

SCC (Special Conditions of Contract) for Tender No 202401621

1. **PQR:** As per Annexure-A of Tender Documents.
2. **Material:** BHEL Rudrapur shall give Component of Aluminium, Copper & Its Alloys against security deposit during the contract period.
3. **Insurance:** As per clause 12 of Annexure-B.
4. **Delivery Terms:** As per clause 3 of Annexure-B.
5. **Lifting of Material:** Bidder has to lift the material from BHEL Rudrapur and after plating & inspection same shall be returned to BHEL Rudrapur duly packed as per packing instruction.
6. **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."
7. BHEL may negotiate with L-1 bidder or re-float the tender in case received L-1 rate is not found reasonable or acceptable to BHEL inter-alia other reasons
8. **EACH COMPONENT SHALL BE INDENTIFIABLE WITH DRAWING, ITEM/VARIANT & PROJECT.**
9. **BIDDER MUST HAVE INHOUSE FACILITIES FOR SILVER PLATING.**
10. **BIDDER MUST HAVE INHOUSE TESTING SET UP FOR SILVER PLATING.**
11. **SILVER PLATING: BIDDER HAS TO DO SILVER PLATING AS PER SG14610 R04, AA0673613 R04 & SG15600 R04 and Thickness of Silver Plating (Min 13 Micron) as per specification 45410001025 Rev-11.**
12. **QAP:** QP/BD/164 Rev 02 is attached.
13. **Test Certificate:** Test Certificate as per specification required along with each lot of Silver Plating.
14. **Guaranteed Certificate:** Guaranteed Certificate Required.
15. **Inspection:** By BHEL/TPI
16. **Liquidated Damages (LD) Clause:**
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.

SCC (Special Conditions of Contract) for Tender No 202401621

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.

17. Price Variation Clause: Applicable as per Annexure-B.

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.

18. Order Splitting:

1.	Distribution Clause:	Distribution shall be done to maximum 02 bidders as per below matrix as applicable: -		
		Distribution Matrix	L1	L2
		02 lowest acceptable bidders	60%	40%
		01 lowest bidder	100%	-
		L-1 Rate as finalized shall be counter-offered to techno-commercially qualified bidders for splitting of order according to their ranking in comparison statement i.e. L-2, L-3 etc. respectively. In case of non-acceptance of counter-offer by any bidder, counter-offer shall be extended to next bidder in ranking.		

19. Taxes & Duties etc. shall be payable extra at actuals against documentary proof.

20. Bidders to submit signed and sealed copy of all attached NIT documents and Standards as a proof of acceptance.

21. 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.

22. 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.

SCC (Special Conditions of Contract) for Tender No 202401621

23. **Delivery Terms:** As mentioned in Annexure-B, rates to be quoted on FOR RUDRAPUR (Uttarakhand) including packing, forwarding, freight charges.

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.

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 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.

24. **Bill submission & Invoicing:**

Supplier should 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
- (vi) PVC Calculation Sheet etc.

25. **Acceptance to GST terms and conditions as per Annexure-GST.**

Note: - Vendors must ensure compliance of all the applicable rules and procedure as envisaged in the GST Regime. Any loss to BHEL-Rudrapur due to fault / non-compliance by the vendor will be to the vendor's account. All vendors are required to provide PAN details, GSTIN Number.

26. **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 Framework 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.

27. 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.

SCC (Special Conditions of Contract) for Tender No 202401621

28. **Bid currency:** Bid currency shall be INR. Hence, all rates shall be quoted in INR.
29. 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.
30. 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
31. **Declaration regarding suspected Cartel Formation:** The Bidder shall 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.
32. 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).
33. **Applicability of Integrity Pact (IP) & Independent External Monitor (IEM):** IP is a tool to ensure that activities and transactions between the Company and its Bidders/ Contractors are handled in a fair, transparent and corruption free manner. A panel of Independent External Monitors (IEMs) have been appointed by BHEL with the approval of CVC to oversee implementation of IP in BHEL. This tender shall be monitored by an IEM. Please refer Section-8 of the Integrity Pact(IP) for Role and Responsibilities of Independent External Monitor (IEMs). In case of any complaint arising out of the tendering processes, the matter may be referred to the IEM mentioned below. The IP as enclosed with the tender is to be submitted (duly signed by authorized signatory) along with techno-commercial bid (Part-I, in case of two/three part bid). Only those bidders who have entered into such an IP with BHEL would be competent to participate in the bidding. In other words, entering into this Pact would be a preliminary qualification. No routine correspondence shall be addressed to the IEM(Phone/email/post) 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.
Details of IEM of this tender is as below:
Name: Shri Otem Dai, IAS (Retd.)
Email: iem1@bhel.in
Name: Shri Bishwamitra Pandey, IARS (Retd.)
Email: iem2@bhel.in
Name: Shri Mukesh Mittal, IRS (Retd.)
Email: iem1@bhel.in

Bidder will attach sign and stamped copy of attached format of Integrity Pact otherwise Offer of the liable for rejection

34.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

SCC (Special Conditions of Contract) for Tender No 202401621

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
- 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 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. "

35. Conditions for rejection of offers:

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

SCC (Special Conditions of Contract) for Tender No 202401621

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:

36. Breach of contract, Remedies and Termination

In case of breach of contract, wherever the value of security instruments like performance bank guarantee available with BHEL against the said contract is at least 10% of the contract value, the same be encashed. In case the value of the security instruments available is less than 10% of the contract value, the balance amount be recovered from other financial remedies (i.e. available bills of the contractor, retention amount, etc. with BHEL) or legal remedies be pursued. The balance scope shall be got done independently without

Risk & Cost of the failed supplier/ contractor. Further, levy of liquidated damages, debarment, termination, de-scoping, short-closure, etc., shall be applied as per provisions of the contract.

37. 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

38. FORCE MAJEURE CLAUSE:

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:

a) Act of God (Such as but not limited to earthquake, drought, tidal waves, floods, explosions, infestations, epidemic, or pandemic etc.).

b) War (whether war be declared or not), Hostilities Invasion, Act of foreign enemy etc.

c) Rebellion, revolution, insurrection, civil war etc.

d) Contamination of Radio Activity from any nuclear fuel or from any other nuclear waste or any other hazardous materials.

e) Riots, commotions, strike unless restricted to the employees of supplier.

f) Acts of terrorism.

SCC (Special Conditions of Contract) for Tender No 202401621

g) Other unforeseeable circumstances beyond the control of the parties and which the affected party cannot avoid even by using its best efforts.

h) Cancellation of contract by customer.

i) Change in law/ government regulation making the performance impossible.

The party claiming to be affected by force majeure shall notify the other party in writing immediately without delay on the intervention and on the cessation of such circumstances. Irrespective of any extension of time, if an event of force majeure occurs and its effect continues for more than 180 days the affected party shall have right to cancel the contract. As soon as reasonably practicable following the date of commencement of a Force Majeure Event, and within a reasonable time following the date of termination of a Force Majeure Event, either Party invoking it shall submit to the other Party reasonable proof of the nature of the Force Majeure Event and of its effect upon the performance of the Party's obligations under this Agreement. The party shall ensure that its Subcontractors shall, always take all reasonable steps within their respective powers and consistent with Good Operating Practices (but without incurring unreasonable additional costs) to:

a) Prevent Force Majeure Events affecting the performance of the party's obligations under this Agreement.

b) Mitigate the effect of any Force Majeure Event and

c) Comply with its obligations under this Agreement.

Either party shall be entitled to suspend/cancel performance of his obligations under the contract without any cost to the other party, to the extent that such performance is impeded or made unreasonably onerous by any of the abovementioned circumstances beyond the control of either party which inter alia include cancellation, suspension of order by end customer due to Force Majeure conditions.

39. Bidders to submit signed and sealed copy of all attached NIT documents and Standards as a proof of acceptance.



(BHEL RUDRAPUR)