

SCC (Special Conditions of Contract) for Tender No- 202402421

1. PQR

- a. Bidder must have in-house Facilities for Electro-Tinning as per Corp. Std. AA0673601 REV08 & AA0673611 REV03 as attached.
- b. Bidder must have in-house Testing Set Up for Electro Tinning as per attached QAP.

2. Scope:

- i) FRAMEWORK AGREEMENT (FA) FOR 1 YEAR for SELECTIVE & FULL TINNING ON CU. CONNECTION/PACKER/FLAT (MIN. 13 MICRON).
- ii) Bidder has to do electro-tinning as per Corp. Standard AA0673601R08 & AA0673611 Rev 03.
- iii) Bidder has to **lift material** from BHEL Rudrapur and after tinning & Inspection same shall be returned to BHEL Rudrapur dully packed.
- iv) Each component shall be **identifiable** with drawing, Item/Variant & Project.
- v) Sample Drawing Enclosed. *Tinning thickness shall be minimum 13 microns.*
- vi) Packing Specification: Packing shall be as per attached packing instruction no-BHEL/PACK/SP/001 Rev01.
- vii) Work Distribution is applicable for the tender and distribution Matrix as per below table.

Distribution Matrix	L1	L2	L3
03 lowest acceptable bidders	60%	25%	15%
02 lowest acceptable bidders	70%	30%	-
01 lowest bidder	100%	-	-

Note: If qualified bidders (N) are three and more then distribution shall be limited to (N-1) Qualified responses.

- viii) **Framework Agreement (FA):** After finalization of this tender, BHEL shall enter into Framework Agreement with successful bidders. **Framework Agreement shall be valid for the quantity mentioned in NIT and for ONE-year period.** BHEL may extend the Frame-work Agreement as per BHEL Purchase Policy for further 1 Year with mutual consent.
However, finalization & signing of Framework Agreement does not entitle any bidder to any firm order. Any claim by the bidder on account of capacity blocking, funds etc. due to entering into the FA shall not be entertained. FA sets out terms and conditions under which specific purchases can be made during the term of the agreement and shall include agreement on prices which are determined after following the tendering procedure. BHEL shall place purchase order(s) in line with Framework Agreement and as per BHEL's requirement.

BHEL reserves the right to terminate the framework agreement after giving a notice period of 15 days to the supplier without assigning any reason thereof. No claim because of termination of contract shall be admissible.

3. Price Basis:

- i) **Base rate for TIN is Rs. 2860/kg as per ET Intelligence circular dated 30.09.2024.**
- ii) **PVC Clause: PVC ratio shall be 1:0.5 (One is to Zero Point Five)** i.e. for every increase/decrease by 1 % in the rates of TIN, there shall be corresponding increase/decrease by 0.5 % in the contract rates.



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- iii) **The Tin Rate of ET Intelligence on 1st working Day of Month (as published) shall be effective for supplies till end of that month in which the plated components are supplied to BHEL.**
- iv) Rates shall be quoted for BHEL Rudrapur (Central Stores) basis including packing, forwarding, freight charges. Bidder has to lift the material from BHEL Rudrapur and after tinning & inspection same shall be returned to BHEL Rudrapur duly packed as per packing instruction.
- v) Rates are to be quoted for entering into a frame work agreement (FA) for 01-year duration. The quantity indicated in the bid is overall requirement. However, BHEL shall place several PO of smaller quantity over the period of time.

In case of delay in delivery due to reasons not attributable to BHEL, the PVC shall be restricted to the purchase order delivery date or the actual dispatch date whichever is advantageous to BHEL. In case PO delivery date is extended by BHEL, the PVC shall be applicable for the extended delivery date.

4. Taxes and Duties:

- i) Vendors must ensure compliance of all the applicable rules and procedure as envisaged in the GST Regime.
- ii) Any loss to BHEL-Rudrapur due to fault / non-compliance by the vendor will be to the vendor's account.
- iii) All vendors are required to provide PAN details, GSTIN Number.
- iv) The Supplier/Vendor shall pay all (save the specific exclusions as enumerated in this clause) taxes, fees, license, charges, deposits, duties, tools, royalty, commissions, other charges, etc. which may be levied on the input goods & services consumed and output goods & services delivered in course of his operations in executing the contract. ***In case BHEL is forced to pay any of such taxes/duties, BHEL shall have the right to recover the same from his bills or otherwise as deemed fit along with the applicable overheads @5% and interest on the total value (i. e. amount paid by BHEL + overhead).***
- v) The admissibility of GST, taxes and duties in the contract shall be limited to direct transactions between BHEL & its Supplier/Vendor. BHEL shall not consider GST on any transaction other than the direct transaction between BHEL & its Supplier/Vendor.
- vi) Supplier/Vendor has to submit GST registration certificate of the concerned state. Supplier/Vendor also needs to ensure that the submitted GST registration certificate shall be in active status during the entire contract period.
- vii) Supplier/Vendor has to issue Invoice/Debit Note/Credit Note indicating HSN/SAC code, Description, Value, Rate, applicable tax and other particulars in compliance with the provisions of relevant GST Act and Rules made thereunder.
- viii) Supplier/Vendor has to submit GST compliant invoice within the due date of invoice as per GST Law. In case of delay, BHEL reserves the right of denial of GST payment if there occurs any hardship to BHEL in claiming the input thereof. In case of goods, Supplier/Vendor has to provide scan copy of invoice & GR/LR/RR to BHEL before movement of goods starts to enable BHEL to meet its GST related compliances. Special care shall be taken in case of month end transactions.
- ix) Subject to other provisions of the contract, GST amount claimed in the invoice shall be released on fulfilment of all the following conditions by the Supplier/Vendor: -
 - 1. Supply of goods and/or services have been received by BHEL.
 - 2. Original Tax Invoice has been submitted to BHEL.



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3. Supplier/Vendor has submitted all the documents required for processing of bill as per contract/ purchase order/ work order.
- x) Any financial loss arises to BHEL on account of failure or delay in submission of any document as per contract/purchase order/work order at the time of submission of Tax invoice to BHEL, shall be deducted from Supplier/Vendor's bill or otherwise as deemed fit.
 - xi) Supplier/Vendor shall be solely responsible for discharging his GST liability according to the provisions of GST Law and BHEL will not entertain any claim of GST/interest/penalty or any other liability on account of failure of Supplier/Vendor in complying the provisions of GST Law or discharging the GST liability in a manner laid down thereunder.
 - xii) In case declaration of any invoice is delayed by the vendor in his GST return or any invoice is subsequently amended/alterd/deleted on GSTN portal which results in any adverse financial implication on BHEL, the financial impact thereof including interest/penalty shall be recovered from the Supplier/Vendor's due payment.
 - xiii) Any denial of input credit to BHEL or arising of any tax liability on BHEL due to non-compliance of GST Law by the Supplier/Vendor in any manner, will be recovered along with liability on account of interest and penalty (if any) from the payments due to the Supplier/Vendor.
 - xiv) In the event of any ambiguity in GST law with respect to availability of input credit of GST charged on the invoice raised by the contractor or with respect to any other matter having impact on BHEL, BHEL's decision shall be final and binding on the Supplier/Vendor.

5. Variation in Taxes & Duties:

Any upward variation in GST shall be considered for reimbursement provided supply of goods and services are made within schedule date stipulated in the contract or approved extended schedule for the reason solely attributable to BHEL. However downward variation shall be subject to adjustment as per actual GST applicability.

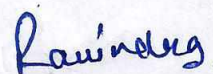
In case the Government imposes any new levy/tax on the output service/goods after price bid opening, the same shall be reimbursed by BHEL at actual. The reimbursement under this clause is restricted to the direct transaction between BHEL and its Supplier/Vendor only and within the contractual delivery period only.

In case any new tax/levy/duty etc. becomes applicable after the date of Bidder's offer but before opening of the price Bid, the Bidder/ Supplier/Vendor must convey its impact on his price duly substantiated by documentary evidence in support of the same before opening of price bid. Claim for any such impact after opening the price bid will not be considered by BHEL for reimbursement of tax or reassessment of offer.

6. MATERIAL DISPATCH CLEARANCE CERTIFICATE (MDCC): MDCC shall be issued by BHEL. No material shall be dispatched by supplier unless and until Material Dispatch Clearance Certificate (MDCC) issued by BHEL. In case any material is dispatched without MDCC and any loss is incurred by Supplier/Vendor for any reason whatsoever, BHEL shall not be responsible in any manner to compensate the supplier in this regard.

7. INSPECTION & TESTING AT SUPPLIERS WORKS:

Inspection of Tin-Plated Material by BHEL/BHEL TPIA shall be done as per attached QAP: QP/BD/EP-01 Rev 00 Dt. 23.11.2020.



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BHEL reserves the right to inspect the material during plating process and also to get tested the material after receipt at BHEL works.

The test results witnessed by BHEL shall be final and binding on the Supplier/Vendor.
In case of rejection at any stage, Supplier/Vendor shall be liable to replace the materials at his own cost.

8. DELIVERY:

Delivery within 21 days from receipt of material from **BHEL Rudrapur (Job work)** after placement of Purchase order.

Rates shall be quoted for **BHEL Rudrapur, U S Nagar, Uttarakhand (Central Stores)** basis including packing, forwarding, freight charges. Bidder has to lift the material from BHEL Rudrapur and after tinning & inspection same shall be returned to BHEL Rudrapur duly packed as per packing instruction.

In case of any deviation to delivery terms mentioned above, loading @0.5% per week, max. 10 % of total order value shall be imposed on quoted price for comparing bid standing L-1, L-2, L-3..... etc.

In case of urgency of items based on our end customer requirement/site urgency, BHEL may ask for early delivery.

Delivery in case of rejection: In case the material is rejected, then date of replacement will be considered as the actual date of delivery.

9. Insurance

It Shall be done by BHEL Rudrapur as the raw material issued are property of BHEL

10. PAYMENT TERMS:

- i) 100% Payment through EFT as per below specified days after the receipt and subject to acceptance of material at CFP.

Type of Bidder	Payment Terms
Micro & Small Enterprises (MSEs)	45 days
Medium Enterprises	60 days
Non MSME	90 days

MSME vendors may opt for payment through TReDS (Trade Receivables Discounting System). For details please visit www.rxil.in. No overdue interest shall be payable by BHEL.

Bidder must attach UDYAM certificate along with bid to confirm their category.

- ii) **NO INTEREST PAYABLE TO CONTRACTOR**
No interest shall be payable on the security deposit or any other money due to the contractor.



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11. DOCUMENTS REQUIRED ALONG WITH DISPATCH OF MATERIAL/BILLING DOCUMENTS:

Supplier shall ensure timely submission of invoice and all relevant documents for processing the payment. Any undue delay on account of bill submission/ incomplete documents shall be to suppliers account. Two sets of following documents shall be sent with the material for delivery at Rudrapur.

- (i) GST Invoice
- (ii) Packing list
- (iii) GR/Challan etc.
- (iv) Guarantee/ warranty certificate
- (v) Test certificate/Inspection reports and Calibration Certificate.
- (vi) PVC Calculation Sheet etc.

12. BANK DETAILS FOR SECURITY DEPOSIT SUBMISSION:

Name & Address of Company:

Component Fabrication Plant (CFP),
BHEL Rudrapur, U S Nagar (Uttarakhand)

1.STATE BANK OF INDIA

Beneficiary Name	Bharat Heavy Electricals Limited
A/C NO	10672521208
Account Type	Cash Credit
BRANCH	INDIRA CHORAHA MAIN BRANCH RUDRAPUR UDHAMSINGH NAGAR (U K) PIN CODE-263153
Tel	05944 - 247678 / 247646/ 243843
Fax	05944 - 243454
MICR CODE	263002001
IFS CODE	SBIN0000708

13. EMD

Not Applicable

14. SECURITY DEPOSIT

To ensure due performance of the contract, Performance Bank Guarantee (PBG) or Security Deposit (SD), hereafter referred as performance security has to be deposited by the successful bidder after contract has been awarded.

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The total amount of Security deposit shall be minimum Rs 1 lakh. It will be deposited in the form of BG/NEFT/FD and will be deposited by the Contractor before lifting of material from BHEL Rudrapur.

However, if the issued material value exceeds Rs 1 Lakh at any time during contract value, then additional value will be deposited by the contractor.

15. Modes of deposit:

Security Deposit may be furnished in the following forms:

- (i) Local cheques of Scheduled Banks (subject to realization)/ Pay Order/Demand Draft/ Electronic Fund Transfer in favour of BHEL.
 - (ii) Bank Guarantee from Scheduled Banks / Public Financial Institutions as defined in the Companies Act. The Bank Guarantee format shall have the approval of BHEL.
 - (iii) Fixed Deposit Receipt issued by Scheduled Banks / Public Financial Institutions as defined in the Companies Act (FDR shall be in the name of the Contractor, a/c BHEL).
 - (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).
 - (v) Insurance Surety Bond.
- (Note: BHEL will not be liable or responsible in any manner for the collection of interest or renewal of the documents or in any other matter connected therewith)

Security Deposit shall remain valid for a period of 60 (sixty) days beyond the date of completion of all contractual obligations of the supplier, including warranty obligations.
It shall not carry any interest.

Exemption for Security Deposit Submission:

Central/ State PSUs/ Government depts. / Autonomous/

Educational/ Research institutions exempted for Security Deposit Submission against submission of valid documents.

16. BREACH OF CONTRACT, REMEDIES AND TERMINATION:

The following shall amount to breach of contract:

- I. Non-supply of material/ non-completion of work by the Supplier/Vendor within scheduled delivery/ completion period as per contract or as extended from time to time.
- II. The Supplier/Vendor fails to perform as per the activity schedule and there are sufficient reasons even before expiry of the delivery/ completion period to justify that supplies shall be inordinately delayed beyond contractual delivery/ completion period.
- III. The Supplier/Vendor delivers equipment/ material not of the contracted quality.
- IV. The Supplier/Vendor fails to replace the defective equipment/ material/ component as per guarantee clause.
- V. Withdrawal from or abandonment of the work by the Supplier/Vendor before completion as per contract.
- VI. Assignment, transfer, subletting of Contract by the Supplier/Vendor without BHEL's written permission resulting in termination of Contract or part thereof by BHEL.



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VII. Non-compliance to any contractual condition or any other default attributable to Supplier/Vendor.

VIII. Any other reason(s) attributable to Vendor towards failure of performance of contract. In case of breach of contract, BHEL shall have the right to terminate the Purchase Order/ Contract either in whole or in part thereof without any compensation to the Supplier/Vendor.

IX. Any of the declarations furnished by the contractor at the time of bidding and/ or entering into the contract for supply are found untruthful and such declarations were of a nature that could have resulted in non-award of contract to the contractor or could expose BHEL and/ or Owner to adverse consequences, financial or otherwise.

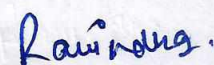
X. Supplier/Vendor is convicted of any offence involving corrupt business practices, antinational activities or any such offence that compromises the business ethics of BHEL.

Remedies in case of Breach of Contract.

- i) Wherein the period as stipulated in the notice issued 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.
- 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.
- 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:

In case the amount recovered as per 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.

- iv) If Supplier/Vendor fails to deposit the balance amount within the period as prescribed in demand notice, following action shall be taken for recovery of the balance amount:
 - a) from dues available in the form of Bills payable to defaulted 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.
- v) In-case recoveries are not possible with any of the above available options, Legal action shall be initiated for recovery against defaulted supplier/Vendor.



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- 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.
- 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.

17. LIQUIDATED DAMAGE (LD):

In case of delay in execution of contract/purchase order beyond the delivery period stipulated in the said contract/purchase order, ***a penalty of 0.5% on the value of delayed portion of supply (inclusive of basic rate, taxes, duties, freight & insurance as applicable) per week of delay shall be levied on Supplier.***

Maximum limit of Liquidated damages shall be **10% of total purchase order value (Individual)** (inclusive of basic rate, taxes, duties, freight & insurance as applicable). In case of quoting any deviation from the above LD clause, **the offer shall be loaded in comparison statement for un-accepted portion of LD, maximum up to 10% of total purchase order value (inclusive of basic rate, taxes, duties, freight & insurance as applicable). GST shall also be charged on LD amount as per applicable rate and tax invoice shall be issued by BHEL.**

Note:

i) In case of any amendment or revision in contract/Purchase order, the LD shall be linked to the amended / revised Purchase Order / Contract value and delivery / completion time / schedule, as applicable.

ii) If, delay is not attributable to the supplier, delay analysis with documentary evidence may be submitted by the supplier at the earliest but not later than six months from the end of the financial year in which the payment is withheld.

Based on the above details / documents submitted by the supplier, BHEL shall take final decision and if considered appropriate by BHEL, withheld amount (full or part as the case may be) shall be released, otherwise, full or balance withheld amount shall be treated as deduction of Liquidated Damages (LD) towards delayed delivery.

Liquidated Damages = 0.5 % X Delay in Nos. of Weeks X Quantity *(Basic Rate + P&F + Freight + Other charges, if any + Taxes & Duties) + Applicable GST

Non-acceptance of above clauses shall be considered as deviation to this tender and shall be loaded at the rate of 10% for each case for comparing standing.

18. GUARANTEE/WARRANTY: Guarantee/Warranty period shall be 30 months from the date of receipt at site/BHEL or 24 months from the date of Commissioning, whichever is earlier. Warranty/Guarantee Certificate is required along with material.

19. MICRO AND SMALL ENTERPRISES (MSE):

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



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Type under MSE	SC/ST owned	Women owned	Others (excluding SC/ ST & Women Owned)
Micro			
Small			

Note: If the bidder does not furnish the above, offer shall be processed construing that the bidder is not falling under MSE category.

a) MSE suppliers can avail the intended benefits in respect of the procurements related to the Goods and Services only (Definition of Goods and Services as enumerated by Govt. of India vide Office Memorandum F. No. 21(8)/2011-MA dtd. 09/11/2016 office of AS & DC, MSME) only if they submit along with the offer, attested copies of either Udyam Registration. Date to be reckoned for determining the deemed validity will be the last date of Technical Bid submission. Non-submission of supporting document in GeM portal will lead to consideration of their bids at par with other bidders. No benefits shall be applicable for this enquiry if the above required documents are not uploaded at the time of bid submission. Documents submitted by the bidder shall be verified by BHEL for rendering the applicable benefits.

20. Settlement of Dispute

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

If after the Designated Engineer has given written notice of this decision to the party and no intention to pursue the dispute has been communicated to him by the affected party within 30 days from the receipt of such notice, the said decision shall become final and binding on the parties. In the event the Supplier/Vendor being dissatisfied with any such decision or if amicable settlement cannot be reached then all such disputed issues shall be resolved through conciliation in terms of the BHEL Conciliation Scheme 2018 as per Clause 21.1

20.1 Conciliation:

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

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

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20.2 ARBITRATION:

Arbitration-In case amicable settlement is not reached between the Parties, in respect of any dispute or difference or claim or controversy arising out of the formation, breach, termination, validity or execution of the Contract(or Agreement) 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 writing to the other Party refer such dispute or difference or controversy of claim, (except as to any matters, the decision of which is specifically provided for therein) to the sole arbitration by the arbitrator appointed by Head/In-Charge of the BHEL Unit/Division/Region. b) The Arbitrator shall pass a reasoned award and the award of the Arbitrator shall be final and binding upon the parties to the dispute. c) Subject as aforesaid, the provisions of Arbitration and Conciliation Act 1996 (India), or other statutory modifications of re-enactments thereof and the rules made thereunder and for the time being in force shall apply to the arbitration proceeding under this clause. **The seat of arbitration shall be at Component Fabrication Plant, Rudrapur, Distt. Udham Singh Nagar, Uttarakhand.** d) In case of Contract with Public Sector Enterprise (PSE) or a Government Department, the following shall be applicable: e) In the event any dispute or difference relating to the interpretation and application of the provisions of the Contract, such dispute or difference shall be referred to by either party to the arbitration of one of the arbitrators in the department of Public enterprises to be nominated by the Secretary to the Government of India in-charge of the Department of Public Enterprises. The Arbitration and Conciliation Act, 1996 shall not be applicable to arbitration under this clause. The award of the arbitrator shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such award may make further reference for setting aside or revision of the award to the Law Secretary, Department of Legal Affairs, Ministry of Law and Justice, Government of India. Upon such reference the dispute shall be decided by the Law Secretary or the Special Secretary or Additional Secretary when so authorized by the Law Secretary, whose decision shall bind the parties hereto finally and conclusively. f) Notwithstanding the existence of any dispute or differences and/or reference for the arbitration, the Supplier shall proceed with and continue without hindrance the performance of its obligations under this Contract with due diligence and expedition in a professional manner.

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

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

21. JURISDICTION

Suits or any matter arising out of the PO shall be settled in Rudrapur, Uttarakhand, India courts. All Contracts shall be under jurisdiction of Indian Courts only.

GOVERNING LAWS

The contract shall be governed by the Law for the time being in force in the Republic of India.



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22. Force Majeure

Notwithstanding any other thing contained anywhere else in the contract or PO (Purchase Order), in case the discharge of obligation under the contract by either party is impeded or made unreasonably onerous, neither party shall be considered in breach of the contract to the extent that performance of their respective obligation is prevented by an event of Force Majeure that arises after the effective date (PO date). In the above clause, Force Majeure means an event beyond the control of the parties to the contract which prevents a party from complying with any obligation of the contract including but not limited to:

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

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.

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.

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.

Delay or non-performance by either party hereto caused by the occurrence of any event of Force Majeure shall not

- Constitute a default or breach of the Contract.
- 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.

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.

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23. NON-DISCLOSURE AGREEMENT:

All Drawing and Technical Documents relating to the product or its manufacture submitted by one party to the other, prior or subsequent to the formation of contract, shall remain property of the submitting party. Drawing, technical documents or other technical information received by one party, shall not without the consent of the other party, be used for any other purpose than that, for which they were provided. Such technical information shall not without the consent of the submitting party, otherwise be used or copied, reproduced, transmitted or communicated to a third party. Bidder shall in no way share or use such intellectual property of BHEL to promote his own business with others. BHEL reserves the right to claim damages from the bidder, or take appropriate penal action as deemed fit against the bidder, for any infringement of the provisions contained herein

24. Cartel Formation

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.

25. Fraud Prevention Policy

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

26. Suspension of Business Dealings with Suppliers / Contractors:

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

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

http://www.bhel.com/vender_registration/vender.php.

27. Bid shall be free from correction, overwriting, using corrective fluid, etc. Any interlineation, cutting, erasure or overwriting shall be valid only if they are attested under full signature(s) of person(s) signing the bid else bid shall be liable for rejection.

28. Conditions for rejection of offers:

SCC (Special Conditions of Contract) for Tender No- 202402421

Following is the list of situations which would lead to rejection of offer/offers. This list is not exhaustive but only indicative. *BHEL reserve the right to reject one or all offers without assigning any reason thereof.* The decision of BHEL will be final in this regard.

- a. If the offer fails to meet the technical requirements/specifications of the tendered item/s.
- b. If the offer does not meet the commercial terms & conditions, such as but not limited to delivery period specified in the tender, Delivery terms, payment terms, Liquidated damages, Risk Purchase, conciliation clause etc., including the loading factors specified in the tender.
- c. If the bidder fails to respond to clarification sought, within a reasonable period. In case of doubts / lack of clarity on the technical and commercial offer of the bidder, BHEL will seek clarifications.

Bidders are required to respond completely to such BHEL's queries within 3 working days unless otherwise agreed to in writing by BHEL for period beyond 3 days. If supplier fails to respond within 3 working days or maximum 2 working days on a reminder thereon, the offer of such bidders will be automatically dis-qualified in the tender without further recourse to informing the bidder.

- d. If any of the conditions listed above are applicable to the bidder, the offer is liable to be rejected.

29. Reverse Auction (RA) - Applicable for the Tender as per attached guidelines.

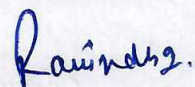
BHEL shall be resorting to Reverse Auction (RA) (Guidelines as available on www.bhel.com) for this tender. RA shall be conducted among all the techno-commercially qualified bidders. Price bids of all techno-commercially qualified bidders shall be opened and same shall be considered as initial bids of 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."

- i) BHEL may negotiate with L-1 bidder or re-float the tender in case received L-1 rate is not found reasonable or non-acceptable to BHEL inter-alia other reasons.
- ii) Taxes & Duties etc. shall be payable extra at actuals against documentary proof.

30. Sub: Conflict of Interest among Bidders/ Agents

"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:

- 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
- 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



SCC (Special Conditions of Contract) for Tender No- 202402421

- 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
- 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 authorize only one agent/dealer. There can be only one bid from the following:

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

- 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
- h) 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 shall 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. "


IMPORTANT TERMS:

- a) Bidders to submit signed and sealed copy of all attached NIT documents and Standards as a proof of acceptance.
- b) All deviations against technical/commercial terms must be mentioned in a separate "**Deviation List**". Any hidden condition/deviation mentioned elsewhere other than Deviation List will not be considered valid.
- c) No separate technical offer submitted by bidder shall be acceptable. Only techno-commercial offer/documents given in tender on **eprocurebhel.co.in** portal shall be acceptable.
- d) **Bid currency:** Bid currency shall be INR. Hence, all rates shall be quoted in INR.
- e) If any bidder mentions prices anywhere in technical bid/PQR (other than price bid), he will be responsible for consequences of thereof and such prices mentioned in unpriced-bid shall not be considered valid and shall be liable for rejection.
- f) Unsolicited revision of price shall NOT be considered after tender submission. In case of supplier insisting for submission of unsolicited revision of price after tender submission at any stage, offer shall be liable for rejection.
- g) **Declaration regarding suspected Cartel Formation:** The Bidder shall declare 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.
- h) BIDDER must not be under category "banned" or "de-barred from dealing" by BHEL/PSUs/Govt. of India on tender due date/time (Self-declaration required).



SCC (Special Conditions of Contract) for Tender No- 202402421

- i) BHEL reserves the right to verify the information provided by the BIDDER. In case the information provided by vendor is found to be false/incorrect at any stage (during tender or after tender stage), the offer shall be summarily rejected.



Ravindra
(BHEL RUDRAPUR)



भारतीय स्टेट बैंक
State Bank Of India

(00708)-RUDRAPUR
INDIRA CHOWK
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