



BHEL, BHOPAL

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GENERAL TERMS AND CONDITIONS**REV. 03****NIT NO. PDX/MM&SC/PATRATU/T-01**

Sub:- Refurbishment of Electrical System pertaining to Rehabilitation of 2x110 MW Units 9 & 10 of Patratu TPS.

1.0 DEFINITIONS:-

The following terms and expressions shall have the meaning hereby assigned to them except where the context otherwise requires.

- 1.1 'BHEL'** shall mean Bharat Heavy Electricals Limited, a Company registered under the Indian Companies Act, 1956 with its Registered Office at BHEL House, Siri Fort, New Delhi, Pin-110049 through its office at Piplani, Bhopal – 462022 or its authorised Officers or its Engineers or other employees authorised to deal with any matters with which these persons are concerned on its behalf.
- 1.2 'CLIENT' or 'CUSTOMER'** shall mean the project authorities to whom BHEL is supplying the equipment & providing the services.
- 1.3 'CONTRACTOR'** shall mean the individual, firm or Company who enters into contract with BHEL for providing the services as per this Tender and shall include their executors, administrators, successors and permitted assigns.
- 1.4 'CONTRACT' or 'CONTRACT DOCUMENT'** shall mean and include the agreement, the work order, the accepted appendices of rates, schedules of quantities, if any, General Terms & Conditions of the Contract, Special Conditions of the contract, Instructions to Tenderers, drawings, technical specifications, the special specifications, if any, & the Letter of Intent / acceptance letter issued by BHEL. Any conditions or terms stipulated by the tenderer in the tender documents or subsequent letters shall not form part of the contract unless specifically accepted in writing by BHEL in the letter of intent and incorporated in the Work Order.
- 1.5 'TENDER DOCUMENTS'** shall mean the NIT, Instructions to Tenderers, General Conditions of Contract, Special Conditions, Price Schedule and Tender Specifications.
- 1.6 'LETTER OF INTENT'** shall mean the intimation by a letter / telegram / fax to the tenderer that the tender has been accepted in accordance with provision contained in that letter. The responsibility of the contractor commences from the date of issue of this letter and all the terms and conditions of contract are applicable from this date.
- 1.7 'COMPLETION TIME'** shall mean the period specified in the Letter of Intent or date mutually agreed upon for completing the work / services stipulated in the work order to the satisfaction of the Engineer being of required standard and conforming to the specifications of the contract.
- 1.8 'PLANT'** shall mean and connote the entire assembly of the plant and equipment's covered by the Contract.
- 1.9 'EQUIPMENT'** shall mean all machinery, materials, structurals, electricals and other components of the plant covered by the contract.
- 1.10 'TESTS'** shall mean and include such test or tests to be carried out by the contractor as are prescribed in the contract or considered necessary by BHEL in order to ascertain the quality, workmanship, performance and efficiency of the contracted work or part thereof.
- 1.11 'APPROVED, DIRECTED or INSTRUCTED'** shall mean approved, directed or instructed by BHEL Engineer / Site Engineer / Project- in-charge/ Engineer-in-Charge.
- 1.12 'WORK' or 'CONTRACT WORK'** shall mean and include the work to be done by the Contractor as specified in the Tender documents.

Prepared by

Checked by

Approved by

Date of Issue .

R.K.Mundra

B.K.Singh

C.P.Jaiswal

12.05.2008



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- 2.0 'LAW GOVERNING THE CONTRACT AND COURT OF JURISDICTION'** The contract shall be governed by the law for the time being in force in the Republic of India. The Civil Court at Bhopal shall alone have exclusive jurisdiction in regard to all claims in respect of this Contract.
- 3.0** The tenderer shall give an undertaking under the official secret Act for maintaining secrecy of the tender documents, drawings or other records connected with the work given to him. The unsuccessful tenderer shall return all the drawings / documents given to them.
- 4.0 ISSUES OF NOTICE**
The Contractor shall furnish to the Engineer, the name designation and address of his authorised agent/ In-charge of Project and all complaints, notices, communications and references shall be deemed to have been duly given to the Contractor, if delivered to the Contractor or his authorised agent or left at or posted to the address either of the contractor or his authorised agent and shall be deemed to have been so given in the case of posting on the day on which they would have reached such address in the ordinary course of post or at which they were so delivered or left.
- 5.0 STORAGE OF MATERIALS AT SITE (INCLUDING LOADING, UNLOADING, HANDLING AND TRANSPORT)**
- 5.1** The contractor shall make all arrangements to Load, unload, handle, transport and store all materials at site in proper manner (as approved by BHEL engineer) so as to avoid contamination and deterioration. The contractor shall make own arrangement for T & Ps including cranes. For storage, open space shall be given by BHEL/ Customer and contractor shall make its own covered shed. The places at site where materials are to be stored shall be subject to the approval of the Engineer-in-charge. The store should have proper illumination, record keeping and locking arrangements for safe custody of the materials. The store should be made before arrival of the materials at site. Space required for stores may be conveyed during the offer stage.
- 6.0 SUB-LETTING OF CONTRACT**
The contractor may assign or sublet the contract or any substantial part there of or any part of the plant to a party as per vender list submitted along with the offer, provided that any such arrangement shall not relieve the Contractor from any obligation, duty or responsibility under the contract. The Contractor shall submit its list of vendors for sourcing supplies/ services along with the tender. BHEL may seek approval of the contractor and its sub-vendors from the customer and shall in turn give approval.
- 7.0 REJECTION OF BID DUE TO UNSATISFACTORY PERFORMANCE IN THE PAST**
The bid of the contractor may be rejected due to unsatisfactory performance in the past at any of the BHEL units or due to rejection of the contractor by the customer.
- 8.0 CONTRACT QUALITY ASSURANCE AND QUALITY PLAN :**
The contractor shall submit a quality assurance program containing the quality management and procedures that are proposed to be followed in the performance of the works during various phases. The quality assurance programs to be followed for the execution of the contract will be mutually discussed and agreed.
Within an agreed scheduled period after the LOI, the contractor shall submit a quality plan, detailing out the specific quality control procedure to be adopted for controlling the quality characteristics relevant to major activities to be undertaken. BHEL/ Customer will approve the plan identifying the "customer hold points" for inspection. During the inspection, in case the materials are rejected, it shall be the responsibility of the contractor to furnish approved materials. The contractor shall be fully responsible for the



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proper execution of all quality plans and shall also perform all quality control activities, inspection and tests agreed with BHEL/ Customer to demonstrate full compliance with the specification requirements. BHEL/ Customer shall witness test/inspection, etc as per the "customer hold points" indicated in the quality plans.

9.0 EARNEST MONEY

Every tender must be accompanied by the prescribed amount of Earnest Money Deposit in full, in the form of Account Payee Demand Draft issued by State Bank of India / Nationalised Banks in favour of Bharat Heavy Electricals Limited, Bhopal. Alternatively, the full amount may be deposited by the tenderer in cash with the Cashier of Bharat Heavy Electricals Limited, Bhopal and cash receipt issued by him should be enclosed with the tender. Tenders received without Earnest Money in full or not in the manner prescribed above will not be considered.

9.1 The Earnest Money Deposit of the successful tenderer will be retained towards part of Security Deposit.

9.2 In the case of unsuccessful tenderer, the Earnest Money will be refunded after finalisation of the tender.

9.3 BHEL reserves the right of forfeiture of Earnest Money Deposit, in case the successful tenderer who:

9.3.1 After opening of tender revokes / withdraws his tender within the validity period or revises / alters his earlier quoted rates / conditions.

9.3.2 Fails to communicate unqualified acceptance of Letter of Intent within 15 days from the date of issue of letter of intent

9.3.3 Fails to submit 50% of the total security deposit before start of work.

9.3.4 Fails to start the work as may be indicated in the Letter of Intent.

10.0 SECURITY DEPOSIT

Upon acceptance of tender, the successful tenderer must deposit the required amount of security deposit, after adjusting the amount of Earnest Money duly deposited with the Tender, within the time specified in the letter of intent for satisfactory completion of work.

10.1 The total amount of Security Deposit shall be as follows:

(i) In the case of work costing upto Rs. 10 lakhs:- 10%.

(ii) Above Rs. 10 lakhs upto Rs. 50 lakhs:- 1 lakh + 7.5 % of the amount exceeding Rs. 10 lakhs.

(iii) Above Rs. 50 lakhs:- Rs. 4 lakhs + 5 % of the amount exceeding Rs. 50 lakhs.

The security deposit, calculated as above shall be deposited within 15 days from the date of issue of letter of intent but before the start of work in any one of the following forms.

a) The total Security Deposit may be deposited with the cash office of BHEL.

or

b) 50% of Security Deposit in cash or in the form of Bank Guarantee in the prescribed proforma as per **ANNEXURE "B"**. Balance shall be recovered from running bills @ 10% of the value of each running bill commencing from first running bill itself till the full Security Deposit is made up. **The Bank Guarantee should be from any one of our consortium bank as per list enclosed at Annexure "C"**.

10.2 Validity of the Bank Guarantee furnished towards Security Deposit under clause 12.1 b) above, shall be valid up to the period of completion of work as stipulated in the Letter of Intent plus 03 (three) months claim period and the same will be kept valid by proper renewal till the satisfactory completion of the Guarantee period.



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10.3 If the value of the work done at any time exceeds the accepted Contract value, the Security Deposit shall be correspondingly enhanced and the extra Security Deposit shall be immediately deposited by the Contractor otherwise it shall be recovered from payments due to him. Failure to deposit the Security Deposit within the stipulated time may lead to forfeiture of Earnest Money and cancellation of the award of work. BHEL reserves the right of forfeiture of Security Deposit in addition to other claims and penalties in the event of the Contractor's failure to fulfil any of the contractual obligations or in the event of termination of contract as per terms and conditions of contract. BHEL reserves the right to set off the Security Deposit, against any claims of any other contracts with BHEL.

11.0 RETURN OF SECURITY DEPOSIT:

If the contractor fully performs and completes the works in all respects to the entire satisfaction of BHEL and presents an absolute "No Demand Certificate" in the prescribed form and returns properties belonging to BHEL taken, borrowed or hired by him for carrying out the said works, half the amount of Security Deposit will be released along with final bill to the contractor after deducting all costs, expenses and other amounts that are to be paid to BHEL under this or other contracts entered into with the Contractor. Balance half of the amount of security deposits will be released only after the guarantee period is over. In case contractors wants refund of total security money deposited by him along with final bill, the contractor will have to submit a BG of an amount equivalent to 50% of the total security deposit at the time of final bill with validity up to the expiry of Warrantee period + 3 months claim period.

12.0 COMMENCEMENT & COMPLETION OF WORK

The contractor shall commence the work within the time indicated in the Letter of Intent and shall proceed with the same with due expedition without delay. No mobilisation charges of any kind are payable.

12.1 At the time of mobilisation of work at site, the contractor is required to submit the Copies of following documents to site Engineer for verification:

- i. BG as per contract.
- ii. Contract Agreement
- iii. Indemnity Bond
- iv. Valid Test Certificates for the Plant & Machinery being deployed at site.
- v. Valid Insurance Policy covering third party liability, workmen compensation & tool & tackles brought to site.
- vi. Proper Labour Licence.
- vii. Work force deployment schedule for posting to site.
- viii. Detail work schedule (L-3 network)

12.2 If the successful tenderer fails to commence the work within the stipulated time, BHEL at its sole discretion will have the right to cancel the contract.

12.3 The Earnest money and / or Security Deposit will stand forfeited without any further reference to the Contractor without prejudice to any of BHEL's other rights and remedies in this regard.

12.4 All the works shall be carried out under the direction and to the satisfaction of BHEL.

12.5 The transported equipment, erected/constructed plant or work performed under the contract, as the case may be, shall be taken over by BHEL/customer when it has been completed in all respects and / or satisfactorily put into operation & site is made clear.

13.0 WORK EXECUTION & SCHEDULE

13.1 The Contractor is responsible for the correct execution of the work in accordance with the scopes/drawings provided to him. The levels, measures and other information concerning the existing site as shown on the drawings or as described are supposed to



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be correct but the contractor shall verify them for himself and no extra claim, whatsoever shall be entertained on account of any discrepancy or omission in such matters or on account of the description turning out to be different from what was expected.

- 13.2** In case the contractor requires any clarifications, conditions, drawings etc., the Engineer-In-charge shall be contacted.
- 13.3** The contractor will be required to submit detail work schedule before start of work, and he shall submit a Bar chart/PERT Chart/CPM to the Engineer-in-charge indicating how the contractor proposes to complete the work within the stipulated time as per the contract. This Bar Chart/PER Chart/CPM should clearly indicate the various activities in the proper sequence of construction. Once this programme of construction has been submitted by the contractor and approved by the Engineer-in-charge, the contractor shall follow the detailed work schedule, organise labour / material to suit the completion period of work & abide by the approved construction programme with the progress indicated in the chart. The detailed work schedule shall be organised to suit the completion period of work within the shut down given by the customer.
- 13.4** The work under the contract will be deemed to be completed in all respect, only when the trial runs, testing and commissioning including trial operation are completed. The contractor shall obtain no dues form concerned BHEL / Customer department.
- 13.5** On final completion of work the contractor shall submit the construction completion certificate, and obtain approval from BHEL.
- 13.6** The entire schedule as approved shall be strictly followed by contractor. If for any reason beyond the control of the contract held up, then the contractor shall bring it to the notice of the delay.
- 14.0 INTEREST CHARGES:** No interest shall be payable by BHEL on Earnest Money, Security Deposit / or on any moneys due to the Contractor by BHEL.
- 15.0 DRAWINGS & DOCUMENTS**
- 15.1** The drawings mentioned in this specification and issued during the execution of work, shall supplement the requirements specified and form part of the same. Only three copies of each will be provided to contractor during the execution of work.
- 15.2** Out of three (3) set of erection drawings furnished to the contractor, the contractor shall return one (1) complete set of as built drawings, prior to handing over, with all approved modifications during installation, duly marked in red, neatly, clearly and accurately.
- 15.2.1** Change in scope of work: Drawings as partly listed in these documents shall define the nature of work. Work shall be executed as per the latest revision of drawings issued later on. This may require additions or deletions to the original scope of work.
- 15.2.2** Change of scope of work shall be documented as follows:
- Revision of drawings
 - Revision of technical specification.
 - Design concession report.
 - Written instruction by the Engineer.
- 16.0 METHOD OF WORKMANSHIP:**
- 16.1** All work shall be performed in a first class, neat and good workmanship manner by technical staff skilled in the trade involved.
- 16.2** The installation shall be carried out in such a manner as to preserve access to other equipment installed.



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The contractor shall arrange for inspection at works by BHEL/ customer or its authorised representatives at their own cost and submit test certificates for review by BHEL/ customer. Despatch clearance shall be issued by BHEL based on that. BHEL representatives and Customer representatives may witness critical tests based on the QAP submitted by the contractor. The contractor shall cooperate and make all arrangements for testing during visit of BHEL/ customer representatives. The successful completion of testing shall not absolve the contractor of its contractual obligations.

BHEL/ customer shall have access to the contractors/sub-contractors premises or work and shall have the power at all reasonable time, to inspect drawings or any portion of the equipment or examine the materials and workmanship of the equipments being manufactured in other premises of the contractor/sub-contractor. The contractor shall furnish the list of equipments which requires BHEL/ customer approval. BHEL/ customer shall approve the list or send comments for incorporation within 21 days from the date contractor has furnished the list of such equipment.

BHEL/ customer shall within 10 days from the date of offsite inspection for the equipments give a notice in writing to contractor of any objection to any drawing and or any contract. The contractor shall give due consideration to such objection and shall either make the modifications that may be necessary to meet the said objections or shall confirm in writing to BHEL/ customer giving reasons therein that no modifications are necessary to comply with the contract.

The contractor shall give BHEL/ customer 15 days written notice of any offsite material being ready for testing. BHEL/ customer shall attend to such test within 7 days of his confirmation on the date on which the equipments is notified as being ready failing which the contractor may proceed with the test which shall be deemed to have being made in the inspector's presence and shall forward to inspector duly certified copies of the test certificates in triplicate. When the factory test have being completed at the contractors or sub-contractors works the engineers/inspector shall issue a certificate to this effect within 10 days after completion of test but if the test are not witnessed by BHEL/ customer to issue such certificate, it shall not prevent the contractor from continuing manufacturing.

In all cases where the tests whether at premises or works of the contractor or of any sub-contractor are to be conducted the contractor/sub-contractor, shall provide free of charges such labour materials, electricity, fuel, water, stores, apparatus and instruments as may be reasonably demanded by BHEL/ customer or his authorized representative to carry out effectively such test of the equipments in accordance with contract and shall give facilities to BHEL/ customer or to his authorized representative to accomplish testing.

18.0 PROGRESS REPORT & FIELD OFFICE RECORD

18.1 The contractor shall prepare and submit weekly progress report/ charts, manpower deployment, material receipt report and such other reports as required by the engineer for the monitoring and smooth progress of work. Progress report should explicitly indicate progress achieved against the targets, reasons for delay and action plan to compensate for such delay.

18.2 The contractor shall maintain records pertaining to the quality of work and inspection and testing compliance with all technical requirements. Where safety of work is involved the contractor shall submit written procedure to the Engineer.

19.0 MEASUREMENT OF WORK

19.1 Before taking any measurement of any work, the Engineer- in - charge or a subordinate deputed by him shall give reasonable notice to the contractor. If the contractor fails to attend at the measurements after such notice or fails to countersign or to record the difference within a week from the date of measurement in the manner required by the Engineer-in-Charge then in such event the measurements taken by the



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- Engineer-in-Charge or by the subordinate deputed by him shall be final and binding on the contractor and the contractor shall have no right to dispute the same.
- 19.2** For progressive/ running bill payments, the contractor shall present detailed measurement sheets, in triplicate, duly indicating all relevant details based on technical documents and connected drawings for work done during the month/ period under different categories in line with terms of payment as per letter of indent. The basis of arriving at the quantities/ weight shall be the relevant documents and drawings released by BHEL. These measurement sheets shall be prepared jointly with Engineer and signed by both the parties.
- 19.3** These measurement sheets will be checked by the Engineer and quantities and percentage eligible for payment under different groups shall be decided by him. The abstract of quantities and percentage so arrived at based on the terms of payment shall be entered in the measurement book and signed by both the parties.
- 19.4** Based on the above quantities the contractor shall prepare the bills in the prescribed proforma and work out the financial value. These will be entered in the Measurement Book and signed by both the parties. Payment shall be made by BHEL after effecting the recoveries due from the contractor.
- 19.5** All recoveries due from the contractor for the month / period shall be effected in full from corresponding running bills unless specific approval from competent authority is obtained to the contrary.
- 19.6** Measurement shall be restricted to that quantity for which it is required to ascertain the financial liability of BHEL under this contract.
- 19.7** Measurements shall be taken jointly by persons duly authorised by BHEL and the contractor.
- 19.8** Passing of bills covered by such measurement does not amount to acceptance of the completion of the work measured by BHEL. Any left out work has to be completed by the contractor, as directed.
- 19.9** Final measurement bill shall be prepared in the proforma prescribed for the purpose, based on the certificate issued by the Engineer that the entire work as stipulated in the tender specification has been completed in all respect to the entire satisfaction of BHEL. The contractor shall give unqualified '**NO CLAIM AND NO DEMAND CERTIFICATES**'. All the tools and tackles loaned to him should be returned in satisfactory condition to BHEL. The abstract of final quantities and financial values shall also be entered in the Measurement Book and signed by both parties. The final bill shall be paid within a reasonable time after the completion of the work.
- 20.0 RIGHTS OF BHEL :**
BHEL reserves to itself the following rights in respect of this Contract without entitling the Contractor to any compensation as below:
- 20.1** To get the work done through another agency at the risk and cost of Contractor, in the event of Contractor not starting the work in time, poor progress of work, inability to get the work done completion of Contract, poor quality of work, persistent disregard of instructions of BHEL, assignment transfer, or subletting of the contracted work without written permission of BHEL, non-fulfilment of any contractual obligations etc. and to claim /recover compensation for such losses from the contractor including BHEL's supervision charges and overheads from Security Deposit / other dues in addition to any other action that may be taken.
- 20.2** To withdraw any portion of work and / or to restrict / alter quantum of work as indicated in the contract during the progress of work and get it done through another agency and / or by the departmental staff to suit BHEL's commitments to its Customer.
- 20.3** To terminate the contract after due notice and forfeit the Security Deposit and recover the loss sustained in getting the balance work done through other agencies in addition to liquidated damages in the event of:



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- a) Contractor's continued poor progress. Withdrawal from or abandonment of the work before completion of the work.
- b) Corrupt act of the contractor.
- c) Insolvency of the contractor. Persistence disregard of the instructions of BHEL.
- d) Assignment, transfer, subletting of the contract work without BHEL's written permission.
- e) Non-fulfilment of any contractual obligations or obligations under the law. To recover any money due from the Contractor from out of any money due to the Contractor under this or any other Contract or from the Security Deposit.
- f) To claim penalty or compensation for losses sustained including BHEL's supervision charges and overheads in case of termination of contract and / or to levy liquidated damages for delay in completion of work.
- g) To determine the Contract or to restrict the quantum of work and pay for the portion of work done in case BHEL's contract with its customer is terminated for any reason.
- h) To effect recoveries from any amounts due to the contractor under this or any other contract or in any other from the moneys which BHEL is forced to pay to anybody due to contractors failure to fulfil any of his obligations.
- i) To restrict or increase the nature of work to suit site requirements, since the tender specification is based on preliminary documents and quantities furnished therein are indicative and approximate. The rates quoted shall not be subjected to revision by the contractor in such case.
- j) To deploy BHEL's skilled and/ or semi-skilled workmen in case of emergency / poor progress / deficiency in skill on the part of the employees of the contractor and to recover the expenditure on account of the same from the money due to the contractor.
- k) The Engineer-in-Charge shall have full powers to acquire the removal from the premises of all materials which in his opinion are not in accordance with the specifications and in case of default the Engineer-in-Charge shall be at liberty to employ other persons to remove the same without being answerable or accountable for any loss or damage that may happen to arise to such materials. The Engineer-in-Charge shall have full powers to ask for other proper materials to be substituted there of and in case of default the Engineer-in Charge may ask the same to be supplied and all costs which may arise due to such removal and substitution are to be borne by the contractor.
- l) While every endeavour will be made by BHEL to this end , BHEL can not guarantee uninterrupted work due to conditions beyond its control. The contractor will not be entitled to any compensation/ extra payment on this account.
- m) In the event of any dispute of technical nature, the decision of BHEL and / or Engineer shall be final and binding on the Contractor.
- 21.0 RESPONSIBILITIES OF CONTRACTOR :**
- 21.1** The contractor should follow the prevailing industrial / labour laws as amended from time to time and shall also take all safety measures required during the execution of this order.
- 21.2** The Contractor shall be fully responsible for correctness & quality of his work to the entire satisfaction of BHEL / Customer. The work shall be executed in accordance with the directions, instructions, drawings and specification. The work shall be performed in a first class, neat and good workmanship manner by technical staff skilled in the trade involved. The installation shall be carried out in such a manner as to preserve access to other equipment installed. If during the progress of manufacture or supply of plant, BHEL/ customer notifies in writing to the contractor that the contractor has manufactured any plant or part of plant unsound or imperfect, or has supplied any plant inferior in quality to that specified, the contractor on receiving details of such defects or deficiency, shall at his own expenses, within such time as may be reasonably necessary for the purpose, alter, reconstruct or remove such plant or part



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of plant or supply fresh materials as per standard specification and in case the contractor shall fail to do so, BHEL may on giving the contractor thirty days notice in writing of his intention to do so, proceed to alter, reconstruct or remove such plants or part of plants at the contractor's cost provided that nothing in this clause shall be deemed to deprive BHEL/ customer or affect any rights which he may otherwise have in respect of such defect or deficiencies and provided that such replacement shall be carried out by BHEL/ customer within a reasonable time and at a reasonable price and as far as possible, to the same specification and under competitive conditions.

If the completed plant or any portion taken over is found to be defective or fails to fulfil the requirement of the contract, the engineer shall forthwith give the contractor notice setting forth particulars of defects or failure and the contractor shall make the defects good, or alter the same to make it comply with the requirements of contract. If the contractor fails to do so, within a reasonable time, BHEL/ Customer may reject and replace at the cost of the contractor, the whole or any portion of the plant, as the case may be, which is defective or fails to fulfil the requirement of the contract. In case of such replacement by BHEL, contractor shall be liable to pay to BHEL the extra cost, if any of such replacement delivered and / or erected as provided for in the original contract. Such extra cost and the damages being the ascertained difference between the prices paid by BHEL/ Customer, under the provision above mentioned for such replacement and the contract price for the plant so replaced and also to repay any sum paid by BHEL/ Customer to the contractor in respect of such defective plant.

21.3 If in the opinion of the contractor any work is insufficiently specified or required modifications, the Contractor shall refer the same in writing to the Engineer and obtain his instruction / approval in writing before proceeding with the work. If contractor fails to refer such instance, any excuse for faulty erection, for poor workmanship or delay in completion shall not be entertained.

21.4 Land belonging to BHEL or its customer under temporary possession of BHEL shall not be occupied by the contractor without the written permission of BHEL.

21.5 The old plant and equipment, which are being replaced by new plant and equipment will the property of the customer. The customer shall provide land for storing the dismantled plant and equipment within the plant premises. The contractor shall stack the dismantled material properly.

21.6 The Contractor will be required to sign a contract with BHEL on Non-judicial stamp paper as per **Annexure – "A"**. The cost towards agreement shall be born by the contractor.

21.7 All the properties/equipment/components of BHEL/its customer loaned with or without deposit, to the contractor shall remain the properties of BHEL/ its customer. The contractor shall use such properties for the purpose of execution of this contract. All contractor shall return them in good conditions as and when required by BHEL/its customer. In case of non-return, loss, damaged, repairs, etc., cost thereof, as may be fixed by the Engineer, will be recovered from the contractor.

21.8 **It shall not be obligatory on the part of BHEL/ customer to supply any tools and tackles.** Depending upon availability, possibility, BHEL/its customer's equipment and other materials may be made available to the contractor on payment of hire charges as fixed by them subject to the conditions laid down by BHEL/its customer form time to time. Unless paid in advance, such hire and other charge shall be recovered from out of dues to the contractor in one instalment.

21.9 ROYALTY – Royalty for equipments supplied shall be borne by the contractor and nothing extra on this account shall be paid to him by BHEL.

21.10 PERMANENT BENCH MARKS – Where directed by the Engineer, the contractor shall provide permanent bench marks. Likewise any other levels or lines or points specifically required by the Engineer shall be built in. The contractor shall carefully protect and preserve such important mark during execution of the work.



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- 21.11 SITE TESTING OF MATERIALS** - For the tests carried out by the contractor at site, the contractor shall install testing equipment at site and shall ensure and certify the calibration of the equipment so installed and shall maintain the same in working order through out the period of construction. The contractor shall also provide the necessary trained staff for carrying out such tests and using such equipment. List of equipments with range shall be submitted by the bidder.
- 21.12 APPROVAL OF LOCAL MATERIALS FOR USE** - Before bringing any material (locally purchased) to site in bulk for civil works, infrastructure, plant services, etc, contractor shall have to bring a sample first and get it approved by Engineer. Any material brought to site in contravention of this conditions shall be rejected forthwith and no payments shall be made.
- 21.13** The contractor shall not claim any compensation due to reduction in the scope of work due to changes in design, which curtail the quantum of work.
- 21.14** The contractor shall fully indemnify BHEL/its customer against all claims of whatever nature arising during the course of execution of this contract due to the acts of contractor/his personnel.
In the event of any claim or demand being made or action being brought against BHEL/ Customer for infringement or alleged infringement of letter, patent in respect of any machine plant, work or thing used or supplied by the contractor under this contract or in respect of any method of using or working by BHEL/ Customer of such machines, plant, work or thing, the contractor will indemnify BHEL/Customer against such claim or demand and all costs and expenses arising from or incurred by reason of such claim or demand. In case the equipment in such suit or proceedings is held to constitute infringement and the use of the equipment or part is prohibited, the contractor shall at his own expenses either procure for BHEL/ Customer the right to continue using the equipment, modified it so as it becomes non-infringing or remove the equipment and refund BHEL/Customer price plus the transportation and installation cost thereof.
- 21.15** The contractor shall ensure that no damage is caused to any person/any existence work/property of customer/other parties working at site. If any such damage is caused, it shall be the responsibility of the contractor to make good the losses and compensate the affected parties at his own cost. The contractor shall indemnify BHEL for any such eventuality (Annexure 'B').
- 21.16** Any delay in completion of work or non-achievement of periodical targets due to reasons attributable to the contractor, will have to be compensated by the contractor either by increased manpower and resources or by working extra hours or more than one shift at no extra cost to BHEL.
- 21.17** The contractor shall execute the work under the conditions usual to such power plant construction and in conjunction with numerous other operations at site. The contractor and his personnel shall co-operate and co-ordinate with other agencies at project site and proceed in a manner that shall help in the progress of work at site as a whole.
- 21.18** The contractor shall keep the area of work clean and shall remove the debris etc. while executing day-to day work. Upon completion of work, the contractor shall remove from the vicinity of work, all scrap, packing materials, rubbish, unused and other materials and deposit them in places specified by the Engineer. The Contractor shall also demolish all the hutment's sheds, offices, etc. constructed and used by him and shall clean the debris. In the event of his failure to do so, the same will be arranged to be done by the Engineer and the expenses for the same shall be recovered from the contractor.
- 21.19** The contractor shall execute the work in the most professional manner in the stipulated time. Accuracy of work and timely execution shall be the essence of this contract. The contractor shall be responsible to ensure that the quality, assembly and workmanship conform to the dimensions and clearance given in the drawings and / or as per the instructions of the Engineer.



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- 21.20 Establishment of Site Office** – Contractor shall make its own office at site. He will be required to maintain good office at site with necessary infrastructure and staff. The contractor should have a mobile phone, Computer System with Printer & UPS.
- 21.21** In case there is no specification laid down in the contract for a class of work, such work shall be carried out in accordance with the instructions and requirements of the Engineer.
- 21.22** No levy, payment or charge made or imposed shall be impeached by reason of any clerical error or by reason of any mistake in the amount levied, demanded if charged.
- 21.23** The contractor shall take all reasonable care to protect the materials and the work till such time the plant/equipment has been taken over by BHEL/its customer. It will be the responsibility of the contractor to ensure safe lifting of the equipment to avoid damages/accidents.
- 21.24** Contractor shall not stop work or abandon the site for what so ever reason or dispute, excepting for force majeure conditions. All problems/dispute shall be separately discussed and settled without affecting the progress of work, stoppage or abandonment of work, other than under force majeure conditions, shall be treated as breach of contract and dealt with accordingly.
- 21.25 OBSERVING LOCAL LAWS, PROVIDING WORKMEN & SUPERVISORY PERSONNEL** - The following are the responsibilities of the contractor in respect of observance of local laws, employment of personnel, payment of taxes etc. –
- a)** The contractor shall engage sufficient staff to maintain the required rate of progress and quality of workmanship. If unskilled workers are required to be engaged, the same shall be engaged, as far as possible, from local areas in which the work is being executed. Claim for idle labour/machinery due to non-supply of any material by BHEL or for any other reasons will not be entertained. During the continuance of this contract, the contractor shall have due regard to all local festival, religious events and other customs, in all his dealings with the local labour for the time being employed on or in connection with the work.
 - b)** The Contractor shall comply with all local, state and central laws, statutory rules, Regulations, etc., such as: the payment of wages Act, the Minimum Wages Act, The Workmen's Compensation Act, The Employer's Liability Act, The Industrial Disputes Act, The Employees Provident Fund Act, Employees State Insurance Scheme, The Contract labour (Regulations and Abolition) Act, 1970 and other Acts, Rules and Regulations for labour as may be enacted by the Government during the tender of the Contract and having force or jurisdiction at site. The contractor will be required to seek registration, if required, as per local laws. The contractor shall give to the local governing body, police and other concerned project site authorities all such notice (s) as may be required under law.
 - c)** The Contractor, in the event of the Contract engaging 20 or more workmen, shall obtain independent license under the Contract Labour (Regulations and Abolition) Act, 1970 from the concerned authorities based on the certificate (Form V) issued by the Principal employer / customer.
 - d)** The contractor shall pay all taxes, fees, license charges which may be him or otherwise as deemed fit.
 - e)** The contractor shall make all arrangements and shall also meet all expenses in connection with his workmen's qualification / re-qualification test(s) etc at site.
 - f)** All safety rules and codes are applicable to work shall be followed without any exception.
 - g)** The contractor shall arrange to provide guards and prominently display caution notices, in unsafe and hazardous area.
 - h)** The contractor shall be responsible for the provision of health and sanitary arrangements as described in the contract labour Regulations and Abolition Act, 1970.
 - i)** The contractor shall be responsible for safety precautions as may be required for safe and satisfactory execution of the contract.



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- j) All safety rules and codes applied by BHEL/its customer at site shall be observed by the contractor and his workmen without exception. The contractor shall be responsible for the safety of the equipment/material and work to be performed by him and shall maintain all lights, fencing guards, signs etc. or other protections necessary for the purpose. Contractor shall also take such additional precautions as may be indicated from time to time by the Engineer, with a few to prevent pilferage, accidents, fire hazards etc. Suitable number of clerical staff, watch and ward staff & storekeepers to take care of equipment, material, construction tools and tackles shall be posted at site by the contractor till the completion of the work. The contractor shall arrange for such safety devices as are necessary for this type of work and carryout the requisite site test of handling equipment, lifting tools, tackles etc. as per usual standards and practices.
- k) The contractor shall make his own arrangement for proper accommodation including adequate medical facilities for the personnel employed by him.
- l) The contractor will be directly responsible for payment of wages to his workmen. A pay-roll sheet giving details of all payments made to the workmen duly signed by the contractor's representative be furnished to BHEL for record purpose.
- m) No idle labour charges will be admissible in the event of any stoppage of work resulting in the contractor's workmen being rendered idle due to any reason at any time.
- n) The contractor shall furnish fortnightly labour deployment report indicating the classification and number of workmen engaged, date-wise and category-wise. Besides, the contractor shall also furnish progress reports on work at regular intervals as required by the Engineer.
- o) **Gate Pass** for entry into power station would be required for all the persons deployed by the contractor at site. Special permission would be required for working beyond normal working hours. The contractor shall be arranging the passes and working permission beyond normal working hours on their own. BHEL Engineer shall provide necessary help and guidance for the same. Normal working hours in the plant is 8 hours. Completion time is the essence of the contract. Hence the contractor may be required to arrange working in extended working hours/ round the clock working to achieve scheduled completion date.
- p) The contractor has to ensure that the people deployed by them restrict their movement in the area earmarked for the project. For movement in area other than earmarked for project prior permission of BHEL Engineer is required. The contractor shall abide by all the rules and regulations of the power station.
- q) The Contractor shall deploy all skilled, semi-skilled and unskilled workers and should hold valid certificates wherever necessary. The contractor shall deploy only experienced supervisory staff to carry out the erection work and control his workmen. BHEL reserves the right to insist on removal of any employee of contractor. In the event of increasing or decreasing the category of workers, supervisors the contractor shall obtain the prior approval of BHEL's site-in-charge.

22.0 STRIKES AND LOCKOUTS

- a) The contractor will be solely responsible for all disputes and other issues connected with his workmen. In the event of contractor's workmen resorting to strike or the contractor resorting to lockout and, if the strike or lockout so declared is not settled within a period of one month, BHEL shall have the right to get the work executed employing its own men or through other agencies or both. The cost incurred by BHEL in this regard shall be recovered from the contractor.
- b) For any purpose whatsoever, the employees of the contractor shall not be deemed to be in the employment of BHEL.

23.0 FORCE MAJEURE

- a) The following shall amount to force majeure conditions: Acts of God, act of any Government, War, sabotage, riots, civil commotion, police action, revolution, flood,



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fire, cyclone, earthquake and epidemic and other similar causes over which the Contractor has no control.

- b)** If the Contractor suffers delay in the execution of the Contract, due to delay caused by force majeure conditions, as defined above, the agreed time for completion of the work covered by this contract shall be extended by a period of time equal to the period of the delay, provided the Contractor immediately reports to BHEL in writing the causes for the delay. The Contractor shall not be eligible for any compensation on account of any extension in time of completion given to Contractor due to force majeure conditions.

24.0 SETTLEMENT OF DISPUTES:

- 24.1** Except as otherwise specifically provided in the contract all disputes concerning questions of fact arising under the contract shall be decided by the engineer subject to a written appeal by the contractor to the engineer, whose decision shall be final to the parties hereto.
- 24.2** Any disputes or differences including those considered as such by only one of the parties arising out of or in connection with the contract shall be to the extent possible settled amicably between the parties.
- 24.3** If amicable settlement cannot be reached then all disputed issues shall be settled by arbitration as provided in relevant clause.

25.0 ARBITRATION

- 25.1** All disputes between the parties to the Contract arising out of or in relation to the Contract, other than those for which the decision of the Engineer in the Contract or any other person is expressed to be final and conclusive, shall after written notice by either party to the contract to the other party, be referred to sole arbitration of the General Manager or his nominee. The Arbitration shall be conducted in accordance with the provisions of the Indian Arbitration and Reconciliation Act, 1996.
- 25.2** The parties to the Contract understand and agree that there will be no objection that the General Manager or the person nominated as arbitrator had earlier in his official capacity directly or indirectly dealt with the matters to which the Contract relates or that in the course of his official duties had expressed views on all or any of the matters in dispute or difference. The award of the arbitrator shall be final and binding on the parties to this contract.
- 25.3** Work under the contract shall be continued by the contractor during the arbitration proceedings, unless the matter is such that the work cannot possibly be continued until the dispute or differences are settled by the arbitration and save as those which are otherwise expressly provided in the contract.
- 25.4** The arbitration proceedings shall be held at Bhopal. The jurisdiction of courts for these proceeding shall be at Bhopal.



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THIS AGREEMENT MADE THIS..... DAY OF 200.... Between BHARAT HEAVY ELECTRICALS LIMITED, Bhopal (A Government of India Enterprise) a Company incorporated under the Companies Act 1956, having its registered office at BHEL House, Siri Fort, New Delhi – 110 049 (hereinafter called BHEL) of the ONE PART
AND

..... (hereinafter called the 'Contractor') of the SECOND PART.

WHEREAS M/s state that they have acquired and possess extensive experience in the field of and whereas in response to an Invitation to Tender No..... dated issued by BHEL for the execution of the Contractor submitted their offer dated..... And whereas BHEL has accepted the offer of the Contractor on terms and conditions specified in the Letter of Intent No..... dated..... Read with the reference cited therein.

THIS AGREEMENT WITNESSESS AND it is hereby agreed by and between the parties as follows:

That the Contractor shall execute the work of and more particularly described in Tender specification (hereinafter called the said works) in accordance with and subject to terms and conditions contained in these presents, Instructions to Tenderers, General Conditions of Contract, Special Conditions, annexures, Letter of Intent dated and such other instructions, drawings, specifications given to him from time to time by BHEL.

The Contractor is required to furnish to BHEL Security Deposit in the forms of cash/approved securities / Bank Guarantee valid upto for a sum of Rs..... (Rupees) towards satisfactory performance and completion of the Contract.

The Contractor has furnished a Guarantee bearing No..... Dated for a sum of Rs..... (Rupees.....) executed by Bank in favour of BHEL towards Security Deposit valid up to..... (The Contractor has furnished to BHEL an initial Security Deposit of Rs..... in cash /Approved Securities/BG for Rs..... And has agreed for recovery of the balance security deposit by BHEL..... @ 10% of the value of work done from each running bill till the entire security deposit is recovered).

The contractor hereby agrees to extend the validity of the Bank Guarantee for such further period or periods as may be required by BHEL and if the contractor fails to obtain such extension (s) from the Bank, the contractor shall pay forthwith or accept recovery of Rs..... from the bills in one instalment and the Contractor further agrees that failure to extend the validity of the Bank Guarantee or failure to pay the aforesaid amount in the manner specified above shall constitute breach of contract. In addition to above. BHEL shall be entitled to take such action as deemed fit and proper for recovering the said sum of Rs.....



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That in consideration of the payments to be made to the contractor by BHEL in accordance with this Agreement the Contractor hereby convenience and undertakes with BHEL that they shall execute, construct, complete the works in conformity, in all respects, with the terms and conditions specified in this Agreement and the documents governing the same.

That the Contractor shall be deemed to have carefully examined this Agreement and the documents governing the same and also to have satisfied himself as to the nature and character of the works to be executed by him.

That the Contractor shall carry out and complete the execution of the said works to the entire satisfaction of the Engineer or such other officer authorised by BHEL, within agreed time schedule, the time of completion being the essence of the Contract.

That BHEL shall, after proper scrutiny of the bills submitted by the Contractor, pay to him during the progress of the said works such sum as determined by BHEL in accordance with this Agreement.

That this Agreement shall be deemed to have come into force from the date on which the letter of intent has been issued to the Contractor.

That whenever under this contract or otherwise, any sum of money shall be recoverable from a payable by the Contractor, the same may be deducted in the manner as set out in the General Conditions of Contract or other conditions governing this Agreement.

That all charges on account of Octroi, Terminal and other Taxes including sales tax or other duties on material obtained for execution of the said works shall be borne and paid by the Contractor.

That BHEL shall be entitled to deduct from the Contractor's running bills or otherwise Income Tax under Section 194(C) of the Income Tax Act, 1961.

That BHEL shall be further entitled to recover from the running bills of the contractor or otherwise such sum as may be determined by BHEL from time to time in respect of consumables supplied by BHEL, hire charges for tools and plants issued (where applicable) and any other dues owed by the contractor.

That it is hereby agreed by and between the parties that non-exercise, forbearance or omission of any of the powers conferred on BHEL and/or any of its authorities will not in any manner constitute waiver of the conditions here to contained in these presents and the liability of the Contractor with respect to compensation payable to BHEL or Contractor's obligations shall remain unaffected.

It is clearly understood by the between the parties that in the event of any conflict between the Letter of Intent and other documents governing this Agreement, the provisions in the letter of intent shall prevail.

The following documents:-

- (a) Invitation to Tender No..... and the documents specified therein
- (b) Contractor's Offer No..... date.....
- (c) Letter of Intent No..... date
- (d)

shall also form part of & shall govern this Agreement.



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IN WITNESS HEREOF, the parties hereto have respectively set their signature in the presence of:

(CONTRACTOR)

to be signed by a person holding a valid Power of Attorney

WITNESS: -1.
2.

For and on behalf of Bharat Heavy Electricals Ltd, Bhopal

WITNESS: -
1.
2.



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(To be issued in appropriate valid non-judicial stamp paper of appropriate value)**

In consideration of the Bharat Heavy Electricals Limited, having its registered Office at BHEL House, Siri Fort, New Delhi (hereinafter called BHEL), having agreed to exempt (hereinafter called “the said Contractor (s)” from the demand, under the terms and conditions of the Agreement dated made between BHEL and for (hereinafter called “the said Agreement”) of Security (name of work) deposit for the due fulfilment by the said contractor(s) of the terms and conditions contained in the said Agreement, on production of a bank guarantee for Rs..... (RupeesOnly) We at the

(indicate the name of the Bank)

(hereinafter referred to as “the bank”) request of contractor(s) do hereby undertake to pay to BHEL and amount not exceeding Rs..... against any loss or damage caused to or suffered or would be caused to or suffered by BHEL, by reason of any breach by the said contractor(s), of any of the terms or conditions contained in the said Agreement.

We, do hereby undertake to pay the amounts due and payable (indicate the name of the Bank) under this guarantee without any demur, merely on a demand from BHEL, stating that the amount claimed is due by way of loss or damage caused to or would be caused to or suffered by BHEL by reason of breach by the said Contractor(s) of any of the terms or conditions contained in the said Agreement or by reason of the contractor(s)’s failure to perform the said Agreement. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs.....

3. We, undertake to pay to BHEL any money so demanded (indicate the name of the Bank)

notwithstanding any dispute or disputes raised by the Contractor(s) / supplier(s) in any suit or proceeding pending before any court or Tribunal relating thereto, our liability under these presents being absolute and unequivocal.

The payment so made by us under this bond shall be a valid discharge of our liability for payment there under and the contractor(s) / supplier(s) shall have no claim against us for making such payment.

We further agree that the guarantee herein contained (indicate the name of the Bank) shall remain in full force and effect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of BHEL under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till BHEL certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said Contractor(s) and accordingly discharges this guarantee. Unless a demand or claim under this guarantee is made on us in writing on or before we shall be discharged from all liability under this guarantee thereafter.

We further agree with BHEL that BHEL shall have the fullest (indicate the name of the Bank) liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said agreement or to extend time of performance by the said contractor(s) from time to time or to postpone for any time or from time to time any of the powers exercisable by the BHEL against the said Contractor(s) and to forbear or enforce any of the terms and conditions relating to the said Agreement and we shall not be relieved from our liability by reason of any such variation,



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or extension being granted to the said Contractor(s) or for any forbearance, act or omission on the part of BHEL or any indulgence by BHEL to the said Contractor(s) or by any such matter or thing whatsoever which under the Law relating to sureties would, but for this provision, have effect of so relieving us.

This guarantee will not be discharged due to the change in the constitution of the Bank or the Contractor(s) / Supplier(s).

We, lastly undertake not to revoke this guarantee during its
(indicate the name of the Bank) currency except with the previous consent of BHEL in writing.

Dated Day..... of 200

For
(indicate the name of the Bank)

Witness :

1. -----

2 -----

Note : The above format is drawn upon the model form jointly evolved by the Reserve Bank of India, the Indian Banker's Association and the Ministry of Finance, Government of India as circulated by Indian Banker's Association, Bombay vide their letter No. LA/14-61/7808 dated 1/5/1980 as such no deviations are acceptable.

To be issued in appropriate valid non-judicial stamp paper prevalent in the state where the same is executed which is to be certified by the Notary Public or any other competent officer of that state.



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ANNEXURE "C"

LIST OF CONSORTIUM BANKS

- 1. State Bank of India**
- 2. ABN Amro Bank N.V.**
- 3. Bank of Baroda**
- 4. Canara Bank**
- 5. Citi Bank N.A.**
- 6. Corporation Bank**
- 7. Deutsche Bank**
- 8. HDFC Bank Ltd.**
- 9. The Hongkong and Shanghai Banking Corporation Ltd.**
- 10. ICICI Bank Ltd.**
- 11. IDBI Ltd.**
- 12. Punjab National Bank**
- 13. Standard Chartered Bank**
- 14. State Bank of Travancore**
- 15. State Bank of Hyderabad**
- 16. Syndicate Bank**



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ANNEXURE "D"

**(TO BE ISSUED IN NON-JUDICIAL STAMP PAPER OF Rs. 10/- issued from
State of Madhya Pradesh)**

INDEMNITY BOND

WHEREAS THE (Name of the contractor) M/s. _____, having its
registered office at, _____ has taken the contract
for tender NO..... & Contractor's Offer
No.....but the sub-contractors have also to obtain licence under the
contract Labour (Regulation & Certificate under Form-V of the said rules.

So on the request of (Name of the contractor) M/s.....M/s
Bharat Heavy Electricals Limited, Bhopal has agreed to issue certificate in Form-V
in respect of the sub-contractor mentioned below. M/s _____,
therefore, undertake to fully indemnify the M/s Bharat Heavy Electricals Limited,
Bhopal from any financial implication whatsoever that may arise due to the grant of
certificate in respect of sub-contractors of (name of the contractor in Form-V under
contract Labour (Regulation & Abolition) Act. 1970 and its rules.

- 1.
- 2.
- 3.

Contractor