


	SOLAR BUSINESS DIVISION (SBD)	SPECIAL CONDITIONS OF CONTRACT (SCC) Rev. No. 00	Item Description: EPC Package for 3x300MW Solar Project at Mandsaur Ref: MANPBT0036
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These Conditions shall be read in conjunction with GCC. In case of any conflict or inconsistency, the requirement of this SCC shall prevail over the GCC.

The name of our Plant/ Unit may please be read as SOLAR BUSINESS DIVISION (SBD) as it was changed from ELECTRIC & PHOTOVOLTAIC DIVISION (EPD)


1.	Type of Contract	<p>Tender invitation- for Entering into Pre- bid tie up for EPC package for development of 900 MW (3x300MW) Grid Connected Solar PV Projects at Mandsaur, Madhya Pradesh.</p> <p>AWARD OF CONTRACT: The mode of contracting with the successful bidder will be as briefly indicated below. The award shall be made as follows: The contract shall be awarded in the following manner:</p> <p>First Contract: For supply of all plant and equipment including mandatory spares</p> <p>Second Contract: Erection and commissioning work required for completion of project</p> <p>Third Contract: Comprehensive Operation and Maintenance (O&M) cum CAMC for 3 years of the solar PV plant</p> <p>Fourth Contract: 7 Years of CAMC of critical equipment beyond O&M period as per technical specification</p> <p>All the above “Four” Contracts will contain a crossfall breach clause specifying that breach of one will constitute breach of the other Contract which will confer a right on the Purchaser/BHEL to terminate the other contracts. Separate Contract(s) shall be entered into for each of the blocks.</p>																																
2.	Item Details	<p>Design, Engineering, Supply, Construction, Erection, Testing, and Commissioning of Solar PV plant in Mandsaur, Madhya Pradesh along with power evacuation system up to the terminal point including supply of PV modules and tracker system as per following documents :</p> <div><div>1. Technical Specifications DOC NO: PS-439-1450 Rev: 01.</div><div>2. Tender Drawings</div></div> <table><tr><td></td><td colspan="3">Block-1/2/3 Each block -300MW</td></tr><tr><td>SN.</td><td>Item Description</td><td>Qty. & UoM</td><td>Price Range as %ge to be quoted of total price</td></tr><tr><td colspan="4">A. Supply:</td></tr><tr><td>1</td><td>Supply of all items required for commissioning of project along with Mandatory spares</td><td>1 Lot</td><td></td></tr><tr><td colspan="4">B. Works and services</td></tr><tr><td>1</td><td>Erection and commissioning work required for completion of project.</td><td>1 Lot</td><td>>12 %</td></tr><tr><td>2</td><td>Comprehensive Operation and Maintenance (O&M) cum CAMC for 3 years of the solar PV plant</td><td>1 Lot</td><td>>5 %</td></tr><tr><td>3</td><td>7 Years of CAMC of critical equipment beyond O&M period as per technical specification</td><td>1 Lot</td><td>>3 %</td></tr></table>		Block-1/2/3 Each block -300MW			SN.	Item Description	Qty. & UoM	Price Range as %ge to be quoted of total price	A. Supply:				1	Supply of all items required for commissioning of project along with Mandatory spares	1 Lot		B. Works and services				1	Erection and commissioning work required for completion of project.	1 Lot	>12 %	2	Comprehensive Operation and Maintenance (O&M) cum CAMC for 3 years of the solar PV plant	1 Lot	>5 %	3	7 Years of CAMC of critical equipment beyond O&M period as per technical specification	1 Lot	>3 %
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3.	Consignee/Delivery address	C/O BHEL Site-in-charge, BHEL Site Office- 3X300MW Solar PV Power Plant Mandsaur, Madhya Pradesh. Consignee address in LR should be strictly as per above or as mentioned in PO.
4.	Buyer and Paying Authority	BHARAT HEAVY ELECTRICALS LIMITED - SOLAR BUSINESS DIVISION (SBD), (Formerly known as ELECTRIC & PHOTOVOLTAIC DIVISION) PROF. CNR RAO CIRCLE, SCIENCE INSTITUTE POST, MALLESWARAM, BANGALORE-560012.
5.	Buyer IEC CODE/GST No.	IEC CODE: 0588138690 / GST No: 29AAACB4146P1ZB
6.	Buyer Email ID	For Commercial Clarifications: k.manoj@bhel.in For Technical Clarifications: varun.jain@bhel.in
7.	Mode of Dispatch	By Sea / Road / Air / Rail. Note: It is Vendor's responsibility to ensure availability of Trucks/ships/ Airplanes/Train schedule etc. well in advance for dispatch of material to meet contractual delivery requirement. <ul style="list-style-type: none"> Part shipment is allowed. Transshipment is allowed. It is also the vendor's responsibility to ensure material is dispatched through shortest possible route. By ROAD/SEA/AIR All import formalities are to be taken care by the respective packages seller / contractors. Only the supporting documents required for such clearance will provided by BHEL.
8.	Price basis	Indigenous purchase - Price to be quoted on Ex-WORKS, inclusive of packing & forwarding charges. Taxes and duties to be paid in line with GCC. Material to be dispatched on freight pre-paid basis to Consignee basis. Price to be quoted as per attached format (Unpriced Price Bid). Transit Insurance is in the scope of BHEL. Foreign purchase- Price to be quoted as per attached format (Price Bid for below: <ul style="list-style-type: none"> DDP- CONSIGNEE/SITE basis Transit Insurance is in BHEL's scope. All the other applicable taxes including Income taxes (TDS) as per prevailing Indian law shall be deducted from the payables & paid to Govt. by BHEL.
9.	Evaluation of Offer	The evaluation currency for this tender shall be INR. Evaluation will be done on Block wise Price INR/MU L1 basis as per Price bid Format and Loading criteria if any. Cl no 19.0 of GCC (Instructions to Bidder) may be referred. Any new taxes/ duties structure as and when implemented by the Government shall become applicable & evaluation shall be done based on the new taxes/ duties structure.
10.	Price Variation	Not Applicable. Prices shall be firm till the completion of contract.

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11.	Change of Scope	<p>In case of changes in scope of the tender and/ or technical specifications and commercial terms & conditions by BHEL during techno commercial evaluation and before Price bid Opening, the same will be communicated only to the bidders who have participated in the tender.</p> <p>The techno-commercially qualified bidders shall be asked to submit Impact Price bid, as applicable.</p>
12.	Quantity Splitting	Applicable as per the number of blocks quoted and qualified by Bidder.
13.	Quantity Variation	BHEL Reserves the right to plus or minus 10% within contract period. The Purchaser shall have the right to increase or decrease quantities and scope upto the above extent of value and Seller/Contractor shall be bound to accept the same at the contracted prices without any escalation.
14.	Reverse Auction	Not Applicable
15.	Delivery Period	<p>As per Technical specifications. Briefly described as below for reference:</p> <ul style="list-style-type: none"> ○ Commissioning & Completion of Facilities: Within 15 months from PO/LOA ○ O&M Duration: 3 years post-commissioning
16.	Transit Insurance	In BHEL Scope.
17.	Unloading at SBD/project site	In Bidder Scope.
18.	Paying authority	<p>Paying authority shall be:</p> <p>For supply & services: BHEL – SBD, Bangalore</p> <p>Clause 9.2.4 of GCC is appended as follows: Certification for Service Bills can also be submitted digitally signed by BHEL as well as the supplier.</p>
19.	Payment terms	<p>FOR INDIGENOUS & FOREIGN PURCHASE: -</p> <p>A. Indian & Foreign Bidders: Payment through Usance LC of 30 days, Respective bank charges to respective account.</p> <ol style="list-style-type: none"> 1. Advance: Five Percent (5%) of the first contract value against submission of request by Vendor/ contractor along-with a deed of undertaking to be executed for faithful performance of contract. The advance payment will be interest bearing and will be released against submission of Advance Bank Guarantee (ABG) of value 110% of advance payment. Interest rates shall be the base rate of SBI (on the date of release of advance) plus 6%. The Bank Guarantee shall be for 110% of the value of advance, to be kept valid till the completion of supplies and I&C. Recovery of advances along with the interest shall be made from the first Bill to the maximum extent possible and subsequent bill. 2. Milestone payment :Five Percent (5%) of total first contract value price against submission & approval of design drawings / documents on prorata basis and against bill duly certified by concerned BHEL executive. This payment will be considered as

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	<p>an advance stage payment and will be released only against advance bank guarantee of 100% value, to be kept valid till the completion of supplies and I&C.</p> <p>Note: In case above initial advance payment is not required/not availed by contractor, above 5%/10% payment appropriately shall be paid along with the payment against receipt of Material. In such case, total payment against receipt of material shall be 85% instead of 75% as per below mechanism.</p> <p>3. For main supplies (including spares):</p> <p>i. Seventy Five Percent (75%) of basic price of material supplied, as per first contract value, along with 100% taxes & duties (as applicable) & freight charges, shall be paid on pro-rata basis within 30 Days from the date of receipt of goods & receipt of complete documents as per order/contract subject to acceptance of materials.</p> <p>Statutory deductions will be made from payment, Certificate if any shall be issued by BHEL.</p> <p>ii. Five (5%) of first contract value price shall be paid against completion of supervision of installation & commissioning as per scope of work on pro rata as per approved billing break-up within 30 days from the receipt of seller / contractor's clear bill along with duly certified Work Completion Certificate jointly signed by Supplier and BHEL site Incharge and supporting documents as per PO. Digitally signed Work Completion Certificate shall be accepted.</p> <p>Statutory deductions will be made from payment, Certificate if any shall be issued by BHEL.</p> <p>iii. Ten (10%) of first contract value price shall be paid Upon Final Acceptance of Entire Plant within 30 days from the receipt of seller / contractor's clear bill along with duly certified Operational Acceptance Certificate issued by BHEL and supporting documents as per PO. Digitally signed Operational Acceptance Certificate shall be accepted.</p> <p>4. For Works & Services at site (wherever applicable):</p> <p>i. Eighty Five (85%) of second contract value for Services along-with Taxes & duties shall be paid against completion of work as per scope of work and shall be paid pro rata against submission of invoice and duly certified Work Completion Certificate jointly signed by Supplier and BHEL site Incharge. Payment shall be made within 30 days from receipt of BHEL – SBD's site Incharge certified clear bills along with all supporting documents as per PO. Digitally signed Work Completion Certificate shall be accepted.</p> <p>Statutory deductions will be made from payment, Certificate if any shall be issued by BHEL.</p> <p>ii. Fifteen (15%) of second contract value shall be paid Upon Final Acceptance of Entire Plant within 30 days from the receipt of seller / contractor's clear bill along with duly certified Operational Acceptance Certificate issued by BHEL and</p>
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		<p>supporting documents as per PO. Digitally signed Operational Acceptance Certificate shall be accepted.</p> <p>5. For O&M work: Third Contract</p> <p>i. O&M value along-with Taxes & duties shall be paid against Completion of O&M work and Payment shall be made on quarterly basis on pro rata against submission of invoice and duly certified Work Completion Certificate jointly signed by Supplier and BHEL site Incharge. Payment shall be made within 30 days from receipt of BHEL – SBD’s site Incharge certified clear bills along with all supporting documents as per PO. Digitally signed Work Completion Certificate shall be accepted.</p> <p>6. For CAMC work: Fourth Contract</p> <p>i. CAMC value along-with Taxes & duties shall be paid against Completion of CAMC work and Payment shall be made on Annual basis on pro rata against submission of invoice and duly certified Work Completion Certificate jointly signed by Supplier and BHEL site Incharge. Payment shall be made within 30 days from receipt of BHEL – SBD’s site Incharge certified clear bills along with all supporting documents as per PO. Digitally signed Work Completion Certificate shall be accepted.</p> <p>Respective bank charges to respective account.</p>
20	Documents to be Submitted by Seller / Contractor for Claiming Payment	<p>For Sl. No A. of Cl.19: Indigenous Purchase</p> <p><u>1. Advance- Deed of Undertaking along-with Advance Bank Guarantee (ABG)</u></p> <p><u>2. For main supplies (excluding spares):</u></p> <p><u>Clause (i)</u></p> <ul style="list-style-type: none"> • GST compliant Invoice (Original for Buyer + 2 Copies). • Advance Bank Guarantee <p><u>Clause (ii)</u></p> <ul style="list-style-type: none"> • GST compliant Invoice (Original for Buyer + 2 Copies). • Copy of receipted LR / RR • Material receipt Certificate (MRC) issued by BHEL in Original • Packing List - Shall Be in Line with PO Material Code and Clearly Showing Number of Packages, Gross Weight and Net Weight-(Original+2 Copies). • E waybill • Design Approval/Manufacturing Clearance Copy issued by BHEL • Copy of Transit Insurance Intimation • Material Dispatch Clearance Certificate (MDCC) issued by BHEL. • Warranty Certificate. • PBG for liquidated damages for shortfall in performance and O&M cum CAMC portion as per Technical specifications

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		<p><u>Clause (iii)</u></p> <ul style="list-style-type: none"> • GST compliant Invoice (Original for Buyer + 2 Copies). • Work Completion Certificate duly certified & signed by BHEL – SBD site Incharge <p><u>Clause (iv)</u></p> <ul style="list-style-type: none"> • GST compliant Invoice (Original for Buyer + 2 Copies). • Operational Acceptance Certificate duly certified & signed by BHEL <p><u>3. For Works & Services at site, O&M cum CAMC:</u></p> <p><u>Clause (i)</u></p> <ul style="list-style-type: none"> • GST compliant Invoice (Original for Buyer + 2 Copies). • Work Completion Certificate duly certified & signed by BHEL – SBD site Incharge <p><u>Clause (ii)</u></p> <ul style="list-style-type: none"> • GST compliant Invoice (Original for Buyer + 2 Copies). • Completion Certificate duly certified & signed by BHEL <p><u>Clause (iii)</u></p> <ul style="list-style-type: none"> • GST compliant Invoice (Original for Buyer + 2 Copies). • Operational Acceptance Certificate duly certified & signed by BHEL <p><u>4. For Supply of Spares</u></p> <p><u>Clause (i)</u></p> <ul style="list-style-type: none"> • GST compliant Invoice (Original for Buyer + 2 Copies). • Copy of receipted LR / RR • Material receipt Certificate (MRC) issued by BHEL in Original • Packing List - Shall Be in Line with PO Material Code and Clearly Showing Number of Packages, Gross Weight and Net Weight-(Original+2 Copies). • E waybill • Design Approval/Manufacturing Clearance Copy issued by BHEL • Copy of Transit Insurance Intimation • Material Dispatch Clearance Certificate (MDCC) issued by BHEL. <p>For Sl. No B. of Cl.19: Foreign Purchase</p> <p><u>1. Advance- Deed of Undertaking along-with Advance Bank Guarantee (ABG)</u></p> <p><u>2. For main supplies (including spares):</u></p> <p><u>Clause (i)</u></p> <ul style="list-style-type: none"> • Invoice (Original for Buyer + 2 Copies). • Advance Bank Guarantee <p><u>Clause (ii)</u></p> <ul style="list-style-type: none"> • Original Invoice (Original for Buyer + 2 Copies).
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		<ul style="list-style-type: none"> Material Dispatch Clearance Certificate (MDCC) issued by BHEL. <p>The requirement of any more documents, if needed for release of seller / contractor's payment shall be informed later to the successful Bidder at the time pf placement of PO / LOI.</p>
21.	Guarantee/ Warrantee period	As per technical specifications
22.	Submission of Performance Bank Guarantee (PBG) or Security Deposit (SD), hereafter referred as Performance Security (PS)	<p>Applicable</p> <p>PERFORMANCE SECURITY (PS) shall be submitted by the bidder for an amount equivalent to 10% of the contract value Excluding Taxes & Duties on sum of all the Contracts, with an initial validity up to ninety (90) days beyond the end of scheduled Defect Liability Period of the last equipment covered under the Contract. However, in case of delay in completion of the defect liability period, the validity of all the contract performance securities shall be extended by the period of such delay.</p> <p>Modes of deposit: Performance security may be furnished in the following forms:</p> <p>I. Local cheques of Scheduled Banks (subject to realization)/ Pay Order/Demand Draft/ Electronic Fund Transfer in favour of BHEL.</p> <p>II. Bank Guarantee from Scheduled Banks / Public Financial Institutions as defined in the Companies Act. The Bank Guarantee format should have the approval of BHEL.</p> <p>III. Fixed Deposit Receipt issued by Scheduled Banks / Public Financial Institutions as defined in the Companies Act (FDR should be in the name of the Contractor, a/c BHEL).</p> <p>IV. Securities available from Indian Post offices such as National Savings Certificates, Kisan Vikas Patras etc. (held in the name of Contractor furnishing the security and duly endorsed/ hypothecated/ pledged, as applicable, in favour of BHEL).</p> <p>V. Insurance Surety Bond.</p> <p>(Note: BHEL will not be liable or responsible in any manner for the collection of interest or renewal of the documents or in any other matter connected therewith)</p> <p>Performance security is to be submitted within 14 days from the date of Letter of Intent (LOI)/ Purchase Order (PO) and it should remain valid for a period of 60 (sixty) days beyond the date of completion of all contractual obligations of the supplier, including warranty obligations</p> <p>Forfeiture of Performance Security: The performance security will be forfeited and credited to BHEL's account in the event of a breach of contract by the supplier.</p> <p>PS should be refunded to the contractor without interest, after he duly performs and completes the contract in all respects but not later than 60(sixty) days of completion of all such obligations including the warranty under the contract.</p> <p>The Performance Security shall not carry any interest.</p>

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		<p>In case of delay in submission of Performance security, enhanced Performance security which would include interest (Repo rate+4%) for the delayed period, shall be submitted by the bidder. Further, Performance security is not submitted till such time the first bill becomes due, the amount of Performance security due shall be recovered as per terms defined in Tender/contract, from the bills along with due interest</p>																		
23.	Submission of Bank Guarantee or Security deposit for Pre-bid Tie up MOU	<p>MOU shall be finalized with the Qualified bidder by BHEL as per draft format enclosed. MOU shall be valid for Within 30 days of signing the MOU, 1% of the value of MOU shall be submitted in the form of Bank guarantee or Security deposit during the validity period of MOU.</p>																		
24.	MOU FORMAT	<p>The MOU Format attached with the NIT is tentative. The same will be finalized with the qualified bidder/s on mutually agreed contract and legal terms and conditions. MOU shall be executed on Non-Judicial stamp paper by the successful bidder/s. In case Project does not get allocated through this tendering process, then BHEL reserves the right of decision to proceed with this tender or not.</p>																		
25.	Integrity Pact	<p>APPLICABLE (To be duly filled, signed and submitted as per attached Format)</p> <p>(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. Following Independent External Monitors (IEMs) on the present panel have been appointed by BHEL with the approval of CVC to oversee implementation of IP in BHEL.</p> <table border="1" data-bbox="467 1100 1455 1314"> <thead> <tr> <th>Sl. No.</th><th>IEM</th><th>E-Mail</th></tr> </thead> <tbody> <tr> <td>1.</td><td>Dr. Sarat Kumar Acharya, Ex-CMD, NLC</td><td>iem1@bhel.in</td></tr> <tr> <td>2.</td><td>Shri R. Mukundan, IRPS (Retd.)</td><td>iem2@bhel.in</td></tr> <tr> <td>3.</td><td>Shri Madan Lal Meena, IAS (Retd.)</td><td>iem3@bhel.in</td></tr> </tbody> </table> <p>(b) The IP as enclosed with the tender is to be submitted (duly signed by authorized signatory) along with techno-commercial bid (Part, 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.</p> <p>(c) 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 panel of IEMs. All correspondence with the IEMs shall be done through email only. Note: 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's officials whose contact details are provided below:</p> <p>Details of contact person(s);</p> <table border="1" data-bbox="431 1885 1240 1923"> <thead> <tr> <th>NAME</th><th>MANOJ K</th><th>VINAY KUMAR</th></tr> </thead> <tbody> <tr> <td></td><td></td><td></td></tr> </tbody> </table>	Sl. No.	IEM	E-Mail	1.	Dr. Sarat Kumar Acharya, Ex-CMD, NLC	iem1@bhel.in	2.	Shri R. Mukundan, IRPS (Retd.)	iem2@bhel.in	3.	Shri Madan Lal Meena, IAS (Retd.)	iem3@bhel.in	NAME	MANOJ K	VINAY KUMAR			
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1.	Dr. Sarat Kumar Acharya, Ex-CMD, NLC	iem1@bhel.in																		
2.	Shri R. Mukundan, IRPS (Retd.)	iem2@bhel.in																		
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		DEPT. ADDRESS PHONE EMAIL	MM BHEL SBD BENGALURU 080-22182233 k.manoj@bhel.in	MM BHEL SBD BENGALURU 080-22182435 vinay@bhel.in	
26.	Progress Review	<p>The vendor shall continuously monitor the progress of all activities specified in the contract and shall submit a detailed progress report periodically to the BHEL on a weekly basis. If the progress of an activity is delayed relative to the dates planned, the progress report shall explain this and state the corrective actions being taken to remedy the delay. In such case the vendor shall not get any extension of time or Additional cost reimbursement.</p> <p>Vendor shall, as and when required by BHEL, participate in the review meetings conducted by BHEL SBD (Bangalore), BHEL-SBD office (New Delhi) & Site office</p>			
27.	Price basis for MOU	<p>In case of Pre-bid Tie up with BHEL, in event of price reduction during negotiation with Customer, corresponding reduction will be passed on to BHEL's vendor.</p>			
28.	Delivery Failure and Termination/ Liquidated Damages (LD)	<p>Applicable as per Cl. No. 16 (Page 17 of 28) of GCC R0.</p> <p>Clause No. 16.2.1 of GCC to be read as:</p> <p>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 of undelivered portion per week or part thereof, subject to a maximum of Five (5) percent of the total contract price (excluding elements of taxes, duties).</p> <p>(A) Liquidated Damages for Delay in Commissioning: Purchaser reserves the right to recover from the Seller/Contractor, as agreed, liquidated damages and not by way of penalty.</p> <p>If the Contractor fails to successfully achieve Commissioning as per package scope within the time schedule specified in the Contract Agreement, the Contractor shall be liable for Liquidated Damaged at the rate of 0.5% (half Percent) of the Contract Price (excluding supply price of Mandatory Spares, O&M,CAMC, elements of taxes, duties and freight), corresponding to un-commissioned portion of work in MW for each week (7 days) or a part thereof of delay till commissioning of the entire project, subject to a maximum of 5% (Five Percent) of the total Contract. Un-commissioned portion of work in MW shall mean such capacity (part or full) for which commissioning has not been accepted by BHEL/BHEL's Customer in terms of Technical Specifications.</p> <p>(B) The liquidated damages for delay in supply of spares beyond the dates stipulated under the Contract shall be as follows:</p> <p>One half of the one percent (1/2%) of Ex-Works price of undelivered spares, per week or part thereof of delay subject to maximum of five percent (5%) of the total Price of all spares included in the scope of work of the Contractor under the Contract</p> <p>(C) Maximum deduction for liquidated damages: The total amount of liquidated damages for delay under the contract will be subject to a maximum of five percent (5%) of the total Contract Price [i.e. total of First and Second Contract].</p> <p>(D) LD During O&M shall be applicable as per Technical specifications</p> <p>NOTE:</p>			

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		<p>1. In case of any amendment/revision, LD shall be linked to the amended/revised contract value and delivery date(s).</p> <p>General Notes:</p> <p>i) Each of the Liquidated damages specified above shall be independent and these liquidated damages shall be levied separately and concurrently as applicable.</p> <p>ii) In the event of any shortfall in performance of the guaranteed performance of the system / equipments, as mentioned above, the relevant provisions of SCC / GCC in conjunction with the Technical Specification, shall govern.</p> <p>iii) All these liquidated damages for shortfall in performance shall be deducted from the PBG submitted by the vendor/available bills of the contractor.</p> <p>iv) Vendor's aggregate liability to pay liquidated damages for failure to attain the functional guarantees shall not exceed One Hundred percent (100%) of the Total PO value.</p>
29.	Inspection Agency	Applicable by BHEL/BHEL's Customer/BHEL Nominated Agency
30.	Organization Chart	The bidder shall submit the overall organization chart along with contact details/mobile no. of officials dealing with this contract package for engineering, supply, Quality, etc. immediately after receipt of PO.
31.	Preference to Make in India	<p>This Tender is governed by Circular No. P-45021/2/2017-B.E.-II dated 15.06.2017, 28.05.2018, 29.05.2019 & 04.06.2020 issued by Govt. of India (copy enclosed).</p> <p>"For this procurement, Public Procurement (Preference to Make in India), Order 2017 dated 15.06.2017, 28.05.2018, 29.05.2019 , 04.06.2020 , 16.09.2020 and subsequent Orders issued by the respective Nodal Ministry shall be applicable even if issued after issue of this NIT but before finalization of contract/ POI 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."</p> <p>Preference to Make in India including counter offering will be as per the Public Procurement (Preference to Make in India), Order 2017 available in the following links:</p> <p>https://dipp.gov.in/sites/default/files/publicProcurement_MakeinIndia_15June2017.pdf</p> <p>https://dipp.gov.in/sites/default/files/Revised-PPP-MII-Order-2017_28052018.pdf</p> <p>https://dipp.gov.in/sites/default/files/PPPMII%20Order%20dt%2029th%20May%2019_0.pdf</p> <p>https://dipp.gov.in/sites/default/files/PPP%20MII%20Order%20dated%204th%20June%202020.pdf</p> <p>https://dipp.gov.in/sites/default/files/PPP%20MII%20Order%20dated%2016%2009%2020_0_20.pdf</p> <p>Certification (as applicable) giving the percentage of local content, in line with PPP-MII order, if applicable to be submitted as per attached Annexure-F (i) for procurement value from Rs. 5.00 Lac to Rs. 10.00 Crore or Annexure-F (ii) for procurement value more than Rs. 10.00 Crore.</p>
32.	Purchase from SEZ in India	Purchase from SEZ in India shall be considered as Indigenous purchase for the purpose of Purchase Preference to Make in India Policy, Price Basis, Payment term & delivery terms.

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		However, additional taxes, duties including Safe Guard Duty if any shall be considered while evaluating the bid.
33.	TAXES AND DUTIES (Clause No. 4.1, 4.2 & 4.3) (Applicable only for Indian Bidders)	<p>Clause No. 4.1, 4.2 & 4.3 of GCC to be read as:</p> <p>4.1 CGST/SGST/UTGST/IGST</p> <p>4.1.1 Seller/ Contractor is required to ensure that CGST/SGST/UTGST/IGST (whichever is applicable) is quoted as per the existing tariff on the date of the offer and all benefits as per existing laws have been considered.</p> <p>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 (CGST Act/SGST Act/UTGST Act/IGST Act). Vendor to indicate the proper GSTN Registration/ HSN code in their tax invoice.</p> <p>4.1.3 The purchaser is registered in the State of Karnataka vide following GST registration number: 29AAACB4146P1ZB.</p> <p>4.1.4 Seller/contractor is required to mention the above registration number in their tax invoice unless stated otherwise in NIT/SCC.</p> <p>CGST/SGST/UTGST/IGST shall be paid at actuals against Tax Invoice but restricted to the amount and percentage in the order/contract.</p>
34.	OTHER TAXES & LEVIES (Clause No. 4.4) (Applicable only for Indian Bidders)	<p>Clause No. 4.4 of GCC to be read as:</p> <p>4.2 OTHER TAXES & LEVIES</p> <p>All taxes/duties/Cess other than CGST/SGST/UTGST/IGST shall be deemed to be included in the Ex-Works prices unless specified otherwise by the bidder in the price bid. No variation in other taxes and duties shall be payable by Purchaser.</p>
35.	CUSTOMS DUTY (Clause No. 4.5 of GCC) (Applicable only for Indian Bidders)	<p>Clause No. 4.5 of GCC to be read as:</p> <p>4.3 CUSTOMS DUTY</p> <p>4.3.1 Customs Duty/IGST/Goods and Services compensation cess under Goods and Services Tax (Compensation to States) Act, 2017 element for imported items as per Special Conditions of Contract shall be included in the Ex-Works prices.</p> <p>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.</p> <p>4.3.3 Essentiality Certificate or Project Authority Certificate (PAC) as per Import Policy, if required to avail concessional customs duty, shall be clearly specified 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.</p>
36.	DIRECT TAXES (Clause No. 4.6 of GCC) (Applicable only for Indian Bidders)	<p>Clause No. 4.6 of GCC to be read as:</p> <p>4.4 DIRECT TAXES 4.4.1 Purchaser shall not be liable towards income tax of whatever nature including variations thereof, arising out of this Order/ Contract, as well as tax liability of the Seller/ Contractor and his personnel.</p> <p>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.</p>

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37.	STATUTORY VARIATION (Clause No. 5.0 of GCC) (Applicable only for Indian Bidders)	Clause No. 5.0 of GCC to be read as: 5.0 STATUTORY VARIATION 5.1 If any rates of Tax or duty are increased or decreased, a new Tax or duty is Introduced, an existing Tax or duty is abolished, or any change in interpretation or application of any Tax or duty occurs in the course of the execution of Contract including Delivery period extensions (if any), which was or will be assessed on the bidder in connection with performance of the Contract, an equitable adjustment of the Contract Price shall be made to fully take into account any such change by addition to the Contract Price or deduction there from, as the case may be. However, these adjustments would be restricted to direct transactions between BHEL and the bidder/ agent of foreign bidder (if applicable). These adjustments shall not be applicable on procurement of raw materials, intermediary components etc. by the bidder /agent. 5.2 For variation after the agreed completion periods, the seller/contractor alone shall bear the impact for the upwards revisions and adjust the price in their basic price in such a manner that total price with tax or duties matches with the ex- works with taxes of Purchase Order/Contract. For downward revisions, purchaser shall be given the benefit of reduction in CGST/SGST/UGST/IGST. This will be without prejudice to the levy of penalty for delay in delivery/completion schedule.
38.	New Clause of GCC (Applicable only for Indian Bidders)	Vendor/Supplier will intimate & upload the Tax invoice along with LR/RR (as applicable) on web portal & intimate BHEL immediately on removal of goods from vendor/supplier works. In case of Services, Vendor is required to upload the Tax invoice on Web Portal immediately after raising the invoice. BHEL will issue the delivery order/instruction to dispatch the material to the customer as indicated in SCC. All payments against Tax Invoice to vendors/contractors shall be released only after: Vendor/contractor declaring such invoice in GSTR-1 within the prescribed timeline as per the relevant Act. The tax component charged by the vendor in the invoice should be matched with the details uploaded by vendor in GSTR-1.
39.	New Clauses of GCC	a) In case of discrepancy in CGST/SGST/UTGST/IGST rate corresponding to HSN ;code and quotes rates, the evaluation shall be done on quoted price and correct CGST/SGST/UTGST/IGST rate shall be considered for ordering (limited to quoted FOR Site Price) b) The bidder should have been registered with the appropriate authority under relevant GST laws. c) The bidder to specify in their offer (part 1 bid) the category of registration under GST i.e. registered dealer and composite dealer d) No CGST/SGST/UTGST/IGST will be reimbursed to composite dealer. In the event of any GST quoted by composite dealer, the same shall be considered for evaluation purpose. However, the ordering will be done without considering the tax. 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 CGST/SGST/UTGST/IGST 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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40.	RISK & COST CLAUSE	Not Applicable.
41.	NOTE	<p>Delivery Challans & Invoices /Service Entry Sheet in the format as specified under GST laws mentioning your GSTIN No, item HSN/SAC No should accompany supply.</p> <ol style="list-style-type: none"> 1. GST portion of invoice shall be released only upon vendor declaring such invoice in his GSTR-1 return and receipt of goods/services and tax and confirmation of payment of GST thereon by vendor on GSTN Portal. 2. Bank Guarantee of appropriate value may be obtained from vendor which shall be valid at least one month after the confirmation of payment date by vendor on GST portal and receipt of Tax invoice and receipt of goods, whichever is later. [if (a) above could not be complied]. 3. In case GST credit is delayed/denied to BHEL due to non/delayed receipt of goods and/or tax invoice or expiry of timeline prescribed in GST law for availing such ITC, or any other reasons not attributable to BHEL, GST amount shall be recoverable from vendor along with interest levied/BG of appropriate value may be obtained from vendor alternatively payment covering GST portion including interest thereon shall be release to vendor only upon completion of these requirements. <p>In case vendor delays declaring such invoice in his return & GST credit 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 vendor/contractor along with interest levied/leviable.be obtained from vendor alternatively payment covering GST portion including interest thereon shall be released to vendor only upon completion of these requirements</p>
42.	DOCUMENTS TO BE SUBMITTED BY VENDOR (Clause No. 9.2 of GCC)	<p>Clause No. 9.2 of GCC to be read as:</p> <p>9.2 DOCUMENTS TO BE SUBMITTED BY VENDOR (All Same)</p> <p>(a) To be replaced with GST compliant Invoice</p> <p>Duty drawback documents as per applicable law (original+1 copy)</p>
43.	Provisions for MSE vendors	<p>PROVISIONS APPLICABLE FOR MSE VENDORS (MICRO AND SMALL ENTERPRISES)</p> <p>Benefits/facilities as applicable for Micro and Small Enterprises (MSEs) shall be available to MSE vendors registered with Government Designated Authorities as per the Purchase & Price Preference Policy of the Government subject to them becoming eligible otherwise. Vendors who qualify as MSE vendors are requested to submit applicable certificates (as specified by the Ministry of Micro, Small and Medium Enterprises) at the time of vendor registration.</p> <p>Vendors have to submit the Udyog Aadhaar Memorandum (UAM)/UDYAM Registration Certificate along with attested copy of a CA certificate [Annexure-2(A) / Annexure-2(B)] applicable for the relevant financial year (latest audited) along with the tender documents in the Part-I Bid to avail the applicable benefits.</p> <p>Date to be reckoned for determining the deemed validity will be the date of bid opening (Part-I in case of two-part bid and three-part bid).</p> <p>Documents have to be notarized/attested by a Gazetted officer and must be valid as on the date of Part-I Bid opening for the vendors to be eligible for the benefits applicable for</p>

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		<p>MSE vendors. Please note that no benefit shall be applicable if any deficiency in the above required documents are not submitted before the Price Bid Opening / Reverse Auction. If the tender is to be submitted through e-procurement portal, then the above required documents are to be uploaded on the portal.</p> <p>Bidders to however note the documents that shall be furnished in order to establish credentials as MSE vendor should be as per the extant statutory requirements specified by the Ministry of Micro, Small and Medium Enterprises (MSME).</p> <p>PURCHASE PREFERENCE FOR MSE VENDORS: (For Items which are divisible in nature) MSE vendors quoting within a price band of L1 + 15% shall be allowed to supply up to 25% of the requirement against this tender provided:</p> <ol style="list-style-type: none"> 1. The MSE vendor matches the L1 price. 2. L1 price is from a non MSE vendor. 3. L1 price will be offered to the vendor nearest to L1 in terms of price ranking (L2 – nearest to L1). In case of non-acceptance by the MSE vendor (L2), next ranking MSE vendor will be offered who is within the L1 + 15% band (if L3 is also within 15% band). 4. 3% of the 25% will be earmarked for women owned MSE's. 5. 25% of the 25% (i.e., 6.25% of the total enquired quantity) will be earmarked for SC/ST owned MSE firms provided conditions as mentioned in (1) & (2) are fulfilled. 6. In case where no SC/ST category firms are meeting the conditions mentioned in (1) and (2) or have not participated in the tender, the 6.25% of earmarked quantity for SC/ST owned MSE firms will be distributed among the other eligible MSE vendors who have participated in the tender. <p>(For Items which are not divisible in nature) MSE vendors quoting within a price band of L1 + 15% shall be allowed to supply up to 100% of the requirement against this tender provided:</p> <ol style="list-style-type: none"> 1. The MSE vendor matches the L1 price. 2. L1 price is from a non MSE vendor. 3. L1 price will be offered to the vendor nearest to L1 in terms of price ranking (L2 – nearest to L1). In case of non-acceptance by the MSE vendor (L2), next ranking MSE vendor will be offered who is within the L1 + 15% band (if L3 is also within 15% band). 4. No distribution shall be done specifically to women owned MSEs or SC/ST owned MSEs in such cases. <p>Documents to be submitted for claiming MSE status and intended benefits: Submission of updated Udyam Registration Certificate along-with Techno-commercial bid is required mandatorily.</p> <p>MSE suppliers can also receive payment through TReDS platform operated.</p>
44.	Compliance to Government of India order OM	<ol style="list-style-type: none"> 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.

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<p>No.6/18/2019-PPD dated 23.07.2020 & 24.7.2020 regarding restrictions under Rule 144 (XI) of the General Financial Rules (GFRs), 2017</p>	<p>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 failing in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by such person, participating in a procurement process.</p> <p>III. "Bidder from a country which shares a land border with India" for the purpose of this Order means:</p> <ol style="list-style-type: none"> 1. An entity Incorporated, established or registered in such a country; or 2. A subsidiary of an entity Incorporated, established or registered in such a country; or 3. An entity substantially controlled through entities incorporated, established or registered in such a country; or 4. An entity whose beneficial owner is situated in such a country, or 5. An Indian (or other) agent of such an entity; or 6. A natural person who is a citizen of such a country; or 7. A consortium or joint venture where any member of the consortium or joint venture falls under any of the above <p>IV. The beneficial <i>owner</i> for the purpose of (iii) above will be as under:</p> <ol style="list-style-type: none"> 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. <p>Explanation-</p> <ol style="list-style-type: none"> 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 shareholder's agreements or voting agreements; <ol style="list-style-type: none"> 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 of 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 such association or body of Individuals;
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		<p>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;</p> <p>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.</p> <p>V. An Agent is a person employed to do any act for another or to represent another in dealings with third person.</p> <p>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.</p> <p>* The above clause is not applicable to the bidders from those countries (even if sharing a land border with India) to which the GoI has extended lines of credit or in which the GoI is engaged in development projects.</p> <p>* List of countries to which lines of credit have been extended or in which development projects are undertaken are available on the Ministry of External affairs website (https://www.mea.gov.in/)</p> <p>Compliance to Government of India order OM No.6/18/2019-PPD dated 23.07.2020 & 24.7.2020 regarding restrictions under Rule 144 (XI) of the General Financial Rules (GFRs), 2017 to be submitted on the bidder's letterhead as per Annexure-D(i) or Annexure-D(ii) – as applicable.</p>
45.	e-Invoicing under GST	<p>E-Invoicing under GST to be done in line with the latest guidelines of GOI. It is the responsibility of the bidders to keep updated themselves of the guidelines.</p> <p>In case the vendor delays or fails to provide all the documents as per the Purchase Order at the time of submitting Tax Invoice to BHEL, any subsequent financial loss to BHEL on account of vendor shall be to vendor's account. BHEL has further right to take necessary steps to protect its interest at the time of release of payment.</p>
46.	Tax Collected at Source (TCS)	<p>W.E.F. 01.07.2021 BHEL IS LIABLE TO DEDUCT TAX AT SOURCE U/S 194Q OF THE INCOME TAX ACT AT THE APPLICABLE RATE AND PRESCRIBED VALUE OF GOODS. HEREAFTER SELLER/VENDOR NEED NOT LEVY TAX COLLECTED A SOURCE (TCS) AS REQUIRED U/S 206C(1H) OF THE INCOME TAX ACT.</p> <p>BHEL would be making use of the functionality introduced by CBDT: Compliance Check for Sections 206AB and 206CCA and accordingly using the applicable rate of TDS. Vendors to make sure the information is available in the functionality against their PAN Nos.</p> <p>Vendors to note the applicable rate of TDS as per 206AB and 206 CCA will be at higher rate of 5% (as against 0.1%) in case of specified persons (non-filers).</p>

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		<p>Specified persons means:</p> <ol style="list-style-type: none"> 1. Who has not filed Income Tax returns for last two assessment years relevant to the applicable Two Previous Years 2. Aggregate of TDS/TCS is Rs. Fifty Thousand and more in each of the two previous years
47.	TDS u/s 194Q	<p>TDS u/s 194Q as applicable under Income Tax Act, 1961 or rules made thereunder shall be deducted from vendor's bill.</p> <p>Tax is required to be deducted at source by a purchaser of goods whose turnover for previous FY has exceeded Rs. 10 Crs. The seller should be a resident of India.</p> <p>TDS @ 0.1% shall be applicable on the amount paid /credited in case purchases from a seller exceeds Rs. 50 Lacs during a financial year. In case PAN of seller is not available or seller is a Specified person (Nonfiler), TDS shall be deducted @ 5%.</p> <p>This provision shall not be applicable where tax is deductible under any other provision of I.T Act, 1961. Also, in case a particular transaction qualifies for deduction of TDS u/s 194-Q and the purchaser has deducted the TDS then the same transaction shall not attract TCS u/s 206C(1H).</p> <p>W.e.f. 01.07.2021, as per the above-stated provisions of I. Tax Act,1961, BHEL HAVING PAN : AAACB4146P IS LIABLE TO DEDUCT TAX AT SOURCE UNDER SECTION 194Q OF THE INCOME TAX ACT AND ACCORDINGLY TDS AT APPLICABLE RATE ON THE PRESCRIBED VALUE UNDER SECTION 194Q WOULD BE DEDUCTED UNDER TAN : BLRB04342C BEFORE MAKING PAYMENT FOR PURCHASE OF GOODS.</p>
48.	Compliance to order No. 25-111612018-PG, Dated 02.07.2020 of Ministry of Power, GOI	<p>Applicable.</p> <p>To be duly filled and submitted as per Annexure-E.</p>
49.	Conflict of Interest among Bidders/ Agents	<p>"A bidder shall not have conflict of interest with other bidders. Such conflict of interest can lead to anti-competitive practices to the detriment of Procuring Entity's interests. The bidder found to have a conflict of interest shall be disqualified. A bidder may be considered to have a conflict of interest with one or more parties in this bidding process, if:</p> <ol style="list-style-type: none"> a) they have controlling partner (s) in common; · or b) they receive or have received any direct or indirect subsidy/ financial stake from any of them; or c) they have the same legal representative/agent for purposes of this bid; or

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		<p>d) they have relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the bid of another Bidder, · or</p> <p>e) Bidder participates in more than one bid in this bidding process. Participation by a Bidder in more than one Bid will result in the disqualification of all bids in which the parties are involved. However, this does not limit the inclusion of the components/ sub-assembly/Assemblies from. one bidding manufacturer in more than one bid, or</p> <p>f) In cases of agents quoting in offshore procurements, on behalf of their principal manufacturers, one agent cannot represent two manufacturers or quote on their behalf in a particular tender enquiry. One manufacturer can also authorise only one agent/dealer. There can be only one bid from the following:</p> <ol style="list-style-type: none"> 1. The principal manufacturer directly or through one Indian agent on his behalf; and 2. Indian/foreign agent on behalf of only one principal, · or <p>g) A Bidder or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the contract that is the subject of the Bid, · or</p> <p>4. In case of a holding company having more than one independently manufacturing units, or more than one unit having common business ownership/management, only one unit should quote. Similar restrictions would apply to closely related sister companies. Bidders must proactively declare such sister/ common business/ management units in same/ similar line of business. "</p>
50.	Watch & Ward	<p>The contractor shall be responsible for Security of all equipment in his custody issued by BHEL/brought by him against pilferage, damage, etc. The contractor shall also be custodian of the items installed, operated and maintained by him.</p>
51.	Note	<ol style="list-style-type: none"> 1. In place of EPD, Bangalore, it may be read as SBD Bangalore. 2. Any vendor who has been banned by BHEL or against whom action due to non-performance has been initiated by BHEL are not eligible for participation. Such offers will not be considered for evaluation and will be rejected. 3. Bidders shall confirm acceptance of technical specification which is part of the tender document (If Applicable). Any deviation from technical specification can be rejected at BHEL's discretion. 4. Amendments/addendums/circulars/Revisions thereto if any from Government or Statutory bodies or agencies shall be applicable if not explicitly stated above from time to time. It is the responsibility of the bidders to keep updated themselves of the same. The bidders shall submit their offers in compliance.
52.	GST	<p>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 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.</p> <p>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.</p>
53.	Declaration by bidder regarding protection of commercial interests of BHEL	<p>The Bidder declares that they will not enter into any illegal or undisclosed agreement or understanding, whether formal or informal with other Bidder(s). This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the</p>

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		bidding process. In case, the Bidder is found having indulged in above activities, suitable action shall be taken by BHEL as per extant policies/ guidelines.
54.	Change of Scope	<p>In case of changes in scope of the tender and/ or technical specifications and commercial terms & conditions by BHEL during techno commercial evaluation and before Price bid Opening, the same will be communicated only to the bidders who have participated in the tender.</p> <p>The techno-commercially qualified bidders shall be asked to submit Impact Price bid, as applicable.</p>
55.	Validity of offer	<p>180 days from Part-1 bid opening.</p> <p>i. In case of negotiation, validity of offer shall be 60 days from receipt of revised /negotiated final price or 90 days from Part-I opening, whichever is later.</p> <p>ii. Offers with shorter validity than above are liable to be rejected.</p>
56.	Dispatch Documents Required (to be furnished by Seller / contractor)	<p>A) The supplier shall provide the following documents, immediately after dispatch and 1 set through e-mail to the concerned purchase & commercial executive of BHEL - SBD :</p> <ol style="list-style-type: none"> 1) Copy of Seller / contractor Invoice. 2) Copy of Packing List indicating Quantity/ Gross weight, Net weight, HSN code and BHEL approved BBU item no. wherever applicable against each item dispatched. 3) BL / AWB / LR/ RR 4) Inspection Certificate 5) Other docs as per contract <p>B) Further the documents as per Cl. No. 19 (payment terms) of SCC are to be submitted along with seller / contractor bills for claiming payment from purchaser.</p> <p>In addition to the above, seller / contractor may furnish manufacturing clearance/ drawing/documents approval date for the purpose of determining contractual delivery for expeditious processing of invoices.</p>
57.	Settlement of Disputes	<p>Applicable as per Annexure-B.</p> <p>The Signed & Stamped copy of the Annexure A & B to be attached along with the offer as a mark of acceptance.</p>
58.	Relaxation in Public Procurement Norms for Startups/MSE's	<p>Not applicable.</p> <p>Balance of System (BoS) package will comprise of crucial components within the Solar Power Plant. It is essential to recognize that; the quality and longevity of this system directly impacts the safety of the other Equipment/workforce operating within the plant. Considering the paramount importance of safety measures, it is imperative that the scope of the BoS package be entrusted only to experts with significant experience in the field. Hence in line with the clarifications issued by the Department of Expenditure, Ministry of Finance (vide references No. F.20-2/2014-PPD(Pt.) dated 27.07.2017 and 20.09.2016), no relaxation regarding prior experience shall be granted to any bidder for this Procurement.</p>

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59.	Evaluation in case of more than one L-1 bidder	<p>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. In case more than one bidder happens to occupy the L-1 status even after soliciting discounts, the L-1 bidder shall be decided by a toss / draw of lots, in the presence of the 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>
60	Non-Disclosure Agreement	<p>The bidders shall enter into the Non-disclosure agreement totally voluntarily, with full knowledge of its meaning and without duress. (Format attached).</p>
61	Pre-Qualification Requirement (PQR)	<p>Applicable. Technical Pre-Qualification Requirement (PQR) - As per Tender document Financial Pre-Qualification Requirement (PQR) – As per Tender document</p>
62	Submission of Supplier registration Form	<p>Not Applicable.</p>
63	Breach of contract, Remedies and Termination	<p>29.1 BREACH OF CONTRACT: The following shall amount to breach of contract:</p> <ul style="list-style-type: none"> i. Non-supply of material/ non-completion of work by the Supplier/Vendor within scheduled delivery/ completion period as per contract or as extended from time to time. ii. The Supplier/Vendor fails to perform as per the activity schedule and there are sufficient reasons even before expiry of the delivery/ completion period to justify that supplies shall be inordinately delayed beyond contractual delivery/ completion period. iii. The Supplier/Vendor delivers equipment/ material not of the contracted quality. iv. The Supplier/Vendor fails to replace the defective equipment/ material/ component as per guarantee clause. v. Withdrawal from or abandonment of the work by the Supplier/Vendor before completion as per contract. vi. Assignment, transfer, subletting of Contract by the Supplier/Vendor without BHEL's written permission resulting in termination of Contract or part thereof by BHEL. vii. Non-compliance to any contractual condition or any other default attributable to Supplier/Vendor. viii. Any of the declarations furnished by the contractor at the time of bidding and/ or entering into the contract for supply are found untruthful and such declarations were of a nature that could have resulted in non-award of contract to the contractor or could expose BHEL and/ or Owner to adverse consequences, financial or otherwise. ix. Supplier/Vendor is convicted of any offence involving corrupt business practices,

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		<p>antination activities or any such offence that compromises the business ethics of BHEL, in violation of the Integrity Pact entered into with BHEL has the potential to harm the overall business of BHEL/ Owner.</p> <p>x. Any other reason(s) attributable to Vendor towards failure of performance of contract. In case of breach of contract, BHEL shall have the right to terminate the Purchase Order/ Contract either in whole or in part thereof without any compensation to the Supplier/Vendor.</p> <p>Note- Once BHEL considers that a breach of contract has occurred on the part of Supplier/Vendor, BHEL shall notify the Supplier/Vendor by way of notice in this regard. Contractor shall be given an opportunity to rectify the reasons causing the breach of contract within a period of 14 days.</p> <p>In case the contractor fails to remedy the breach, as mentioned in the notice, to the satisfaction of BHEL, BHEL shall have the right to take recourse to any of the remedial actions available to it under the relevant provisions of contract.</p> <p><u>REMEDIES IN CASE OF BREACH OF CONTRACT.</u></p> <p>i. Wherein the period as stipulated in the notice issued under clause 14.1 has expired and Supplier/Vendor has failed to remedy the breach, BHEL will have the right to terminate the contract on the ground of "Breach of Contract" without any further notice to contractor.</p> <p>ii. Upon termination of contract, BHEL shall be entitled to recover an amount equivalent to 10% of the Contract Value for the damages on account of breach of contract committed by the Supplier/Vendor. This amount shall be recovered by way of encashing the security instruments like performance bank guarantee etc available with BHEL against the said contract. In case the value of the security instruments available is less than 10% of the contract value, the balance amount shall be recovered from other financial remedies (i.e. available bills of the Supplier/Vendor, retention amount, from the money due to the Supplier/Vendor etc. with BHEL) or the other legal remedies shall be pursued.</p> <p>iii. wherever the value of security instruments like performance bank guarantee available with BHEL against the said contract is 10% of the contract value or more, such security instruments to the extent of 10% contract value will be encashed. In case no security instruments are available or the value of the security instruments available is less than 10% of the contract value, the 10% of the contract value or the balance amount, as the case may be, will be recovered in all or any of the following manners:</p> <p>iv. In case the amount recovered under sub clause (a) above is not sufficient to fulfil the amount recoverable then; a demand notice to deposit the balance amount within 30 days shall be issued to Supplier/Vendor.</p> <p>v. If Supplier/Vendor fails to deposit the balance amount within the period as</p>
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		<p>prescribed in demand notice, following action shall be taken for recovery of the balance amount:</p> <ol style="list-style-type: none"> a. from dues available in the form of Bills payable to defaulted Supplier/Vendor against the same contract. b. If it is not possible to recover the dues available from the same contract or dues are insufficient to meet the recoverable amount, balance amount shall be recovered from any money(s) payable to Supplier/Vendor under any contract with other Units of BHEL including recovery from security deposits or any other deposit available in the form of security instruments of any kind against Security deposit or EMD. c. In-case recoveries are not possible with any of the above available options, Legal action shall be initiated for recovery against defaulted supplier/Vendor. <p>vi. It is an agreed term of contract that this amount shall be a genuine pre-estimate of damages that BHEL would incur in completion of balance contractual obligation of the contract through any other agency and BHEL will not be required to furnish any other evidence to the Supplier/Vendor for the purpose of estimation of damages.</p> <p>vii. In addition to the above, imposition of liquidated damages, debarment, termination, de-scoping, short-closure, etc., shall be applied as per provisions of the contract.</p> <p>Note:</p> <ol style="list-style-type: none"> 1) The defaulting Supplier/Vendor shall not be eligible for participation in any of the future enquiries floated by BHEL to complete the balance work. The defaulting contractor shall mean and include: <p>(a) In case defaulted Supplier/Vendor is the Sole Proprietorship Firm, any Sole Proprietorship Firm owned by same Sole Proprietor.</p> <p>In case defaulted Supplier/Vendor is The Partnership Firm, any firm comprising of same partners/ some of the same partners ; or sole proprietorship firm owned by any partner(s) as a sole proprietor.</p>
64	No Interest Payable to Contractor	Notwithstanding anything to the contrary contained in any other document comprising in the Contract, no interest shall be payable by BHEL to Contractor on any moneys or balances including but not limited to the Security Deposit, Performance Security, EMD, Retention Money or the Final Bill, or any amount withheld and/or appropriated by BHEL etc., which becomes or as the case may be, is adjudged to be due from BHEL to Contractor whether under the Contract or otherwise.
65	FORCE MAJEURE	65.1 Force Majeure shall mean circumstance which is:

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		<p>a) beyond control of either of the parties to contract, b) either of the parties could not reasonably have provided against the event before entering into the contract, c) having arisen, either of the parties could not reasonably have avoided or overcome, and d) is not substantially attributable to either of the parties And Prevents the performance of the contract,</p> <p>Such circumstances include but shall not be limited to:</p> <p>i) War, hostilities , invasion, act of foreign enemies. ii) Rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war. iii) Riot, commotion or disorder by persons other than the contractor's personnel and other employees of the contractor and sub-contractors. iv) Strike or lockout not solely involving the contractor's personnel and other employees of the contractor and sub-contractors. v) Encountering munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the contractor's use of such munitions, explosives, radiation or radio- activity. vi) Natural catastrophes such as earthquake, tsunami, volcanic activity, hurricane or typhoon, flood, fire, cyclones etc.</p> <p>vii) Epidemic, pandemic etc.</p> <p>65.2 The following events are explicitly excluded from Force Majeure and are solely the responsibilities of the non-performing party: a) any strike, work-to-rule action, go- slow or similar labour difficulty (b) late delivery of equipment or material (unless caused by Force Majeure event) and (c) economic hardship.</p> <p>65.3 If either party is prevented, hindered or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances thereof within 15 (fifteen) days after the occurrence of such event.</p> <p>65.4 The party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such party's performance is prevented, hindered or delayed. The Time for Completion shall be extended by a period of time equal to period of delay caused due to such Force Majeure event.</p> <p>65.5 Delay or non-performance by either party hereto caused by the occurrence of any event of Force Majeure shall not</p>
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		<p>i) Constitute a default or breach of the Contract.</p> <p>ii) Give rise to any claim for damages or additional cost expense occasioned thereby, if and to the extent that such delay or non-performance is caused by the occurrence of an event of Force Majeure.</p> <p>65.6 BHEL at its discretion may consider short closure of contract after 1 year of imposition of Force Majeure in line with extant guidelines. In any case, Supplier/Vendor cannot consider deemed short-closure after 1 year of imposition of Force Majeure</p>
66	ORDER OF PRECEDENCE:	<p>The Purchase Order along with its Annexures the tender document (NIT), its amendments /corrigendum's shall all together constitute the entire contract between the Parties and shall be complementary to one another. In case of any contradiction, the order of precedence shall be as below:</p> <p>a. Purchase Order along with its Annexures and its Amendments</p> <p>b. Amendments/Clarifications/Corrigenda/Errata etc. issued in respect of the tender documents by BHEL.</p> <p>c. NIT</p>
67	Limitation of Liability	<p>"Notwithstanding anything to the contrary in this Contract or LOA or Work Order or any other mutually agreed document between the parties, the maximum liability, for damages, of the contractor, its servants or agents, shall under no circumstances exceed an amount equal to the Price of the Contract or the Work Order. Neither party shall be liable to the other for any indirect or consequential loss or damage, including but not limited to loss of use, loss of profits, or loss of contracts, or special, punitive, exemplary losses whatsoever, arising out of or in connection with this contract.</p> <p>This shall not be applicable on the recoveries made by Customer from BHEL on account of Contractor, any other type of recoveries for workmanship, material, T&P etc. due from the contractor."</p> <p>Consequential Loss:</p> <p>"Neither party shall be liable to the other for any indirect or consequential loss or damage, including but not limited to loss of use, loss of profits, or loss of contracts, or special, punitive, exemplary losses whatsoever arising out of or in connection with this contract."</p>
68	Jurisdiction	<p>Courts at Bengaluru shall alone have exclusive jurisdiction to adjudicate on any / all matters arising out of or concerning to this Contract</p>
69	Governing Laws	<p>The contract shall be governed by the Law for the time being in force in the Republic of India</p>
70	OTHER ISSUES	<p>1 Value of Non judicial Stamp Paper for Bank Guarantees and for Contract Agreement shall be not less than Rs 100/- unless otherwise required under relevant statutes.</p>

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		<p>2. In case of any conflict between the General Conditions of Contract and Special Conditions of Contract, provisions contained in the Special Conditions of Contract shall prevail.</p> <p>3 Unless otherwise specified in NIT, offers from consortium/ JVs shall not be considered</p>
71	Fraud Prevention Policy	<p>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.</p>
72	Cartel Formation	<p>The Bidder declares that they will not enter into any illegal or undisclosed agreement or understanding, whether formal or informal with other Bidder(s). This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process. In case, the Bidder is found having indulged in above activities, suitable action shall be taken by BHEL as per extant policies/ guidelines</p>
73	SUSPENSION OF BUSINESS DEALINGS	<p>BHEL reserves the right to take action against Contractors who either fail to perform or Tenderers/Contractor who indulge in malpractices, by suspending business dealings with them in line with BHEL guidelines issued from time to time.</p> <p>The offers of the bidders who are under suspension as also the offers of the bidders, who engage the services of the banned firms / principal / agents, shall be rejected. The list of banned firms is available on BHEL web site www.bhel.com .</p> <p>If any bidder / supplier / contractor during pre-tendering / tendering / post tendering / award / execution / post-execution stage indulges in any act, including but not limited to, mal-practices, cheating, bribery, fraud or and other misconduct or formation of cartel so as to influence the bidding process or influence the price or tampers the tendering process or acts or omits in any manner which tantamount to an offence punishable under any provision of the Indian Penal Code, 1860 or any other law in force in India, or does anything which is actionable under the Guidelines for Suspension of Business dealings, action may be taken against such bidder / supplier / contractor as per extant guidelines of the company available on www.bhel.com and / or under applicable legal provisions. Guidelines for suspension of business dealings is available in the webpage: http://www.bhel.com/vender_registration/vender.php</p>
74	CLOSING OF CONTRACTS	<p>The Contract shall be considered completed and closed upon completion of contractual obligations and settlement of Final Bill or completion of Guarantee period whichever is later. Upon closing of Contract, BHEL shall issue a performance/ experience certificate as per standard format, based on specific request of Contractor as per extant BHEL guidelines through the online portal available at https://siddhi.bhel.in only.</p>
75	PERFORMANCE GUARANTEE FOR WORKMANSHIP	<p>Even though the work will be carried out under the supervision of BHEL Engineers the Contractor will be responsible for the quality of the workmanship and shall guarantee the work done for a period from the date of commencement of guarantee period as defined in Technical Specifications, for good workmanship and shall rectify free of cost all defects due to faulty erection detected during the guarantee period. In the event of the Contractor</p>




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		failing to repair the defective works within the time specified by the Engineer, BHEL may proceed to undertake the repairs of such defective works by itself, without prejudice to any other rights and recover the cost incurred for the same along with 5% overheads from the Performance Security Deposit/ available bills of contractor.												
76	STRIKES & LOCKOUT	<p>The contractor will be fully responsible for all disputes and other issues connected with his labour. In the event of the contractor’s labour resorting to strike or the Contractor resorting to lockout and if the strike or lockout declared is not settled within a period of one month, it may be considered as ‘Breach of Contract’ under Clause 2.7 and the remedies under Clause 2.7.2.2 may be executed, at the discretion of BHEL.</p> <p>For all purposes whatsoever, the employees of the contractor shall not be deemed to be in the employment of BHEL.</p>												
77	Provisions for MSE vendors- Category	<p>Any Bidder falling under MSE category shall furnish the following details & submit documentary evidence/ Govt. Certificate etc. in support of the same along with their techno-commercial offer.</p> <table><tr><th>Type under MSE</th><th>Please specify Yes or No (If applicable)</th></tr><tr><td>SC/ST Owned</td><td></td></tr><tr><td>Women Owned</td><td></td></tr><tr><td>Others (excluding SC/ST & Women Owned)</td><td></td></tr><tr><td>Micro</td><td></td></tr><tr><td>Small</td><td></td></tr></table> <p>Note: If the bidder does not furnish the above in the tender, offer shall be processed construing that the bidder is not falling under MSE category</p>	Type under MSE	Please specify Yes or No (If applicable)	SC/ST Owned		Women Owned		Others (excluding SC/ST & Women Owned)		Micro		Small	
Type under MSE	Please specify Yes or No (If applicable)													
SC/ST Owned														
Women Owned														
Others (excluding SC/ST & Women Owned)														
Micro														
Small														
78	OVER RUN CHARGES	No overrun charges are applicable												
79	PERFORMANCE PARAMETERS AND LIQUIDATED DAMAGES DURING O&M, AMC PERIOD	Applicable to Bidder. Details as per technical Specifications.												
80	Submission of CAMC Performance Bank Guarantee (PBG)	<p>Applicable. Bank Guarantee (BG) against Comprehensive AMC to be submitted by the bidder for Rs.450 Lakhs per Block upon successful full commissioning within 30 days valid for a Period 10 years and 90 Days from the date of full commissioning.</p> <p>Bank Guarantee shall be submitted from Scheduled Banks / Public Financial Institutions as defined in the Companies Act. The Bank Guarantee format should have the approval of BHEL.</p>												

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		<p>In any case, Performance Security shall be returned to the Contractor only after submission of CAMC PBG.</p> <p>Forfeiture of CAMC Performance Bank Guarantee:</p> <p>The performance security will be forfeited and credited to BHEL's account in the event of a breach of contract by the supplier.</p> <p>PS should be refunded to the contractor without interest, after he duly performs and completes the contract in all respects but not later than 60(sixty) days of completion of all such obligations including the warranty under the contract.</p> <p>The Performance Security shall not carry any interest.</p> <p>In case of delay in submission of Performance Bank Guarantee, enhanced CAMC PBG which would include interest (Repo rate+4%) for the delayed period, shall be submitted by the bidder. Further, CAMC PBG is not submitted till such time the first bill becomes due, the amount of CAMC PBG due shall be recovered as per terms defined in Tender/contract, from the bills along with due interest</p>
81	Consequential Loss:	<p>"Neither party shall be liable to the other for any indirect or consequential loss or damage, including but not limited to loss of use, loss of profits, or loss of contracts, or special, punitive, exemplary losses whatsoever arising out of or in connection with this contract."</p>
82	OTHER ISSUES	<p>1 Value of Non judicial Stamp Paper for Bank Guarantees and for Contract Agreement/MoU shall be not less than Rs 500/- unless otherwise required under relevant statutes.</p> <p>2.In case of any conflict between the General Conditions of Contract and Special Conditions of Contract, provisions contained in the Special Conditions of Contract shall prevail.</p> <p>3. Unless otherwise specified in NIT, offers from consortium/ JVs shall not be considered</p>
83	Bank Guarantees submitted by Foreign Vendors	<p>In Case of Bank Guarantees submitted by Foreign Vendors</p> <p>a. From Nationalized/Public Sector / Private Sector/ Foreign Banks (BG issued by Branches in India) can be accepted subject to the condition that the Bank Guarantee should be enforceable in the town/city or at nearest branch where the Unit is located i.e. Demand can be presented at the Branch located in the town/city or at nearest branch where the Unit is located.</p> <p>b. From Foreign Banks (wherein Foreign Vendors intend to provide BG from local branch of the Vendor country's Bank)</p> <p>b.1 In such cases, in the Tender Enquiry/ Contract itself, it may be clearly specified that Bank Guarantee issued by any of the Consortium Banks only will be accepted by BHEL. As such, Foreign Vendor needs to make necessary arrangements for issuance of Counter Guarantee by Foreign Bank in favour of the Indian Bank's (BHEL's Consortium Bank) branch in India. It is advisable that all charges for issuance of Bank Guarantee/ counter Guarantee should be borne by the Foreign Vendor. The tender stipulation should clearly specify these requirements.</p>

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		<p>b.2 In case, Foreign Vendors intend to provide BG from Overseas Branch of our Consortium Bank (e.g. if a BG is to be issued by SBI Frankfurt), the same is acceptable. However, the procedure at sl.no. b.1 will required to be followed.</p> <p>b.3 The BG issued may preferably be subject to Uniform Rules for Demand Guarantees (URDG) 758 (as amended from time to time). The BG Format provided to them should clearly specify the same.</p>
84	Performance Bank Guarantee (PBG) for quoted generation if DC:AC ratio exceeds 1.35	<p>If a bidder quotes an annual generation with DC:AC ratio greater than 1.35, must submit an additional PBG with 100% of the cost of incremental energy above the reference generation value.</p> <p>The value is calculated as Number of units quoted above Reference Generation x 2.89 x 11.98 (in million INR)</p> <p>Validity: Valid up to 12 months beyond the scheduled completion date and released after the successful completion of the PG test.</p> <p>Performance Bank Guarantee shall be submitted from Scheduled Banks / Public Financial Institutions as defined in the Companies Act. The Bank Guarantee format should have the approval of BHEL.</p> <p>In case of delay in submission of Performance Bank Guarantee, enhanced PBG which would include interest (Repo rate+4%) for the delayed period, shall be submitted by the bidder. Further, PBG is not submitted till such time the first bill becomes due, the amount of PBG due shall be recovered as per terms defined in Tender/contract, from the bills along with due interest</p>
85	PV Module Performance Insurance Policy	<p>Contractor shall submit PV Module Performance Insurance as per Technical Specifications.</p>
86	Contract Performance Guarantee/ Security for O&M Contract	<p>The Contractor shall, at least 15 days prior to the commissioning of the part or full project capacity, whichever occurs first, provide security for the due performance of the O&M contract (i.e. Third Contract) for Overall Performance of the Solar PV Plant during O&M Period and for the due performance of the AMC of the equipment of Solar Plant for Ten percent (10%) of the Contract Price corresponding to Solar PV Plant of the 'O&M contract', with an initial validity upto ninety (90) days beyond the end of scheduled Period of the Operation and Maintenance i.e. the security shall be initially valid till 90 days beyond three (03) years from the commissioning of full project capacity.</p> <p>The contractor shall, at least 30 days prior to the expiration of Contract Performance Securities of First and Second Contract, shall enhance the amount of Contract Performance Guarantee/ Security to an amount equal to:</p> <p>BG for O&M , AMC and Extended warranty contract = $0.1 \times G \times R$ (in million INR) up to 3-year O&M period, Where</p>

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		<p>G = Annual Generation quoted by Bidder in MU (Measured at 33kV Owner's Main Pooling Switchgear, to be quoted in Price bid form), R = Applicable Tariff of INR 2.89/kWh.</p> <p>This bank guarantee shall be taken from contractor by way of enhancement of value of Contract Performance Security of O&M contract.</p> <p>Performance Bank Guarantee shall be submitted from Scheduled Banks / Public Financial Institutions as defined in the Companies Act. The Bank Guarantee format should have the approval of BHEL.</p> <p>In case of delay in submission of Performance Bank Guarantee, enhanced PBG which would include interest (Repo rate+4%) for the delayed period, shall be submitted by the bidder. Further, PBG is not submitted till such time the first bill becomes due, the amount of PBG due shall be recovered as per terms defined in Tender/contract, from the bills along with due interest</p>
87	Defect Liability	<p>The Contractor warrants that the Facilities or any part thereof shall be free from defects in the design, engineering, materials and workmanship of the Plant and Equipment supplied and of the work executed.</p> <p>The Defect Liability Period shall be eighteen (18) months from the date of Completion of the Facilities (or any part thereof) or twelve (12) months from the date of Operational Acceptance of the Facilities (or any part thereof), whichever first occurs.</p> <p>The Contractor may, with the consent of the Purchaser, remove from the Site any Plant and Equipment or any part of the Facilities that are defective, if the nature of the defect, and/or any damage to the Facilities caused by the defect is such that repairs cannot be expeditiously carried out at the Site.</p> <p>If the repair, replacement or making good is of such a character that it may affect the efficiency of the Facilities or any part thereof, the Purchaser may give to the Contractor a notice requiring that tests of the defective part of the Facilities shall be made by the Contractor immediately upon completion of such remedial work, whereupon the Contractor shall carry out such tests. If such part fails the tests, the Contractor shall carry out further repair, replacement or making good (as the case may be) until that part of the Facilities passes such tests. The tests in character shall in any case be not less than what has already been agreed by the Purchaser and the Contractor for the original equipment/part of the Facilities.</p> <p>If the Contractor fails to commence the work necessary to remedy such defect or any damage to the Facilities caused by such defect within a reasonable time (which shall in no event be considered to be less than fifteen (15) days), the Purchaser may, following notice to the Contractor, proceed to do such work, and the reasonable costs incurred by the Purchaser in connection therewith shall be paid to the Purchaser by the Contractor or may be deducted by the Purchaser from any monies due to the Contractor or claimed under the Performance Securities.</p>

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		<p>If the Facilities or any part thereof cannot be used by reason of such defect and/or making good of such defect, the Defect Liability Period of the Facilities or such part, as the case may be, shall be extended by a period equal to the period during which the Facilities or such part cannot be used by the Purchaser because of any of the aforesaid reasons. Upon correction of the defects in the Facilities or any part thereof by repair/replacement, such repair/replacement shall have the Defect Liability Period extended by a period of twelve (12) month from the time such replacement/repair of the Facilities or any part thereof.</p> <p>At the end of the Defect Liability Period, the contractor liability ceases except for latent defects. The contractor's liability for latent defects warranty shall be limited to a period of five (5) years from the end of Defect Liability Period of the respective plant and equipment including spares. For the purpose of this clause, the latent defects shall be the defects inherently lying within the material or arising out of design deficiency which do not manifest themselves during the Defect Liability Period but later.</p> <p>In case, there is any dispute between Employer and Contractor regarding latent defects, a third party as mutually agreed upon by the Purchaser and the Contractor shall be engaged by the Purchaser for settling the dispute. The third party, so engaged by the Purchaser, shall be paid fee plus reasonable expenditures incurred in the execution of its duties as mentioned above. These costs shall be initially paid by the Purchaser. In case of latent defect being proved, such costs shall be recoverable from the Contractor and the Contractor shall bear and reimburse such costs to the Purchaser. If the dispute regarding latent defects cannot be settled as above, then the dispute shall be settled as per provision of Settlement of Disputes.</p>
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