputed issues shall be settled through arbitration.

32.3 Seller/ Contractor shall continue to perform the order/ contract, pending settlement of dispute(s).


### 33.0 **ARBITRATION & CONCILIATION**

#### 33.1 **CONCILIATION**

If at any time (whether before, during or after the arbitral or judicial proceedings), any Disputes (which term shall mean and include any dispute, difference, question or disagreement arising in connection with construction, meaning, operation, effect, interpretation or breach of the agreement, contract), which the Parties are unable to settle mutually, arise inter-se the Parties, the same may, be referred by either party to Conciliation to be conducted through Independent Experts Committee (IEC) to be appointed by competent authority of BHEL from the BHEL Panel of Conciliators under BHEL Conciliation Scheme.

Notes:

- i. No serving or a retired employee of BHEL/Administrative Ministry of BHEL shall be included in the BHEL Panel of Conciliators.
- ii. Any other person(s) can be appointed as Conciliator(s) who is/are mutually agreeable to both the parties from outside the BHEL Panel of Conciliators.

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- ii. The proceedings of Conciliation shall broadly be governed by Part-III of the Arbitration and Conciliation Act 1996 or any statutory modification thereof and as provided in Procedure (Annexure-X) to this GCC. The Procedure (Annexure-X) together with its Formats will be treated as if the same is part and parcel hereof and shall be as effectual as if set out herein in this GCC.
- iii. The Contractor/ supplier hereby agrees that BHEL may make any amendments or modifications to the provisions stipulated in the Procedure (Annexure-X) to this GCC from time to time and confirms that it shall be bound by such amended or modified provisions of the Procedure (Annexure-X) with effect from the date as intimated by BHEL to it.
- iv. The venue of conciliation shall be Delhi/ New Delhi/ PO issuing agency city where PO is issued by BHEL Power Sector Regional HQ

### 33.2 **ARBITRATION**

Except as provided elsewhere in this Contract, in case amicable settlement is not reached between the Parties, in respect of any dispute or difference; arising out of the formation, breach, termination, validity of execution of the Contract; or, the respective rights and liabilities of the Parties; or, in relation to interpretation of any provision of the Contract; or, in any manner touching upon the contract, then, either Party may, by a notice in terms of Section 21 of Arbitration & Conciliation Act in writing to the other Party commence arbitration. The notice shall as far as possible contain the particulars of all claims to be referred to arbitration.

The arbitration shall be conducted by Sole Arbitrator to be appointed mutually by the Competent Authority of BHEL (purchaser) & Seller within the statutory period as applicable. As far as practicable, names of 2 or more persons shall be forwarded to the Seller for seeking consent of the Seller to one of the names proposed for appointment as arbitrator in the case. If the parties fail to agree on the name of Sole Arbitrator, then appointment shall be made as per the provisions of section 11 of the Arbitration & Conciliation Act.

The Arbitrator shall pass a reasoned award and the award of the Arbitrator shall be final and binding upon the Parties. The language of Arbitration shall be English.

Subject as aforesaid, the provisions of Arbitration of Conciliation Act 1996 (India) or statutory modification/ Amendments or re-enactments thereof and the rules made thereunder and for the time being in force shall apply to the arbitration proceedings under this clause. The seat and venue of arbitration shall be Delhi/ New Delhi/ PO issuing agency city where PO is issued by BHEL Power Sector Regional HQ


The cost of arbitration shall be borne equally by the parties' subject to the final apportionment of the cost of the arbitration as per the award/order of the arbitrator.

Subject to the arbitration in terms of Clause above, the Courts at Delhi-NCR/ (PO issuing agency city-where PO has been issued by BHEL Power Sector Regional HQ) shall have exclusive jurisdiction over any matter arising out of or in connection with this contract.

Notwithstanding the existence or any dispute or difference and/or reference for the arbitration, the Contractor shall proceed with and continue without hindrance the performance of its obligations under this Contract with due diligence and expedition in a professional manner except where the Contract has been terminated by either Party in terms of this Contract.

### 33.3 **IN CASE OF CONTRACT WITH PUBLIC SECTOR ENTERPRISE (PSE) OR A GOVERNMENT DEPARTMENT & INSTITUTES, THE FOLLOWING SHALL BE APPLICABLE**

In the event of any dispute or difference relating to the interpretation and application of the provisions of the commercial contract between Central Public Sector Enterprises(CPSEs)/Port Trusts inter se and

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also between CPSEs and Government Departments/Organizations (excluding disputes concerning railways, Income Tax, Customs and Excise Departments) such dispute or difference shall be taken up by either party for resolution through Administrative Mechanism for Resolution of CPSEs Disputes(AMRCD) as mentioned in Department of Public Enterprises(DPE) office Memorandum No. 4 (1)/2013-DPE(GM)/FTS-1835 dated 22.05.2018 as amended from time to time.

A copy of the extant Department of Public Enterprises (DPE) Office Memorandum is available on Govt. of India website and the same shall apply with any amendments as made from time to time.

#### **34.0 LAWS GOVERNING THE CONTRACT**

34.1 Contract, including all matters connected with contract, shall be governed by the Indian Law, both substantive and procedural, for the time being in force including modification thereto, and shall be subject to the exclusive jurisdiction of the Indian courts at Delhi-NCR/ (PO issuing agency city- where PO has been issued by BHEL Power Sector Regional HQ).

It shall be responsibility of the vendor to ensure compliance of Labor laws, safety regulations, workmen compensation, insurance, BOCW act or other relevant acts.

34.2 **HEALTH SAFETY AND ENVIRONMENT GUIDELINES (HSE)** of BHEL are available on [www.bhelpem.com](http://www.bhelpem.com) vendor section for compliance for erection (composite) contracts.

#### **35.0 JURISDICTION OF COURT**

Courts at Delhi-NCR/ (PO issuing agency city- where PO has been issued by BHEL Power Sector Regional HQ) shall have exclusive jurisdiction to decide the dispute, if any, arising out of or in respect of the contract(s) to which these conditions are applicable.

#### **36.0 ORDER OF PRECEDENCE**

The order of precedence shall be same as mentioned in clause no 1.6 of "Instruction to Bidders", GCC Rev 07.


#### **37.0 SUPPLIER PERFORMANCE MONITORING AND RATING SYSTEM (FOR SUPPLY PACKAGES)**

Seller/ Contractor's performance will be evaluated as per Supplier Performance Monitoring and Rating System of BHEL. Please refer BHEL website [www.bhel.com](http://www.bhel.com) for details.

#### **37.1 SUPPLIER PERFORMANCE MONITORING AND RATING SYSTEM (FOR TURNKEY PACKAGES)**

37.1.1 A detailed plan/ programme for completion of the contractual scope of work as per the time schedule given in the contract shall be jointly agreed between BHEL and Contractor, before commencement of work. The above programme shall be supported by month/ Quarter wise deployment of resources viz. Manpower, T&P, Consumables, etc. Progress will be reviewed periodically (Monthly/ Quarterly) vis a vis this jointly agreed programme. The Contractor shall submit periodical progress reports monthly/ Quarterly and other reports/information including manpower, consumables, T&P mobilization etc. as desired by BHEL. These progress reports shall also form basis for preparing time extension proposal.

37.1.2 Monthly/ Quarterly progress review between BHEL and Contractor shall be based on the agreed programme as above, availability of inputs/fronts etc., and constraints if any, as per prescribed formats. Manpower, T&P and consumable reports as per prescribed formats as handed over by regions during

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execution shall be submitted by contractor every month/ Quarter Release of RA Bills shall be contingent upon certification by BHEL Site Engineer of the availability of the above prescribed formats duly filled in and signed.

37.1.3 The burden of proof that the causes leading to any shortfall is not due to any reasons attributable to the contractor is on the contractor himself. The monthly/ Quarterly progress review shall record shortfalls attributable to (i) Contractor, (ii) Force Majeure Conditions, and (iii) BHEL

37.1.4 Online performance monitoring system is in place for vendors which will be used for quarterly/ overall performance review of the vendors.

#### 38.0 **PHYTOSANITARY CERTIFICATE:**

- i. As per the Indian Law, all consignments being imported into India by air/sea require a phytosanitary certificate from the country of origin-if articles have been packed with wooden packaging materials. This is mandatory. Please confirm in your offer/dispatch documents that the required phytosanitary certificate will be submitted.
- ii. Packaging material means any kind of material of plant origin used for packing which include, hay, straw wood shavings, wood chips, saw dust, wood waste, wooden pallets, dunnage mats, wooden packages, coir pith, peat or sphagnum moss etc.


#### 39.0 **HOLD ON CONTRACT EXECUTION CASES OTHER THAN FORCE MAJEURE**

In case of uncertainty regarding lifting of HOLD on contract execution relating to any activity put by Buyer/BHEL (because of any reason other than Force Majeure) or by end customer (cancellation or hold on project), the contract/Purchase Order may be short closed by Buyer/BHEL after 3 years from date of imposition of HOLD without prejudice to any claim of either party with regard to the executed portion of the contract. However, all future obligations of the Buyer and Seller with respect to the contract/Purchase Order shall come to end in case of such short closure.

#### 40.0 **NON DISCLOSURE AND INFORMATION OBLIGATIONS**

All drawing and technical documents or technical information whether contained in physical form or in electronic form or any oral information that is subsequently transcribed in to physical/electronic form etc. (hereinafter referred to as "Technical Information") relating to the product or it's manufacture submitted by one party to the other, prior or subsequent to the formation of contract, shall remain property of the disclosing party. Technical Information belonging to one party and received by the other party, shall be treated as Confidential Information and shall not, without the express written consent of such disclosing party, be used by the receiving party or any of its agents, employees, representatives etc., for any other purpose, other than that, for which such Technical Information was provided. Such Technical Information shall not, without the prior written consent of the disclosing party, otherwise be used or copied, reproduced, transmitted or communicated to a third party.

The Seller shall provide Buyer with all information pertaining to the delivery in so far as it could be of importance to Buyer. The Seller shall not reveal confidential information (including price) to its own employees not involved with the tender/ Contract & its execution and delivery or to third parties, or to make use of such information pertaining to any data, designs, drawings, specifications and other information furnished to it by the Buyer, unless Buyer has agreed to this in writing beforehand. The

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Seller shall not be entitled to use the Buyer's name in advertisements and other commercial publications without prior written permission from Buyer.

Upon completion, cancellation or termination of this order, Seller shall return to the Buyer all such data, designs drawings, specifications and other information, including copies made by Seller.

**DRAWINGS, PATTERNS & TOOLS:** All drawings, patterns & tools supplied by BHEL or made at BHEL's expense are BHEL's property. These cannot be used or referred to any other party and must only be used in the execution of BHEL's orders. These should be preserved at the seller's/ contractor's cost for a period of not less than 5 years. Patterns & tools should be returned to BHEL within 90 days of issue of the same or completion of work, whichever is later.

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

The Confidentiality obligation of the Seller under this Agreement shall survive the Expiration/early termination of this contract. The above undertaking in this clause shall, however, not apply to Technical Information which:

- i. through no fault of the receiving Party, is or comes in public domain through publication or otherwise, or
- ii. the receiving Party can establish was in its possession, without any restrictions as to its disclosure at the time of its receipt, or
- iii. is subsequently lawfully acquired by the receiving Party independently of the other Party, or
- iv. receiving Party is required to disclose to comply with applicable law, rule, regulation, or court order or other compulsory process of a court or other governmental body.


If the Seller, in order to perform its Contract needs to disclose to a subcontractor or suppliers the Technical Information received from the other Party e.g. for the purpose of use, manufacture, repair, maintenance and purchase, then such first mentioned Party shall have the right to do so to the extent needed for such purpose, but shall first obtain from such subcontractor or supplier a confidentiality undertaking consistent with the provisions of this Clause and submit to BHEL for records. In case of failure of seller to ensure compliance of this clause, he seller shall be liable to compensate BHEL for any damage/ loss whatsoever suffered by BHEL as a result of breach of this clause.

#### **41.0 NON WAIVER OF DEFAULTS**

If any individual provision of the Contract is held by a Court or any other Responsible Authority to be unlawful, invalid, void or unenforceable, that provision shall be deemed to be deleted from the Contract and shall be of no force or effect and this Contract shall remain in full force and effect as if such provision had not originally been contained in this Contract and the other provisions shall not be affected. In the event of any such deletion the Parties shall negotiate in good faith in order to agree to terms of a mutually acceptable and satisfactory alternative provision in place of the provision so deleted.

No waiver shall be effective unless it is communicated in writing to the other party. A waiver accorded on one occasion shall not constitute a continuing waiver in respect of such such/similar breach/event in future and separate waiver shall be necessary for each event/breach.


The failure of BHEL to exercise any contractual right or remedy or to enforce any of the terms and conditions of this Order/Contract or to exercise any right or privilege granted to BHEL under this Contract or under law shall not constitute a waiver thereof or constitute a waiver of any right or remedy

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arising from any other breach of the Contract nor shall it release the seller from any of the warranties or obligations of the Order/Contract and the same shall continue in full force and effect.


42.0 **QUALITY ASSURANCE DOCUMENTS**

As defined in Special conditions of contracts

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ANNEXURE No.	DESCRIPTION
I	OFFER SUBMISSION AS PER NIT
II	DEVIATION SHEET (COST OF WITHDRAWAL)
III	BANK GUARANTEE FOR PERFORMANCE SECURITY
IV	NON-CONFORMANCE REQUEST (NCR)
V	RISK AND COST PURCHASE
VI	NEFT DETAILS
VII	LOADING CRITERA
VIII	INTEGRITY PACT
IX	LIST OF TURNKEY PACKAGES WITH REQUIRED FINAL DOCUMENTS
IX (A)	LIST OF SUPPLY PACKAGES WITH REQUIRED FINAL DOCUMENTS
X	BRIEF PROCEDURE FOR CONDUCT OF CONCILIATION PROCEEDINGS
XI	STATE WISE GST REGISTRATION CODE OF BHEL



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## **ANNEXURE-V**

### **(RISK AND COST CLAUSE)**

1. BHEL reserves the right to terminate the contract or withdraw portion of work and get it done through other agency, at the risk and cost of the contractor *after due notice of a period of 14 days' by BHEL* in any of the following cases:
  - i) If the Seller/Contractor fails to deliver the goods or materials or any instalment thereof within the period(s) fixed for such delivery or the Seller's poor progress of the supply/ services vis-a-vis delivery/execution timeline as stipulated in the Contract, backlog attributable to seller including unexecuted portion of supply does not appear to be executable within balance available period;
  - ii) Delivers goods or materials not of the contracted quality and failing to adhere to the contract specifications;
  - iii) Withdrawal from or repudiation/ abandonment of the supply/ services by Seller before completion as per contract or if the Seller refuses or is unable to supply goods or materials covered by the Order/Contract either in whole or in part or otherwise fails to perform the Order/Contract;
  - iv) Non-supply by the Seller within scheduled completion/delivery period as per Contract or as extended from time to time, for the reasons attributable to the Seller;
  - v) Termination of Contract on account of any other reason (s) attributable to Seller.
  - vi) Assignment, transfer, subletting of Contract without BHEL's written permission resulting in termination of Contract or part thereof by BHEL.
  - vii) If the Seller be an individual or a sole proprietorship Firm, in the event of the death or insanity of the Seller;
  - viii) If the Seller/Contractor being an individual or if a firm on a partnership thereof, shall at any time, be adjudged insolvent or shall have a receiving order for administration of his estate made against him or shall take any proceeding for composition under any Insolvency Act for the time being in force or make any assignment of the Order/Contract or enter into any arrangement or composition with his creditors or suspend payment or if the firm dissolved under the Partnership Act;
  - ix) If the Seller/Contractor being a company is wound up voluntarily or by order of a Court or a Receiver, Liquidator or Manager on behalf of the debenture holders and creditors is appointed or circumstances shall have arisen which entitles the Court of debenture holder and creditors to appoint a receiver, liquidator or manager;
  - x) Non-compliance to any contractual condition or any other default attributable to Seller.

#### **1.1 Risk & Cost Amount against Balance Work:**

Risk & Cost amount against balance work shall be calculated as follows:

$$\text{Risk \& Cost Amount} = [(A-B) + (A \times H/100)]$$

Where,

A= Value of Balance scope of Work (\*) as per rates of new contract

B= Value of Balance scope of Work (\*) as per rates of old contract being paid to the contractor at the time of termination of contract i.e. inclusive of PVC & ORC, if any.

H = Overhead Factor to be taken as 5

In case (A-B) is less than 0 (zero), value of (A-B) shall be taken as 0 (zero).


#### **1.2 \* Balance scope of work (in case of termination of contract):**

Difference of Contract Quantities and Executed Quantities as on the date of issue of Letter for 'Termination of Contract', shall be taken as balance scope of Work for calculating risk & cost amount.

Contract quantities are the quantities as per original contract. If, Contract has been amended, quantities as per amended Contract shall be considered as Contract Quantities.

Items for which total quantities to be executed have exceeded the Contract Quantities based on drawings issued to contractor from time to time till issue of Termination letter, then for these items total Quantities as per issued drawings would be deemed to be contract quantities.

Substitute/ extra items whose rates have already been approved would form part of contract quantities for this purpose.

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Substitute/ extra items which have been executed but rates have not been approved, would also form part of contract quantities for this purpose and rates of such items shall be determined in line with contractual provisions.

However, increase in quantities on account of additional scope in new tender shall not be considered for this purpose.

NOTE: In case portion of work is being withdrawn at risk & cost of contractor instead of termination of contract, contract quantities pertaining to portion of work withdrawn shall be considered as 'Balance scope of work' for calculating Risk & Cost amount.

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

LD against delay in executed work shall be calculated in line with LD clause no. 16 of GCC, for the delay attributable to contractor. For limiting the maximum value of LD, contract value shall be taken as Executed Value of work till termination of contract.

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


- i. Let the time period from scheduled date of start of work till termination of contract excluding the period of Hold (if any) not attributable to contractor = T1
- ii. Let the value of executed work till the time of termination of contract = X
- iii. Let the Total Executable Value of work for which inputs/fronfs were made available to contractor and were planned for execution till termination of contract = Y
- iv. Delay in executed work attributable to contractor i.e.  $T2 = [1 - (X/Y)] \times T1$
- v. LD shall be calculated in line with LD clause (clause 16) of the Contract for the delay attributable to contractor taking "X" as Contract Value and "T2" as period of delay attributable to contractor.

**2. Recoveries arising out of Risk & Cost and LD or any other recoveries due from Contractor**

Without prejudice to the other means of recovery of such dues from the Seller recoveries from the Seller on whom risk & cost has been invoked shall be made from the following:

- a) Dues available in the form of Bills payable to seller, SD, BGs against the same contract.
- b) Dues payable to seller against other contracts in the same Region/Unit/ Division of BHEL.
- c) Dues payable to seller against other contracts in the different Region/Unit/ division of BHEL.

*In-case recoveries are not possible with any of the above available options, Legal action shall be initiated for recovery against contractor.*

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**ANNEXURE– VI**

**NEFT APPLICATION FORM**

Name of the Vendor Name of the Bank Address of the Bank Vendor's A/c no

Type of A/c

IFSC Code

RTSG Code


Vendor's e-mail address

Authorized Signatory Seal

ABOVE DETAILS ARE TO BE SUBMITTED ON COMPANY'S LETTERHEAD.

THE DETAILS MAY EITHER BE ATTESTED BY VENDOR'S BANKERS OR ACCOMPANIED BY A CANCELLED CHEQUE LEAF WITH IFSC CODE & A/C NO. PRINTED ON IT.

UNDERTAKING TO REPORT IMMEDIATELY ANY CHANGES IN THE ABOVE TO BE SUBMITTED ON COMPANY'S LETTERHEAD.

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## **ANNEXURE– VII**

### **LOADING CRITERIA**

No deviations in GCC terms and conditions are generally acceptable, and bids with deviations are liable to be rejected. However, in exceptional circumstances, BHEL may accept deviations with Loading as given below:

#### **A) PAYMENT TERMS**

Payment will be released generally within 60 days after receipt of material/ services and complete documents as per order/ contract (45 days for vendors qualified and registered as Micro or Small as per MSMED Act).

Loading will be done for vendors seeking earlier payment w.r.t. above, for the value and the period of deviation, as per Clause 17.0 of 'Instructions to Bidders'.

Time periods assumed by BHEL/ PEM for a few activities are as follows:

Material Receipt Certificate (MRC) – 120 days from dispatch.

#### **B) BANK GUARANTEE `**

Non submission of Bank Guarantee – No deviation is permitted.


#### **C) LIQUIDATED DAMAGES**

If maximum limit asked for is on Undelivered Portion – 10% value of the total quoted ex works price & freight (excluding GST).

If maximum limit asked is less than 10 % of contract value loading shall be to the extent to which not agreed by bidder (at offered value).

#### **D) PRICE VARIATION CLAUSE (PVC)**


PVC instead of firm price – Maximum ceiling of PVC as demanded by the vendor

	<p align="center"><b>PROJECT ENGINEERING MANAGEMENT</b></p>	<p align="center"><b>GENERAL CONDITIONS OF CONTRACT (GCC)</b></p> <p align="center"><b>Revision no. 07</b></p>	<p align="center"><b>ANNEXURES</b></p>
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## **ANNEXURE X**

### **BRIEF PROCEDURE FOR CONDUCT OF CONCILIATION PROCEEDINGS**

1. The proceedings of Conciliation shall broadly be governed by Part-III of the Arbitration and Conciliation Act 1996 or any statutory modification thereof and as provided herein:
2. The party desirous of resorting to Conciliation shall send an invitation/notice in writing to the other party to conciliate specifying all points of Disputes with details of the amount claimed. The party concerned shall not raise any new issue thereafter. Parties shall also not claim any interest on claims/counter-claims from the date of notice invoking Conciliation till the conclusion of the Conciliation proceedings. If BHEL is to initiate Conciliation, then, the invitation to Conciliate shall be extended to the concerned Stakeholder in **Format 7** hereto. Where the stakeholder is to initiate the Conciliation, the notice for initiation of Conciliation shall be sent in **Format-8** hereto.
3. The party receiving the invitation/notice for Conciliation shall within 30 days of receipt of the notice of Conciliation intimate its consent for Conciliation along with its counter-claims, if any.
4. The Conciliation in a matter involving claim or counter-claim (whichever is higher) up to Rs 5 crores shall be carried out by sole Conciliator nominated by BHEL while in a matter involving claim or counter-claim (whichever is higher) of more than Rs 5 crores Conciliation shall be carried out by 3 Conciliators nominated by BHEL. The appointment of Conciliator(s) shall be completed and communicated by the concerned Department/Group of BHEL Unit/Division/Region/Business Group to the other party and the Conciliator(s) within 30 days from the date of acceptance of the invitation to conciliate by the concerned party in the **Format-9**. The details of the Claim, and counter-claim, if any, shall be intimated to the Conciliator(s) simultaneously in **Format-5**.
5. The Parties shall be represented by only their duly authorized in-house executives/officers and neither Party shall be represented by a Lawyer.
6. The first meeting of the IEC shall be convened by the IEC by sending appropriate communication/notice to both the parties as soon as possible but not later than 30 days from the date of his/their appointment. The hearings in the Conciliation proceeding shall ordinarily be concluded within two (2) months and, in exceptional cases where parties have expressed willingness to settle the matter or there exists possibility of settlement in the matter, the proceedings may be extended by the IEC by a maximum of further 2 months with the consent of the Parties subject to cogent reasons being recorded in writing.
7. The IEC shall thereafter formulate recommendations for settlement of the Disputes supported by reasons at the earliest but in any case within 15 days from the date of conclusion of the last hearing. The recommendations so formulated along with the reasons shall be furnished by the IEC to both the Parties at the earliest but in any case within 1 month from the date of conclusion of the last hearing.
8. Response/modifications/suggestions of the Parties on the recommendations of the IEC are to be submitted to the IEC within time limit stipulated by the IEC but not more than 15 days from the date of receipt of the recommendations from the IEC.
9. In the event, upon consideration, further review of the recommendations is considered necessary, whether by BHEL or by the other Party, then, the matter can be remitted back to the IEC with request to reconsider the same in light of the issues projected by either/both the Parties and to submit its recommendations thereon within the following 15 days from the date of remitting of the case by either of the Parties.

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10. Upon the recommendations by the Parties, with or without modifications, as considered necessary, the IEC shall be called upon to draw up the Draft Settlement Agreement in terms of the recommendations.
11. When a consensus can be arrived at between the parties only in regard to any one or some of the issues referred for Conciliation the draft Settlement Agreement shall be accordingly formulated in regard to the said Issue(s), and the said Settlement Agreement, if signed, by the parties, shall be valid only for the said issues. As regards the balance issues not settled, the parties may seek to resolve them further as per terms and conditions provided in the contract.
12. In case no settlement can be reached between the parties, the IEC shall by a written declaration, pronounce that the Conciliation between the parties has failed and is accordingly terminated.
13. Unless the Conciliation proceedings are terminated in terms of para 22 (b), (c) & (d) herein below, the IEC shall forward his/its recommendations as to possible terms of settlement within one (1) month from the date of last hearing. The date of first hearing of Conciliation shall be the starting date for calculating the period of 2 months.
14. In case of 3 members IEC, 2 members of IEC present will constitute a valid quorum for IEC and meeting can take place to proceed in the matter after seeking consent from the member who is not available. If necessary, videoconferencing may be arranged for facilitating participation of the members. However, the IEC recommendations will be signed by all members. Where there is more than one (1) Conciliator, as a general rule they shall act jointly. In the event of differences between the Members of IEC, the decision/recommendations of the majority of the Members of IEC shall prevail and be construed as the recommendation of the IEC.
15. The Draft Settlement Agreement prepared by the IEC in terms of the consensus arrived at during the Conciliation proceedings between the Parties shall be given by the IEC to both the parties for putting up for approval of their respective Competent Authority.
16. Before submitting the draft settlement agreement to BHEL's Competent Authority viz. the Board Level Committee on Alternative Dispute Resolution (BLCADR) for approval, concurrence of the other party's Competent Authority to the draft settlement agreement shall be obtained by the other party and informed to BHEL within 15 days of receipt of the final draft settlement agreement by it. Upon approval by the Competent Authority, the Settlement Agreement would thereafter be signed by the authorized representatives of both the Parties and authenticated by the members of the IEC.
17. In case the Draft Settlement Agreement is rejected by the Competent Authority of BHEL or the other Party, the Conciliation proceedings would stand terminated.
18. A Settlement Agreement shall contain a statement to the effect that each of the person(s) signing thereto (i) is fully authorized by the respective Party(ies) he/she represents, (ii) has fully understood the contents of the same and (iii) is signing on the same out of complete freewill and consent, without any pressure, undue influence.
19. The Settlement Agreement shall thereafter have the same legal status and effect as an arbitration award on agreed terms on the substance of the dispute rendered by an arbitral tribunal passed under section 30 of the Arbitration and Conciliation Act, 1996.
20. Acceptance of the Draft Settlement Agreement/recommendations of the Conciliator and/or signing of the Settlement Agreement by BHEL shall however, be subject to withdrawal/closure of any arbitral and/or judicial proceedings initiated by the concerned Party in regard to such settled issues.

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21. Unless otherwise provided for in the agreement, contract or the Memorandum of Understanding, as the case may be, in the event of likelihood of prolonged absence of the Conciliator or any member of IEC, for any reason/incapacity, the Competent Authority/Head of Unit/Division/Region/Business Group of BHEL may substitute the Conciliator or such member at any stage of the proceedings. Upon appointment of the substitute Conciliator(s), such reconstituted IEC may, with the consent of the Parties, proceed with further Conciliation into the matter either de-novo or from the stage already reached by the previous IEC before the substitution.

22. The proceedings of Conciliation under this Scheme may be terminated as follows:

- a. On the date of signing of the Settlement agreement by the Parties; or,
- b. By a written declaration of the IEC, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of the declaration; or,
- c. By a written declaration of the Parties addressed to the IEC to the effect that the Conciliation proceedings are terminated, on the date of the declaration; or,
- d. By a written declaration of a Party to the other Party and the IEC, if appointed, to the effect that the Conciliation proceedings are terminated, on the date of the declaration; or,
- e. On rejection of the Draft Settlement Agreement by the Competent Authority of BHEL or the other Party.

23. The Conciliator(s) shall be entitled to following fees and facilities:


SI No	Particulars	Amount
1	Sitting fees	Each Member shall be paid a Lump Sum fee of Rs 75,000/- for the whole case payable in terms of paragraph No.27 herein below.
2	Towards drafting of settlement agreement	In cases involving claim and/or counter-claim of up to Rs 5crores.  Rs 50,000/- (Sole Conciliator)  In cases involving claim and/or counter-claim of exceeding Rs 5 crores but less than Rs 10 crores.
SI No	Particulars	Amount
		Rs 75,000 (per Conciliator)  In cases involving claim and/or counter-claim of more than Rs 10 crores.  Rs 1,00,000/- (per Conciliator) Note: The aforesaid fees for the drafting of the Settlement Agreement shall be paid on the,  Signing of the Settlement Agreement after approval of the Competent Authority  or

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			Rejection of the proposed Settlement Agreement by the Competent Authority of BHEL.
<b>3</b>	Secretarial expenses		Rs 10,000/- (one time) for the whole case for Conciliation by a Sole Member IEC.  Where Conciliation is by multi member Conciliators –Rs 30,000/- (one time)- to be paid to the IEC
<b>4</b>	Travel and transportation and stay at outstation Retired Senior Officials of other Public Sector Undertakings (pay scale wise equivalent to or more than E-8 level of BHEL)		As per entitlement of the equivalent officer (pay scale wise) in BHEL.
	Others		As per the extant entitlement of whole time Functional Directors in BHEL.  Ordinarily, the IEC Member(s) would be entitled to travel by air Economy Class.
<b>5</b>	Venue for meeting		Unless otherwise agreed in the agreement, contract or the Memorandum of Understanding, as the case may be, the venue/seat of proceedings shall be the location of the
<b>SI No</b>	<b>Particulars</b>	<b>Amount</b>	
			concerned Unit / Division / Region / Business Group of BHEL. Without prejudice to the seat/venue of the Conciliation being at the location of concerned BHEL Unit / Division / Region / Business Group, the IEC after consulting the Parties may decide to hold the proceedings at any other place/venue to facilitate the proceedings. Unless, Parties agree to conduct Conciliation at BHEL premises, the venue is to be arranged by either Party alternately.

24. The parties will bear their own costs including cost of presenting their cases/evidence/witness(es)/expert(s) on their behalf. The parties agree to rely upon documentary evidence in support of their claims and not to bring any oral evidence in IEC proceedings.
25. If any witness(es) or expert(s) is/are, with the consent of the parties, called upon to appear at the instance of the IEC in connection with the matter, then, the costs towards such witness(es)/expert(s) shall be determined by the IEC with the consent of the Parties and the cost so determined shall be borne equally by the Parties.
26. The other expenditures/costs in connection with the Conciliation proceedings as well as the IEC's fees and expenses shall be shared by the Parties equally.




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27. Out of the lump sum fees of Rs 75,000/- for Sitting Fees, 50% shall be payable after the first meeting of the IEC and the remaining 50% of the Sitting Fees shall be payable only after termination of the conciliation proceedings in terms of para 22 hereinabove.
28. The travelling, transportation and stay at outstation shall be arranged by concerned Unit as per entitlements as per Serial No. 4 of the Table at para 23 above, and in case such arrangements are not made by the BHEL Unit, the same shall be reimbursed to the IEC on actuals limited to their entitlement as per Serial No. 4 of the Table at Para 23 above against supporting documents. The IEC Member(s) shall submit necessary invoice for claiming the fees/reimbursements.
29. The Parties shall keep confidential all matters relating to the conciliation proceedings. Confidentiality shall extend also to the settlement agreement, except where its disclosure is necessary for purposes of its implementation and enforcement or as required by or under a law or as per directions of a Court/Governmental authority/ regulatory body, as the case may be.
30. The Parties shall not rely upon or introduce as evidence in any further arbitral or judicial proceedings, whether or not such proceedings relate to the Disputes that is the subject of the Conciliation proceedings:
  - a. Views expressed or suggestions made by the other party in respect of a possible settlement of the Disputes;
  - b. admissions made by the other party in the course of the Conciliator proceedings;
  - c. proposals made by the Conciliator;
  - d. The fact that the other Party had indicated his willingness to accept a proposal for settlement made by the Conciliator.
31. The Parties shall not present the Conciliator(s) as witness in any Alternative Dispute Resolution or Judicial proceedings in respect of a Disputes that is/was the subject of that particular Conciliation proceeding.
32. None of the Conciliators shall act as an arbitrator or as a representative or counsel of a Party in any arbitral or judicial proceeding in respect of a Disputes that is/was the subject of that particular Conciliation proceeding.
33. The Parties shall not initiate, during the Conciliation proceedings, any arbitral or judicial proceedings in respect of a Disputes that is the subject matter of the Conciliation proceedings except that a Party may initiate arbitral or judicial proceedings where, in his opinion, such proceedings are necessary for preserving his rights including for preventing expiry of period of limitation. Unless terminated as per the provisions of this Scheme, the Conciliation proceedings shall continue notwithstanding the commencement of the arbitral or judicial proceedings and the arbitral or judicial proceedings shall be primarily for the purpose of preserving rights including preventing expiry of period of limitation.
34. The official language of Conciliation proceedings under this Scheme shall be English unless the Parties agree to some other language.

**Format 5 to BHEL Conciliation Scheme, 2018 STATEMENT OF CLAIMS/COUNTER CLAIMS TO BE SUBMITTED TO THE IEC BY BOTH THE PARTIES**

1. Chronology of the Disputes
2. Brief of the Contract/MoU/Agreement/LOI/LOA
3. Brief history of the Disputes:
4. Issues:
5. Details of Clam(s)/Counter Claim(s):

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Sl. No.	Description of claim(s)/Counter Claim	Amount (in INR) or currency applicable in the contract	Relevant contract clause

6. Basis/Ground of claim(s)/counter claim(s) (along with relevant clause of contract)

**Note**– The Statement of Claims/Counter Claims may ideally be restricted to maximum limit of 20 pages. Relevant documents may be compiled and submitted along with the statement of Claims/Counter Claims. The statement of Claims/Counter Claims is to be submitted to all IEC members and to the other party by post as well as by email.

#### **FORMAT-7**

#### **FORMAT FOR NOTICE INVOKING CONCILIATION CLAUSE BY BHEL FOR REFERRING THE DISPUTES TO CONCILIATION THROUGH IEC**

To,

M/s. (Stakeholder's name)

Subject: **NOTICE FOR INVOCATION OF THE CONCILIATION CLAUSE OF THE CONTRACT BY BHEL**

Ref: ContractNo/MoU/Agreement/LOI/LOA& date\_\_\_\_\_.

Dear Sir/Madam,

As you are aware, with reference to above referred Contract/MoU/Agreement/LOI/LOA, certain disputes have arisen, which, in spite of several rounds of mutual discussions and various correspondences have remained unresolved. The brief particulars of our claims which arise out of the above- referred Contract/MoU/Agreement/LOI/LOA are reproduced hereunder:

Sl. No.	Claim description	Amount involved

As you are aware, there is a provision in the captioned Contract/MoU/Agreement/LOI/ LOA for referring disputes to conciliation.

In terms of Clause -----of Procedure i.e., Annexure ----- to the Contract/MoU /Agreement / LOI / LOA, we hereby seek your consent to refer the matter to Conciliation by Independent Experts Committee to be appointed by BHEL. You are invited to provide your consent in writing to proceed with conciliation into the above mentioned disputes within a period of 30 days from the date of this letter along with details of counter-claims, if any, which you might have with regard to the subject Contract/ MoU/ Agreement/ LOI/ LOA.


Please note that upon receipt of your consent in writing within 30 days of the date of receipt of this letter by you, BHEL shall appoint suitable person(s) from the BHEL Panel of Conciliators.

This letter is being issued without prejudice to our rights and contentions available under the contract and law.

Thanking you Yours faithfully

**Representative of BHEL**

**Note:** The Format may be suitably modified, as required, based on facts and circumstances of the case.

	<p align="center"><b>PROJECT ENGINEERING MANAGEMENT</b></p>	<p align="center"><b>GENERAL CONDITIONS OF CONTRACT (GCC)</b></p> <p align="center">Revision no. 07</p>	<p align="center"><b>ANNEXURES</b></p>
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**FORMAT-8 FORMAT FOR NOTICE INVOKING CONCILIATION CLAUSE BY A STAKEHOLDER FOR REFERRING THE DISPUTES TO CONCILIATION THROUGH IEC**

To,  
BHEL (Head of the Unit/Division/Region/Business Group)

Subject: **NOTICE FOR INVOCATION OF THE CONCILIATION CLAUSE OF THE CONTRACT BY A STAKEHOLDER**

Ref: ContractNo/MoU/Agreement/LOI/LOA& date\_\_\_\_\_.

Dear Sir/Madam,

As you are aware, with reference to above referred Contract/MoU/Agreement/LOI/LOA, certain disputes have arisen, which, in spite of several rounds of mutual discussions and various correspondences have remained unresolved. The brief particulars of our claims which have arisen out of the above- referred Contract/MoU/Agreement/LOI/LOA are enumerated hereunder:

Sl.No.	Claim description	Amount involved


As you are aware, there is a provision in the captioned Contract/MoU/Agreement/LOI/ LOA for referring inter-se disputes of the Parties to conciliation.

We wish to refer the above-said disputes to Conciliation as per the said Clause of the captioned Contract/MoU/Agreement/LOI/ LOA. In terms of Clause -----of Procedure i.e., Annexure ----- to the Contract/MoU /Agreement / LOI / LOA, we hereby invite BHEL to provide its consent in writing to proceed with conciliation into the above mentioned disputes within a period of 30 days from the date of this letter along with details of counter-claims, if any, which it might have with regard to the subject Contract/ MoU/ Agreement/ LOI/ LOA and to appoint suitable person(s) as Conciliator(s) from the BHEL Panel of Conciliators.

This letter is being issued without prejudice to our rights and contentions available under the contract and law.

Thanking you Yours faithfully  
**Representative of the Stakeholder**

**Note:** The Format may be suitably modified, as required, based on facts and circumstances of the case.

	<p align="center"><b>PROJECT ENGINEERING MANAGEMENT</b></p>	<p align="center"><b>GENERAL CONDITIONS OF CONTRACT (GCC)</b></p> <p align="center">Revision no. 07</p>	<p align="center"><b>ANNEXURES</b></p>
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**FORMAT-9**

**FORMAT FOR INTIMATION TO THE STAKEHOLDER ABOUT APPOINTMENT OF CONCILIATOR/IEC**

To,

M/s. (Stakeholder's name)

Subject: **INTIMATION BY BHEL TO THE STAKEHOLDER AND CONCILIATOR(S) ABOUT APPOINTMENT OF CONCILIATOR/IEC**

Ref: Contract No/MoU/Agreement/LOI/LOA & date \_\_\_\_\_. Sir,

This is with reference to letter dated ----- regarding reference of the disputes arising in connection with the subject Contract No \_\_\_\_\_/MoU/Agreement/LOI/LOA to conciliation and appointment of Conciliator(s).

In pursuance of the said letter, the said disputes are assigned to conciliation and the following persons are nominated as Conciliator(s) for conciliating and assisting the Parties to amicably resolve the disputes in terms of the Arbitration & Conciliation Act, 1996 and the Procedure ---- to the subject Contract ...../MoU/Agreement/LOI/LOA, if possible. Name and contact details of Conciliator(s)

- a) .....
- b) .....
- c) .....


You are requested to submit the Statement of Claims or Counter-Claims (strike off whichever is inapplicable) before the Conciliator(s) in Format 5 (enclosed herewith) as per the time limit as prescribed by the Conciliator(s).

Yours faithfully,

**Representative of BHEL**

CC: To Conciliator(s)... for Kind Information please. Encl: As above


**Note:** The Format may be suitably modified, as required, based on facts and circumstances of the case.

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### ANNEXURE XI

#### STATE WISE GST REGISTRATION CODE OF BHEL

Sl.No	State	Nodal Unit Registered as Supplier of Goods/Services in GST	GSTIN of Nodal Unit
1	Andhra Pradesh	HPVP	37AAACB4146P7Z8
2	Assam	PSER	18AAACB4146P1ZE
3	Bihar	PSER	10AAACB4146P1ZU
4	Chandigarh	PSNR	04AAACB4146P1ZN
5	Chattishgarh	PSWR	22AAACB4146P1ZP
6	Daman & Diu	EDN	25AAACB4146P1ZJ
7	Delhi	TBG	07AAACB4146P1ZH
8	Gujarat	PSWR	24AAACB4146P1ZL
9	Haryana	PSNR	06AAACB4146P1ZJ
10	Himachal Pradesh	PSNR	02AAACB4146P1ZR
11	Jharkhand	PSER	20AAACB4146P5ZP
12	Karnataka	EDN	29AAACB4146P1ZB
13	Kerala	PSSR	32AAACB4146P1ZO
14	Maharashtra	PSWR	27AAACB4146P1ZF
15	Madhya Pradesh	BPL	23AAACB4146P1ZN
16	Punjab	IVP	03AAACB4146P2ZO
17	Rajasthan	PSNR	08AAACB4146P1ZF
18	Tamil Nadu	TRY	33AAACB4146P2ZL
19	Telangana	Hyd	36AAACB4146P1ZG
20	Tripura	PSER	16AAACB4146P1ZI
21	Uttar Pradesh	PSNR	09AAACB4146P2ZC
22	Uttarakhand	HWR	05AAACB4146P1ZL
23	West Bangal	PSER	19AAACB4146P1ZC
24	Mizoram	PSER	15AAACB4146P1ZK
25	Orissa	PSSR	21AAACB4146P1ZR
26	Arunachal Pradesh	PSER	12AAACB4146P1ZQ

	<p align="center"><b>PROJECT ENGINEERING MANAGEMENT</b></p>	<p align="center"><b>GENERAL CONDITIONS OF CONTRACT (GCC)</b></p> <p align="center">Revision no. 07</p>	<p align="center"><b>APPENDIX</b></p>
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## APPENDIX – I

### (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:

- 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
- 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-

## FORMS & PROCEDURES

SL NO	FORMAT DESCRIPTION	NO OF PAGES	REMARKS
1.	TECHNO COMMERCIAL and BIDDER DETAILS	2	MANDATORY
2.	DECLARATION REGARDING MINIMUM LOCAL	1	MANDATORY
3.	DECLARATION REGARDING COMPLIANCE TO RESTRICTIONS UNDER RULE 144 (xi) OF GFR 2017	1	MANDATORY
4.	POWER OF ATTORNEY FOR SUBMISSION OF TENDER	1	MANDATORY
5.	MSME CERTIFICATE	1	AS APPLICABLE
6.	CERTIFICATE FOR NO DEVIATION	1	MANDATORY
7.	INTEGRITY PACT (IP)	6	MANDATORY

### **TECHNO COMMERCIAL and BIDDER DETAILS**

<b>Sl.No</b>	<b>DESCRIPTION</b>	<b>Vendor to indicate their Acceptance and confirmation and provide Details of supporting documents uploaded</b>
1.	Comply to Execute the Work as per Scope defined in Tender NIT	
2.	Comply to accept the delivery conditions and delivery period as stated in tender documents	
3.	Comply to include Packing & forwarding charges, Freight and Insurance Charges if any	
4.	<p>Comply – BHEL have the rights to evaluate the offers and “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 the respective L-1 Bidders.</p> <p>In case more than one bidder happens to occupy L-1 Status even after soliciting discounts, the L-1 bidder shall be decided by toss/draw of lots, in the presence of respective L-1 bidder(s) or their representative(s). Ranking will be done accordingly. BHEL’s decision in such situations shall be final and binding.”</p>	
5.	Agreed that the Rates quoted shall be firm during the entire duration of the contract	
6.	<b>NO DEVIATION CERTIFICATE in Letter Head (Same to be Attached In Attachment Section. Vendor offer liable to be rejected if not submitted) – mandatory</b>	
7.	<p>Comply to furnish the scanned copy of Power of Attorney (To be typed on non-judicial Stamp Papers of appropriate value as applicable and Notarised) Document for Submission of Tender , negotiations and Signing Contract Agreement along with offer.</p> <p>Offers without valid Power of attorney Document will be summarily rejected and will not be Considered for further evaluation by BHEL (scanned copy to be attached in attachment section) - <b>mandatory (bids are liable to rejected if PoA is not submitted.)</b></p>	
8.	Comply to Furnish Copy of duly filled in Integrity Pact (IP) document as in Annexure-I & IA. (scanned copy to be attached in attachment section) – <b>Applicable And Mandatory (need to be submitted)</b>	
9.	Whether falling under MSME category (Proof to be attached in attachment section) - -	
10.	Certification for local supplier category as per Public Procurement (Preference to Make in India), Order 2017 dated 15.06.2017, 28.05.2018 & 04.06.2020 and subsequent Orders issued by the respective Nodal Ministry provided and uploaded in Attachment section <b>(mandatory)</b> .	
11.	Comply to BHEL Payment Terms as per Tender	
12.	Comply to BHEL LD Clause as per Tender	



<b>Sl.No</b>	<b>DESCRIPTION</b>	<b>Vendor to indicate their Acceptance and confirmation and provide Details of supporting documents uploaded</b>
13.	Comply to General Conditions of contract (GCC)	
14.	Comply to Special Conditions of contract (SCC)	
15.	Comply to Participate in Reverse Auction & contact person details	
16.	Authorized Contact Person Name , Mob No etc	
17.	GeM Seller ID 1. Bidder to Indicate Seller ID, if already registered in GeM 2. If GeM Seller ID not available, Status of GeM registration to be indicated	

(Signature of Bidder with seal)

Date :

**DECLARATION REGARDING MINIMUM LOCAL CONTENT IN LINE WITH  
REVISED PUBLIC PROCUREMENT (PREFERENCE TO MAKE IN INDIA), ORDER 2017 DATED 04<sup>TH</sup> JUNE, 2020 AND  
SUBSEQUENT ORDER(S)**

*(To be typed and submitted in the Letter Head of the Entity/Firm providing certificate as applicable)*

To,

(Write Name & Address of Officer of BHEL inviting the Tender)

Dear Sir,

**Sub:** Declaration reg. minimum local content in line with Public Procurement (Preference to Make in India), Order 2017-Revision, dated 04<sup>th</sup> June, 2020 and subsequent order(s).

**Ref :** 1) NIT/Tender Specification No: .....,  
2) All other pertinent issues till date

We hereby certify that the items/works/services offered by..... *(specify the name of the organization here)* has a local content of \_\_\_\_\_ % and this meets the local content requirement for '**Class-I local supplier**' / '**Class II local supplier**' \*\* as defined in Public Procurement (Preference to Make in India), Order 2017-Revision dated 04.06.2020 issued by DPIIT and subsequent order(s).

The details of the location(s) at which the local value addition is made are as follows:

- |          |          |
|----------|----------|
| 1. _____ | 2. _____ |
| 3. _____ | 4. _____ |

Thanking you,  
Yours faithfully,

**(Signature, Date & Seal of  
Authorized Signatory of the Bidder)**

**\*\* - Strike out whichever is not applicable.**

**Note:**

1. Bidders to note that above format Duly filled & signed by authorized signatory, shall be submitted along with the techno-commercial offer.
2. In case the bidder's quoted value is in excess of Rs. 10 crores, the authorized signatory for this declaration shall necessarily be the statutory auditor or cost auditor of the company (in the case of companies) or a practising cost accountant or practicing chartered accountant (in respect of suppliers other than companies).
3. In the event of false declaration, actions as per the above order and as per BHEL Guidelines shall be initiated against the bidder.

**DECLARATION REGARDING COMPLIANCE TO RESTRICTIONS UNDER RULE 144 (xi) OF GFR 2017**

*(To be typed and submitted in the Letter Head of the Entity/Firm providing certificate as applicable)*

-----  
To,

*(Write Name & Address of Officer of BHEL inviting the Tender)*

Dear Sir,

**Sub:** Declaration regarding compliance to Restrictions under Rule 144 (xi) of GFR 2017

**Ref :** 1) NIT/Tender Specification No: .....  
2) All other pertinent issues till date

I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India and on sub-contracting to contractors from such countries. I certify that \_\_\_\_\_ *(specify the name of the organization here)*, is not from such a country / has been registered with the Competent Authority *(attach valid registration by the Competent Authority, i.e., the Registration Committee constituted by the Dept. for Promotion of Industry and Internal Trade (DPIIT))*; and will not sub-contract any work to a contractor from such countries unless such contractor is registered with the Competent Authority. *(attach relevant valid registration, if applicable)*

I hereby certify that we fulfil all requirements in this regard and is eligible to be considered.

Thanking you,

Yours faithfully,

**(Signature, Date & Seal of  
Authorized Signatory of the Bidder)**

**Note:** Bidders to note that in case above certification given by a bidder, whose bid is accepted, is found to be false, then this would be a ground for immediate termination and for taking further action in accordance with law and as per BHEL guidelines.

## POWER OF ATTORNEY FOR SUBMISSION OF TENDER

(To be typed on non-judicial Stamp Papers of appropriate value as applicable)

-----  
KNOW ALL MEN BY THESE PRESENTS, that I / We do hereby make, nominate, constitute and appoint Mr ..... , whose signature given below herewith to be true and lawful Attorney of M/s..... hereinafter called 'Company', for submitting Tender/entering into Contract and inter alia, sign, execute all papers and to do necessary lawful acts on behalf of Company with M/s Bharat Heavy Electricals Ltd, Power Sector Southern Region, Tek Towers, Chennai-35 in connection with .....  
..... vide Tender Specification No : \_\_\_\_\_, dated \_\_\_\_\_.

And the Company do hereby agree to ratify and confirm all acts, deeds, things or proceedings as may be lawfully done by the said attorney and by or on behalf of the company and in the name of the company, by virtue of the powers conferred herein and the same shall be binding on the company and shall have full force and effect.

IN WITNESS WHEREOF the common seal of the company has been hereunto affixed in the manner hereinafter appearing on the document.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_

Director / CMD / Partner / Proprietor

Signature of Mr.....(Attorney)

Attested by: Director/CMD/Partner/Proprietor

**(Authorized Signature & Office Seal / Date)**

Witness Notary Public

**TO BE TYPED ON BIDDER'S LETTER HEAD**

## ***CERTIFICATE FOR NO DEVIATION***

THIS IS WITH REFERENCE TO TENDER ENQUIRY No. ENQ:22:PS:0005:PUR:3 FOR Supply of 26,480 MT of PORTLAND SLAG CEMENT IS 455-2015 through e-procurement portal <https://eprocurebhel.co.in> to 2X660MW Udangudi STPP.

I, \_\_\_\_\_ OF  
M/S \_\_\_\_\_ HEREBY CERTIFY THAT THERE IS NO DEVIATION  
FROM THE TENDER CONDITIONS EITHER TECHNICAL OR COMMERCIAL AND I AM AGREEING TO ALL THE  
TERMS AND CONDITIONS MENTIONED IN THE TENDER SPECIFICATION.

SIGNATURE OF THE TENDERER

OFFICE SEAL

## Annexure - I

### Integrity Pact (IP)

a) IP is a tool to ensure that activities and transactions between the company and its Bidders / Contractors are handled in a fair, transparent and corruption free manner. A panel of Independent External Monitors (IEMs) have been appointed to oversee implementation of IP in BHEL. The IP as per format given at Volume 1D Formats (refer as in Annexure-IA) of this tender is to be submitted (duly signed and stamped by the authorized signatory who signs in the offer) along with Techno Commercial Bid. Only those bidders who have entered into such an IP with BHEL would be competent to participate in the bidding. In other words, entering into this pact would be a preliminary qualification.

Details of IEM for this tender is furnished below:

SI No.	IEM	Address
1.	Shri Otem Dai, IAS (Retd.)	lem1@bhel.in
2.	Shri Bishwamitra Pandey, IRAS (Retd.)	lem2@bhel.in
3.	Shri Mukesh Mittal, IRS (Retd.)	lem3@bhel.in

Please refer section- 8 of the IP (refer as in Annexure-IA) for Role and Responsibilities of IEMs. In case of any complaint arising out of the tendering process, the matter may be referred to the IEM mentioned in the tender.

Note: No routine correspondence shall be addressed to the IEM (Phone / Post / E mail) regarding the clarifications, time extensions or any other administrative queries, etc. on the tender issued. All such clarification / issued shall be addressed directly to the tender issuing (Procurement) department. For all clarifications / issues related to the tender, please contact:

1. Mr.S Prabhu Kumar AGM /Purchase,  
BHEL-PSSR ,No 11 ,Tek Towers , Oggiumthoraiakkam,OMR  
Road,Chennai-600097  
044-24589541 , [sprabhu@bhel.in](mailto:sprabhu@bhel.in)

## Annexure – I A

### INTEGRITY PACT

Between

Bharat Heavy Electricals Ltd. (BHEL), a company registered under the Companies Act 1956 and having its registered office at "BHEL House", Sir' Fort, New Delhi - 110049 (India) hereinafter referred to as The Principal", which expression unless repugnant to the context or meaning hereof shall include its successors or assigns of the ONE PART

and

----- (description of the party along with address), hereinafter referred to as The Bidder/ Contractor" which expression unless repugnant to the context or meaning hereof shall include its successors or assigns of the OTHER PART'

#### Preamble

The Principal intends to award, under laid-down organizational procedures, contract/s for - Supply of 26480 MT of PORTLAND SLAG CEMENT IS 455-2015 to 2X660MW Udangudi STPP The Principal values full compliance with all relevant laws of the land, rules and regulations, and the principles of economic use of resources, and of fairness and transparency in its relations with its Bidder(s)/ Contractor(s).

In order to achieve these goals, the Principal will appoint independent External Monitor(s), who will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

### Section 1- Commitments of the Principal

1.1 The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:-

1.1.1 No employee of the Principal, personally or through family members, will in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.

1.1.2 The Principal will, during the tender process treat all Bidder(s) with equity and reason.

The Principal will in particular, before and during the tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential / additional information through which the Bidder(s) could obtain an advantage in relation to the tender process or the contract execution.

1.1.3 The Principal will exclude from the process all known prejudiced persons.

1.2 If the Principal obtains information on the conduct of any of its employees which is a penal offence under the Indian Penal Code 1860 and Prevention of Corruption Act 1988 or any other statutory penal enactment, or if there be a substantive suspicion in this regard, the Principal will inform its Vigilance Office and in addition can initiate disciplinary actions.

## Section 2 - Commitments of the Bidder(s)/ Contractor(s)

2.1 The Bidder(s)/ Contractor(s) commit himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.

2.1.1 The Bidder(s)/ Contractor(s) will not, directly or through any other person or firm, offer, promise or give to the Principal or to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person any material, immaterial or any other benefit which he / she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.

2.1.2 The Bidder(s)/ Contractor(s) will not enter with other Bidder(s) into any illegal or undisclosed agreement or understanding, whether formal or informal. 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.

2.1.3 The Bidder(s)/ Contractor(s) will not commit any penal offence under the relevant IPC/ PC Act; further the Bidder(s)/ Contractor(s) will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship regarding plans, technical proposals and business details, including information contained or transmitted electronically.



- 2.1.4 The Bidder(s)/ Contractor( s) will, when presenting his bid , disclose any and all payments he has made, and is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.
- 2.2 The Bidder(s)/ Contractor ( s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

### Section 3 - Disqualification from tender process and exclusion from future contracts

If the Bidder(s)/ Contractor(s), before award or during execution has committed a transgression through a violation of Section 2 above, or acts in any other manner such as to put his reliability or credibility in question, the Principal is entitled to disqualify the Bidder(s)/ Contractor(s) from the tender process or take action as per the separate "Guidelines on Banning of Business dealings with Suppliers/ Contractors". framed by the Principal.

### Section 4 - Compensation for Damages

- 4.1 If the Principal has disqualified the Bidder from the tender process prior to the award according to Section 3, the Principal is entitled to demand and recover the damages equivalent Earnest Money Deposit/Bid Security.
- 4.2 If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to section 3, the Principal shall be entitled to demand and recover from the Contractor liquidated damages equivalent to 5% of the contract value or the amount equivalent to Security Deposit/Performance Bank Guarantee, whichever is higher.

### Section 5 - Previous Transgression

- 5.1 The Bidder declares that no previous transgressions occurred in the last 3 years with any other company in any country conforming to the anti-corruption approach or with any other Public Sector Enterprise in India that could justify his exclusion from the tender process.
- 5.2 If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

## Section 6 - Equal treatment of all Bidders/ Contractors / Sub-contractors

- 6.1 The Bidder(s)/ Contractor(s) undertake(s) to obtain from all subcontractors a commitment consistent with this Integrity Pact and report Compliance to the Principal. This commitment shall be taken only from those sub-contractors whose contract value is more than 20 % of Bidder's/ Contractor's contract value with the Principal. The Bidder(s)/ Contractor(s) shall continue to remain responsible for any default by his Sub-contractor(s).
- 6.2 The Principal will enter into agreements with identical conditions as this one with all Bidders and Contractors.
- 6.3 The Principal will disqualify from the tender process all bidders who do not sign this pact or violate its provisions.

## Section 7 - Criminal Charges against violating Bidders/ Contractors /Subcontractors

If the Principal obtains knowledge of conduct of a Bidder, Contractor or Subcontractor, or of an employee or a representative or an associate of a Bidder, Contractor or Subcontractor which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the Vigilance Office.

## Section 8 -Independent External Monitor(s)

- 8.1 The Principal appoints competent and credible Independent External Monitor for this Pact. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.
- 8.2 The Monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. He reports to the CMD, BHEL.
- 8.3 The Bidder(s)/ Contractor(s) accepts that the Monitor has the right to access without restriction to all contract documentation of the Principal including that provided by the Bidder(s)! Contractor(s). The Bidder(s)/ Contractor(s) will grant the monitor. upon his request and demonstration of a valid interest, unrestricted and unconditional access to his contract documentation. The same is applicable to Sub-contractor(s). The Monitor is under contractual obligation to treat the information and documents of the Bidder(s)/ Contractor(s) / Sub-contractor(s) with confidentiality,
- 8.4 The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the contract provided such meetings could have an impact on the contractual relations between the Principal and the Contractor. The parties offer to the

Monitor the option to participate in such meetings.

- 8.5 As soon as the Monitor notices, or believes to notice, a violation of this agreement, he will so inform the Management of the Principal and request the Management to discontinue or take corrective action, or heal the situation, or to take other relevant action. The Monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.
- 8.6 The Monitor will submit a written report to the CMD. BHFI\_ within 8 to 10 weeks from the date of reference or intimation to him by the Principal and, should the occasion arise, submit proposals for correcting problematic situations.
- 8.7 The CMD, BHEL shall decide the compensation to be paid to the Monitor and its terms and conditions.
- 8.8 If the Monitor has reported to the C: MD, BI IEL, a substantiated suspicion of an offence under relevant IPC / PC Act , and the CMD , BI-IEL has not , within reasonable time, taken visible action to proceed against such offence or reported it to the Vigilance Office, the Monitor may also transmit this information directly to the Central Vigilance Commissioner, Government of India.
- 8.9 The number of Independent External Monitor(s) shall be decided by the CMD. BHEL.
- 8.10 The word `Monitor' would include both singular and plural.

## Section 9 - Pact Duration

- 9.1 This Pact begins and shall be binding on and from the submission of bid(s) by bidder(s). It expires for the Contractor 12 months after the last payment under the respective contract and for all other Bidders 6 months after the contract has been awarded.
- 9.2 If any claim is made / lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified as above, unless it is discharged/ determined by the CMD, BHEL.

## Section 10 - Other Provisions

- 10.1 This agreement is subject to Indian Laws and jurisdiction shall be registered office of the Principal, i.e. New Delhi.
- 10.2 Changes and supplements as well as termination notices need to be made in writing.

Side agreements have not been made.

- 10.3 If the Contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.
- 10.4 Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.
- 10.5 Only those bidders / contractors who have entered into this agreement with the Principal would be competent to participate in the bidding. In other words, entering into this agreement would be a preliminary qualification.



For & On behalf of the Principal  
(Office Seal)

For & On behalf of the Bidder/ Contractor  
(Office Seal)

Place.....

Date-----

Witness: Witness: -----  
(Name & Address) .....

Witness: Witness: .....  
(Name & Address).....