

ANNEXURE TO GENERAL CONDITIONS OF CONTRACT

The following terms and conditions shall form a part of the tender document. If any discrepancies found between below mentioned clauses and clauses in the Customer's (M/s RRVPNL) GCC & SCC, the clauses mentioned in this annexure shall prevail.

A. INSTRUCTIONS TO BIDDERS**A. 1.0: GENERAL INSTRUCTIONS**

1.1 **All pages of the tender documents shall be duly signed, stamped and submitted along with the offer in token of complete acceptance thereof.** The information furnished shall be complete by itself. The tenderer is required to furnish all the details and other documents as required in the following pages.

1.2. Tenderers are advised to study all the tender documents carefully. Any submission of tender by the tenderer shall be deemed to have been done after careful study and examination of the tender documents and with the full understanding of the implications thereof. Should the tenderers have any doubt about the meaning of any portion of the Tender Specification or find discrepancies or omissions in the drawings or the tender documents issued are incomplete or shall require clarification on any of the technical aspect, the scope of work etc., tenderer shall at once, contact the authority inviting the tender well in time (so as not to affect last date of submission) for clarification before the submission of the tender. Tenderer's request for clarifications shall be with reference to Sections and Clause numbers given in the tender documents. The specifications and terms and conditions shall be deemed to have been accepted by the tenderer in his offer. Non-compliance with any of the requirements and instructions of the tender enquiry may result in the rejection of the tender.

A.2.0 PROCEDURE FOR SUBMISSION OF SEALED TENDERS

A.2.1 Bidders may please refer Cl no. 02 to Cl no. 05 of the Notice inviting tender.

A.2.2 The tenders received after the specified time of their submission shall be treated as 'Late Tenders' and shall not be considered under any circumstances.

A.2.3 Tenders shall be opened by the officers concerned of BHEL at the time, date and venue as specified in the tender enquiry. Tenderer or their authorised representative may witness the bid opening.

A.2.4 The tenderer shall closely pursue all the clauses, specifications and drawings indicated in the Tender Documents before quoting. Should the tenderer have any doubt about the meaning of any portion of the Tender Specifications or find discrepancies/omission in the drawings or the tender documents issued are incomplete or shall require clarification on any of the technical aspect, scope of work etc. he shall at once contact the authority inviting the tender for clarification before the submission of the tender.

A.2.5 Before submission of offer, the tenderer are advised to inspect the work & the environments and be well acquainted with the actual working and other prevalent conditions, facilities available, sourcing of material and labour, means of transport and

access to site, accommodation, etc. No claim will be entertained later on the grounds of lack of knowledge on any of these conditions/ resources.

- A.2.6 Tenderer must fill up all the schedules and furnish all the required information as per the instructions given in various sections of the tender specification. Each and every page of the Tender Specification must be SIGNED AND SUBMITTED ALONG WITH THE OFFER by the Tenderer in token of complete acceptance thereof the information furnished shall be complete by itself.
- A.2.7 The tenderer shall quote the rates in English Language and international numerals. Total price offered should be entered in figures as well as in words. . For the purpose of the tender, the metric system of units shall be used.
- A.2.8 The tenderer shall quote a percentage above/ below/At Par the rates shown in the “Commercial Schedule -Annexure V i.e summary of the commercial Schedules (Bill of Quantities Cum Price Schedule I,e Commercial Schedule Annexure-I, Annexure-II, Annexure-III & Annexure-IV) of subject tender.
- A.2.9 Price Bid format is uploaded on <https://eprocurebhel.co.in>. and also attached with the tender in section price schedules.
- A.2.10 The quoted percentage will apply to the individual items of “Bill of Quantity Cum Price Schedule (i.e commercial Schedule “Annexure-I”, “Annexure-II”, “Annexure-III” & “Annexure-IV”) ” uniformly.
- A.2.11 All entries in the tender shall either be typed or be written legibly in ink. Erasing and overwriting are not permitted and may render such tender liable for rejection. All cancellations and insertions shall be duly attested by the tenderer.
- A.2.12 The tenderer must provide the registered e-mail of their registered office along with the addresses and authorised phone/mobile nos.

A.3.0 ADJUSTMENT PRICE DISCREPANCY (IES):- Not Applicable being e procurement .

A.4.0 EVALUATION OF TECHNICAL BIDS

- 4.1 Technical Bids submitted by the tenderer will be opened first and evaluated for fulfilling the Pre-Qualification criteria and other conditions in NIT/Tender documents, based on documentary evidences submitted along with the offer.
- 4.2 In case the same qualifying experience is claimed by more than one bidder due to subletting of work by main contractor to subcontractor (s) then following conditions shall be applicable.
- a) For labour + consumable contract without material and T&P:
Benefit of work experience shall be given to the subcontractor who has actually executed job and not to the contractor offloaded down the line.
 - b) For contract with complete scope i.e. with materials, T&P, labour and consumable:
 - i) Benefit of work experience shall be given to the subcontractor who has actually executed job and not to the contractor offloaded down the line.

- ii) If the contractor offloads the labour and/or T&P portion only, Benefit of work experience shall be given to the main contractor and not to the subcontractor who has executed only as labour supply contractor

The bidders qualification shall be subject to submission of documentary proof. BHEL reserves the right to ask for further proofs including submission of TDS certificates/ for the said job

- 4.3 In case the qualifying experience is claimed by private organizations based on Work Order and completion certificates from another private organization, BHEL reserves the right to ask for further proofs including submission of TDS certificates/ form 26AS /bills for the said job.
- 4.4 Credentials of all the bidders participating in open tender will be scrutinized thoroughly by the nominated committee w.r.t. the pre-qualifying requirement for the tender.
- 4.5 Details of qualifying work(s) executed by the bidder will be forwarded to the principle employer for verification of the work with respect to completion, commencement & completion date, scope and value of the work executed. Performance feedback of the bidder will also be sought from the principle employer.
- 4.6 BHEL may conduct onsite verification of at least one of the qualifying work to verify completion of the work and evaluate capability and performance of the bidder.
- 4.7 The bidder representative may be called for the discussion with the committee. His originals may be verified by the committee. In addition to above their organization chart and detailed list of manpower, tools & plants and technical capability may be discussed and ascertained by the committee.
- 5.0 **EVALUATION OF PRICE BIDS**
- 5.1 Price Bids of unqualified bidders shall not be opened.
- 5.2 The offers will be evaluated on the basis of total price basis (refer "BILL OF QUANTITY AND PRICE SCHEDULE) as shown in the price bid.
- 5.3 Reasons for rejection of the bid shall be intimated in due course after issue of LOI/LOA to successful bidder and receipt of unconditional acceptance of LOI /LOA from the successful bidder

A.6.0 ADDITIONAL DOCUMENTS TO BE ENCLOSED:

Full information shall be given by the tenderer in respect of the following. The tenderer must submit the documents as mentioned in Pre-Qualifying requirement. The following additional documents may also submitted by the tenderer.

- 6.1 Tenders shall be signed by persons duly authorized/empowered to do so .An attested copy of the Power of Attorney to be submitted in all cases except where the sole proprietor is the signatory to the tender documents
- 6.2 **PERMANENT ACCOUNT NUMBER:**

Certified copies of Permanent Account Numbers as allotted by Income Tax Department for the Company / Firm / Individual Partners, etc. shall be furnished along with tender.
- 6.3 **AUDITED BALANCE SHEET AND INCOME TAX RETURN:**

Copy of Audited Balance sheets and income tax return for last three financial years (financial years as specified in PQR)

6.4 SOLVENCY CERTIFICATE:

If asked in NIT, bidder should submit solvency certificate (not older than 12 months from date of tender notification) issued by any scheduled bank.

6.5 DOCUMENT RELATED TO INCORPORATION OF BUSINESS ENTITY:

6.5.1 IN CASE OF INDIVIDUAL TENDERER:

His/her full name, address and place & nature of business.

6.5.2 IN CASE OF PARTNERSHIP FIRMS:

The names of all the partners with address. A copy of the partnership deed/instrument of partnership duly certified by the Notary shall be enclosed.

6.5.3 IN CASE OF COMPANIES:

Date & place of registration including date of commencement certificate in case of Public Companies and the nature of business carried on by the company. Certified copies of Memorandum and Articles of Association are also to be furnished.

6.6 Offer forwarding letter over the letterhead

6.7 *Declaration sheets (As per Prescribed format) over the letter head*

6.8 *No Deviation certificates (As per Prescribed format) over the letterhead*

6.9 GST Registration certificate

All the data required to be enclosed with the tender need to be furnished neatly typed, signed & stamped in the given formats only (in the form of separate sheets) failing which the tender may be considered as incomplete and is liable for rejection. Documentary proof wherever necessary also need to be enclosed.

A.7.0 VALIDITY OF OFFER

Bids shall remain valid for 180 days after the date of opening of techno commercial bid (Jointly submitted by Transmission line contractor and BHEL to M/s RRVPNL) by M/s RRVPNL

The rates in the Tender shall be kept valid for acceptance for a minimum period of **180 days** after the date of opening of techno commercial bid (Jointly submitted by Transmission line contractor and BHEL to M/s RRVPNL) by M/s RRVPNL (including extension(s), if any). In case BHEL (Bharat Heavy Electricals Limited) calls for negotiations, such negotiations shall not amount to cancellation or withdrawal of the original offer which shall be binding on the tenderer.

A.8.0 REJECTION OF TENDER & OTHER CONDITIONS:

8.1 The decision of acceptance of tender will rest with BHEL which does not bind itself to accept the lowest tender or any tender and reserves to itself full rights for the following without assigning any reasons whatsoever:

(a) To reject any or all of the tenders.

(b) To split up the work amongst two or more Tenderer as per NIT

(c) To award the work in part as per NIT

- (d) In either of the contingencies stated in (b) and (c) above to modify the time for completion suitably.
- 8.2 Conditional tenders, unsolicited tenders, containing abnormally low/ unworkable rates & amounts, tenders which are incomplete or not in the form specified or defective or have been materially altered or not in accordance with the tender conditions, specifications etc. are liable to be rejected.
 - 8.3. Tenders are liable to be rejected in case of unsatisfactory performance of the tenderer with BHEL, or tenderer under suspension (hold / banning / delisted) by any unit / region / division of BHEL or tenderers who do not comply with the latest guidelines of Ministry / Commissions of Govt of India. BHEL reserves the right to reject a bidder in case it is observed that they are overloaded and may not be in a position to execute this job as per the required schedule in line with 'NIT'. The decision of BHEL will be final in this regard.
 - 8.4 In case of any adverse information is received concerning performance, capability or conduct of the tenderer after issue of tender enquiry or opening of tender or award of work, BHEL reserves the right to reject the offer at any stage as deemed fit.
 - 8.5 Offers with inadequate Tools & Plants, Manpower Deployment Plan, and Method Statement are liable for rejection.
 - 8.6 If a tenderer who is a proprietor expires after the submission of his tender or after the acceptance of his tender, BHEL may at its discretion, cancel such tender. If a partner of a firm expires after the submission of the tender or after the acceptance of the tender, BHEL may cancel such tender at its discretion unless the firm retains its character.
 - 8.7 BHEL will not be bound by any Power of Attorney granted by the tenderer or by changes in the composition of the firm made subsequent to the execution of the contract. BHEL may, however, recognise such Power of Attorney and changes after obtaining proper legal advice, the cost of which will be chargeable to the contractor concerned.
 - 8.8 If the tenderer deliberately gives wrong information in his tender, BHEL reserves the right to reject such tender at any stage or to cancel the contract, if awarded, and forfeit the Earnest Money/Security Deposit/any other moneys due.
 - 8.9 Canvassing in any form in connection with the tender is strictly prohibited and the tenders submitted by the tenderer who resorts to canvassing are liable to be rejected.
 - 8.10 In case the Proprietor, Partner or Director of the Company / Firm submitting the Tender, has any relative or relation employed in BHEL, the authority inviting tender shall be informed to the fact as per specified format along with the offer, failing this, BHEL may, at its sole discretion reject the tender or cancel the contract and forfeit the Earnest Money/ Security Deposit.
 - 8.11 The successful tenderer should not sub-contract the part or complete work detailed in the tender specifications without written permission of BHEL's Site In charge/ Sector Head. For this the contractor shall submit request application to site in charge supported by credentials (financial and technical) and resource mobilisation schedule of such sub-contractor. Such request are to be considered in consultation with end user/ultimate customer (if applicable) and subject to satisfactory credentials, fund flow arrangement between them, HSE and other contractual and statutory obligations. The tenderer is solely responsible to BHEL for the work awarded to him.

- 8.12 The Tender submitted by a tenderer shall become the property of BHEL who shall be under no obligation to return the same to the bidder. However unopened price bids and late tenders shall be returned to the bidders.
- 8.13 unsolicited discount received after the due date and time of Bid Submission shall not be considered for evaluation. However, if the party who has submitted the unsolicited discount/rebate becomes the L-I party, then the awarded price i.e contract value shall be worked out after considering the discount so offered.
- 8.14 BHEL shall not be liable for any expenses incurred by the bidder in the preparation of the tender irrespective of whether the tender is accepted or not.
- A.9.0 NO DEVIATIONS ARE ACCEPTABLE:-
- Offers with deviations are likely to be rejected. However, if the bidder insists on any technical or commercial deviations from the specifications and / or tender conditions, **the price implication, if any, of withdrawing the deviations must be submitted along with the price bid in a separate sealed envelope** super-scribed "**PRICE IMPLICATION FOR WITHDRAWAL OF DEVIATIONS**". No price implication for withdrawal of deviation shall be accepted at a later date, after opening of technical bid.

A.10.0 Consortium/ JV bidding is not allowed under this NIT.

B. EARNEST MONEY DEPOSIT

Every tender must be accompanied by the prescribed amount of Earnest Money Deposit (EMD) mentioned in NIT.

1. Mode of EMD deposit:

EMD can be submitted in any one of the following modes:

- i) Cash deposit as permissible under the extant Income Tax Act (before tender opening),
- ii) Electronic Fund Transfer credited in BHEL account (before tender opening). Details of BHEL account mentioned in tender document.
- iii) Banker's cheque/Pay order/Demand Draft, in favour of 'BHEL' and payable at New Delhi (Along with offer)
- iv) Fixed Deposit Receipt (FDR) issued by schedule Banks/Public Finance Institutions as defined in the companies ACT (FDR should be in the name of the contractor, a/c BHEL
- v) In case total EMD amount is more than Rs. 2 Lakh, the amount in excess of Rs. 2 lakh may be accepted in the form of Bank Guarantee from scheduled bank. The Bank Guarantee in such cases shall be valid for at least six months.

C. No other form of EMD remittance shall be acceptable to BHEL.

1. Forfeiture of EMD

EMD by the bidder will be forfeited as per NIT conditions, if

- i) After opening the tender and within the offer validity period, the bidder revokes his tender or makes any modification in his tender which is not acceptable to BHEL.
- ii) The contractor fails to deposit the required Security deposit or commence the work within the period as per LOI/contract.

2. EMD by the tenderer shall be withheld in case any action on the tenderer is envisaged under the provision of extant "Guidelines on Suspension of business dealing with supplier/contractors" and forfeited/ released based on the action as determined under these guidelines.
3. In the case of unsuccessful bidders, the Earnest Money will be refunded to them within a reasonable time after award of work.
4. EMD shall not carry any interest.
5. EMD of successful bidder shall be retained as part of Security Deposit.
6. Bidders may please note that "One Time EMD" provision stands deleted. Hence, bidders who have deposited Rs. 2 Lakh as 'One Time EMD' with BHEL are also required to submit the requisite amount of EMD.
7. **No MSE benefits shall be given to MSEs bidder for WORKS CONTRACT. Please refer clause no. N (facilities provided to MSEs) for detail.**

D. SECURITY DEPOSIT

1. 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 the contract. BHEL reserves the right to set off the Security Deposit, against any claims of any other contracts with BHEL.
2. **Conditions for acceptance of bank guarantees**

Contractors are advised to obtain Bank Guarantee preferably from any of the following BHEL consortium banks:-

Sl. No.	Nationalised Bank		Nationalised Bank
1	Allahabad bank	19	Vijaya Bank
2	Andhra bank		Public Sector Banks
3	Bank of Baroda	20	IDBI
4	Canara Bank		Foreign bank
5	Corporation bank	21	CITI Bank N.A
6	Central bank of India	22	Deutsche Bank AG
7	Indian Bank	23	The Hongkong and Shanghai Banking Corporation Limited
8	Indian Overseas Bank	24	Standard Chartered Bank
9	Oriental bank of Commerce	25	J P Morgan
10	Punjab National Bank		
11	Punjab & Sindh Bank		Private bank
12	State Bank of India	26	Axis Bank
13	State Bank of Hyderabad	27	The Federal Bank Limited
14	Syndicate Bank	28	HDFC
15	State Bank of Travancore	29	Kotak Mahindra Bank
16	UCO Bank	30	ICICI
17	Union Bank of India	31	Indusind Bank
18 a	United Bank of India	32	Yes Bank

Bank Guarantees from Banks outside BHEL's consortium shall be as below:

The Bank Guarantees of all Public sector banks can be accepted (in addition to consortium banks)

The Bank Guarantees of Co-operative banks shall not be accepted.

Bank Guarantees of other than consortium bank and public sector bank can be accepted subject to an overall exposure limit (at New Delhi) of Rs. 10 crores for banks with networth of more than Rs. 500 crores as on last balance sheet date and Rs 5 crores for banks with net worth between Rs. 350 to Rs 500 crores (A certificate and copy of latest Balance Sheet to be given by the Bank at the time of submission of Bank Guarantees).

In case of private sector banks a clause to be incorporated in the text of Bank Guarantee that it can be enforceable by being presented at any branch of the bank.

In case of foreign vendors the bank guarantees issued by foreign banks may be confirmed by our consortium bank in India.

In case of Bank Guarantees given by Non-Consortium banks (Private sector or Public sector), the Bank Guarantees are to be enforceable in New Delhi or the town/ city in which the sector office is located.

E. Bank Account Details for submission of EMD/ Security Deposit through electronic fund transfer mode.

NAME OF THE COMPANY	BHARAT HEAVY ELECTRICALS LTD
ADDRESS OF THE COMPANY	TRANSMISSION BUSINESS GROUP, 10TH FLOOR, JOY TOWER, PLOT NO. C-20, 1/1A, C BLOCK, PHASE 2, INDUSTRIAL AREA, SECTOR-62, NOIDA – 201301 (U.P.)
NAME OF BANK	HDFC BANK
NAME OF BANK BRANCH	ARERA COLONY, BHOPAL
CITY	BHOPAL
ACCOUNT NUMBER	00620320000021
ACCOUNT TYPE	CASH CREDIT
IFSC CODE	HDFC0000062
MICR CODE	462240002

F. TAXES & DUTIES

1. All taxes (except GST) , duties , charges , royalties, cess and any other levies by Central/ State/local authorities for the execution of the contract shall be borne by the contractor and shall not be payable extra . Any increase of the same at any stage during execution of the contract shall be borne by the contractor .Quoted price of the same shall be inclusive of all such requirements.
2. Contractors have to make their own arrangement at their cost for completing the formalities, if required with relevant taxation authorities, for bringing their material, plant and machinery at site for the execution of the contract. Road permits / way bill, if required shall be arranged by the contractor.

3. The Contractor is responsible to furnish documentary evidence towards GST Registration of the State wherein the site is located or any other documents as per GST Act which may be required from time to time. BHEL will not be held to be responsible for any non-compliance of the Contractor in respect of GST laws as framed from time to time.
4. Goods and Service Tax (GST) will be reimbursed to the Contractor subject to the following conditions :-
 - (i) Submission of valid GST Compliant Tax Invoice as per the GST Invoice Rules.
 - (ii) The Invoice raised by the Contractor should indicate the BHEL GST Registration Number.)
5. The GST amount shall get reflected within prescribed time limit in the GSTN for BHEL to avail the input credit. If the GST Credit is reversed/ denied/ delayed to BHEL due to non-receipt/delayed receipt of Services and/or tax invoice or due to expiry of timeline prescribed in GST law or due to any other factor for availing such Input Tax Credit (ITC) or for any other reason arising out of the act directly attributable to the Contractor, GST amount shall be recoverable from Contractor from any dues payable to the Contractor along with any interest levied/ leviable on BHEL.
6. Statutory variation, if any, on account of GST will be payable by BHEL (if Payable by RRVPNL) at actuals on submission of documentary evidence within the contractual delivery schedule Only..
7. TDS under Income Tax Act/ GST Act shall be deducted as per applicable rates unless Exemption certificate, if applicable, from the appropriate Authority is furnished to BHEL along with the Invoice.
8. New Taxes & duties (Introduced after tender opening date):

If any new tax or duty is levied by the Central/State Government/ Municipality/Local Authority and becomes directly applicable on items specified in the Bill of Quantities, full reimbursement shall be made (if Payable by RRVPNL) subject to submission of documentation as per statute within the contractual delivery schedule Only.
9. Any interest on GST payable due to increase in Contract price due to price adjustment shall be to the Contractor's account and BHEL shall not reimburse any amount on this account.
10. In case negative PV invoice is submitted by the contractor after the specified timeline as per the contract, interest shall be charged on said amount less provisional amount withheld on this account, if any, for the period elapsed beyond the specified timeline and date of submission of PV bill by the contractor. Rate of Interest shall be 200 Basis Points (BPS) above the MCLR [One Year Tenor rate p.a] published by State Bank of India as applicable on the last date of specified timeline per annum. Further, the amount of interest worked out on negative PV shall be recovered from Contractor's invoices falling immediately due for payment or any other payments under the contract.

G. DELAY AND EXTENSION OF TIME:

Being Strategic Tie up, the time extension (if any) shall be governed as per the end customer's (M/s RRVPNL) contract.

H. LD / PENALTY FOR DELAY IN EXECUTION:

On back to Back Basis as per the end Customer's (M/s RRVPNL) tender document.

- The time and the date of delivery/completion period specified in the contract shall be deemed to be the essence of the contract and the facilities shall have to be completed no later than the period specified therein. If the Contractor fails to comply with the Time

for Completion for the whole of the facilities, (or a part for which a separate time for completion is agreed) then the Contractor shall pay to the BHEL recovery for such default, without prejudice to the BHEL's other rights and remedies under the Contract, as follows:-

a	Delay over and above the prescribed completion period upto 1/4th of scheduled completion period	2.5% of the total contract price, as may be revised
b	Delay exceeding 1/4th period but not exceeding 1/2 of scheduled completion period	5% of the total contract price, as may be revised
c	Delay exceeding 1/2 period but not exceeding 3/4th of scheduled completion period	7.5 % of the total contract price, as may be revised
d	Delay exceeding 3/4th period of scheduled completion	10% of the total contract price, as may be revised

Note: -

- Any fraction in such calculation shall be rounded off to the nearest one.
 - The scheduled completion period is :- 18 (Eighteen) months from the date of Letter of Award by M/S RRVPNL
- BHEL may, without prejudice to any other method of recovery, deduct the amount of such recovery from any payment immediately falling due or to become due to the Contractor. However, recovery of LD shall be done progressively from the running bills based on the total payment due. In other words, recovery at the rates mentioned above from running bills shall be calculated on the sum of total payment made and payment being processed. The payment or deduction of such recovery shall not relieve the Contractor from his obligation to complete the Works, or from any other of his obligations and liabilities under the Contract.
- Any financial liability arising from and consequent upon the failure of the contractor to adhere to the stipulated completion schedule shall be to the contractor's account.
- The period of delay shall be reckoned from the scheduled date of completion to the date of Taking Over by M/s RRVPNL, as certified in the Taking Over Certificate.
- The Work Schedule or the PERT chart shall not be considered for levy of penalty. These are meant only to monitor the progress of work under the project and to make suitable changes in the operations of contractor to ensure proper progress.
- GST at applicable rates shall also be charged on the amount of Liquidated Damages.

I. Extra Work Settlement:-

I.1 If Extra work arises as per Customer's requirement and billable to customer :-

Any extra (additional) items/works identified during the course of execution of the work, which is originated by end Customer (M/s RRVPNL) for the completion of the project and same is beyond the scope of the subject contract, such extra/ additional items shall be settled with the Transmission line contractor on mutually agreed price and T&Cs; subsequent to M/s RRVPNL's agreement for the payment against the said additional work/scope.

I.2 If Extra work arises as per the project requirement and not billable to the customer :-

At the time of execution of works at site, Site In charge identifies the extra items/ works, required to be executed at site which are not covered in BOQ of sub-contractor but required to be executed as per RFC/ site requirement / customer requirement to completion the scope of work.

- All rectifications / modifications, revamping, and reworks required for any reasons, not due to the fault of the contractor, but needed due to any change in deviation from drawings and design of equipment, operation / maintenance requirements, mismatching, or due to damages in transit, storage and erection / commissioning, and other allied works which are **not very specifically indicated in the drawings**, but are found essential for satisfactory completion of the work, will be considered as extra works.
- Extra works arising on account of the contractor's fault, irrespective of time consumed in rectification of the damage / loss, will have to be carried out by the contractor free of cost. Under such circumstances, any material and consumable required for this purpose will also have to be arranged by the contractor at his cost.
- All the extra work should be carried out by a separately identifiable gang, without affecting routine activities.
- Under no circumstances the contractor shall suspend the work on the plea of non-settlement of rates falling under the clause or claim any compensation on that account.
- The contractor, on receipt of drawing/ / instruction from BHEL, shall inform BHEL (within 15 days) the rate / rates of item/items for carrying out the extra/additional item of work. This shall be supported by analysis of rates including prevailing market rates.
- Extra/substituted Works shall be regulated as per customer's (M/s RRVPNL) technical Specification / Tender documents

J. Model Conciliation Clause For Conducting Conciliation Proceedings Under The BHEL Conciliation Scheme, 2018

The Parties the if at any time (whether before, during or after the arbitral or judicial proceedings), any Disputes (which terms shall means and include any dispute, difference, question or disagreement arising in connection with construction, meaning, operation, effect, interpretation or breach of the agreement, contract or the Memorandum of Understanding (delete whichever is inapplicable), which the parties unable to settle mutually), arise inter-se the Parties, the same may, be refereed by either party to conciliation to be conducted through Independent Experts Committee to be appointed by competent authority of BHEL from the BHEL Panel of Conciliators.

Notes:

1. No serving or a retired employee of BHEL/Administrative Ministry of BHEL shall be included in the BHEL Panel of Conciliators.

2. Any other person(s) can be appointed as Conciliator(s) who is/are mutually agreeable to both the parties from outside the BHEL Panel of Conciliators.

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 Annexure-A** to this GCC.

The Annexure-A together with its appendices will be treated as if the same is part and parcel hereof and shall be as effectual as if set out herein in these GCC.”

Guidelines for settlement of claims for compensation on accidents

The amount of compensation paid by BHEL under its guidelines on Settlement of claims for compensation on accidents as applicable for BHEL, i.e. ₹ 10,00,000/- (Rs Ten Lakh) in the event of death or permanent disability resulting from Loss of both limbs and ₹ 7,00,000/-(Rs Seven Lakh) in the event of permanent disability: shall be recoverable in full from the contractor, agency or firm, if the accident is attributable to negligence of contractor, agency or firm or any of its employees, except in case of work/ service contract etc. being of less than ₹ 5,00,000/- value, in which case the entire amount of compensation shall be borne by BHEL.

K. TERMS OF PAYMENT :-

(A) Price Component for Equipment and its Erection, Testing and Commissioning

a) Supply Component:

Payment equal to 60% (Sixty percent) of the Ex- works value of material or equipment shall be made to the contractor on the supply of the material / equipment at site on the basis of certificate issued by engineer in-charge that this much quantity has been supplied by the contractor at site. However, before despatch of material / equipment at site, contractor shall be required to get it inspected and cleared from the purchaser which will be further verified by the Engineer-in-charge before installation at site.

Subsequent payment equal to 20 % (Twenty percent) of the Ex- works value of material or equipment shall be made to the contractor on the Erection of the material / equipment at site. The Payment shall be made on the basis of certificate issued by engineer in-charge that this much quantity has been erected by the contractor at site.

Subsequent payment equal to 10 % (Ten percent) of the Ex- works value of material or equipment shall be made to the contractor after commissioning@ Construction of Construction of 400 kV GSS Pachpadra and associated 400 kV & 220 kV Transmission line including supply of all Equipments/Materials, Erection (including civil works), Testing and Commissioning.

Final payment equal to 10 % (Ten percent) of the Ex- works value of material or equipment supplied shall be made to the contractor on completion and issue of Taking Over Certificate (TOC) and after adjustment of due recoveries/ damages, if any, proof of submission of required number of reproducible, O&M manuals, approved drawings, data sheets, test reports, pamphlets and manuals of spares, maintenance and testing equipment as applicable under the project.

b) Service Component

Payment equal to 80% (Eighty percent) of the ETC Charges of material or equipment/ Civil work Charges shall be made to the contractor on the Erection of the material or equipment at site/ Execution of Civil Work on the basis of certificate issued by engineer in-charge that this much quantity has been erected/ executed by the contractor at site.

Subsequent payment equal to 10 % (Ten percent) of the ETC Charges of material or equipment/ Civil work Charges shall be made to the contractor after commissioning@ Construction of 400 kV GSS Pachpadra and associated 400 KV & 220 kV Transmission line.

Final payment equal to 10 % (Ten percent) of the ETC Charges of material or equipment/ Civil work Charges shall be made to the contractor on completion and issue of Taking Over Certificate (TOC) and after adjustment of due recoveries/ damages, if any, proof of submission of required number of reproducible, O&M manuals, approved drawings, data sheets, test reports, pamphlets and manuals of spares, maintenance and testing equipment as applicable under the project.

Note:

1. Relief to the contractor shall be provided if contractor is not able to complete the commissioning due to any other deficiencies on the part of end customer (M/s RVPN or reasons not attributable to contractor.

@ "Commissioning" for the purpose of payments shall mean satisfactory completion of all supplies, erection, testing, commissioning and continuous energisation of the related equipment/materials of specified work (400 KV GSS PACHPADRA & associated Lines at rated voltage at site as per the Contract and to the satisfaction/approval of Nigam (Ms/ RRVPNL).

(C) Inland Transportation, In-transit insurance, Loading & unloading Charges:-

Inland *transportation* and In-transit insurance charges shall be paid to the Contractor on pro-rata basis, as per the unit rates indicated in the Contract Agreement, after receipt of materials/items at site and on presentation of the **bill of supply or any other documents prescribed under GST Law** along-with supporting documents by the Contractor. However, these charges will be subject to a limitation that the aggregate of all invoices does not exceed the total amount indicated in the Contract Agreement.

It is the Owners (M/s RRVPNL) understanding that as per extant provisions, on the charges for Inland transportation, in transit insurance charges, Loading and unloading charges by the Contractor to the M/s RRVPNL , GST is not payable. If payable, the same shall be to the Contractor's account and M/s RRVPNL shall not reimburse any GST on this account to BHEL, hence same shall be in the transmission lines contractor's account.

(D) Payment towards Price adjustment

Any variation in Contract price due to price adjustment provision of Annexure-B shall be effected on presentation of **debit note/credit note, as prescribed under the GST law**, supported by calculations as per formulae specified therein along with documentary evidence for different indices applicable for Price Adjustment.

- Any increase in Contract price due to price adjustment provision shall be payable as follows:

For Supply Portion:

90% (ninety percent) of the price adjustment amount for the respective shipment shall be paid on receipt of said shipment at site **and issuance of Debit Note, as prescribed under the GST law, by the Contractor.** Balance 10% (ten percent) of the price adjustment amount shall be paid along-with the final payment.

Any interest on GST payable due to increase in Contract price due to price adjustment shall be to the Contractor's account and BHEL shall not reimburse any amount on this account.

For Service Portion:

90% (ninety percent) of the price adjustment amount for the respective billing period shall be paid after certification by BHEL's representative for quantum of work done in the said billing period **and issuance of Debit Note, as per GST law, by the Contractor.** Balance 10% (ten percent) of the price adjustment amount shall be paid along-with the final payment.

Any interest on GST payable due to increase in Contract price due to price adjustment shall be to the Contractor's account and BHEL shall not reimburse any amount on this account.

- **For any reduction in Contract Price due to price adjustment provisions the Contractor shall issue 'Credit note', as prescribed under the GST law.**
Further, the reduction in Contract Price shall be effected by recovering 100% of the reduction amount along with applicable GST, if any charged earlier, from Contractor's invoices falling immediately due for payment or any other payments.
- **In case negative PV invoice is submitted by the contractor after the specified timeline as per the contract, interest shall be charged on said amount less provisional amount withheld on this account, if any, for the period elapsed beyond the specified timeline and date of submission of PV bill by the contractor. Rate of Interest shall be 200 Basis Points (BPS) above the MCLR [One Year Tenor rate p.a] published by State Bank of India as applicable on the last date of specified timeline per annum. Further, the amount of interest worked out on negative PV shall be recovered from Contractor's invoices falling immediately due for payment or any other payments under the contract.**

(E) Training Charges

The **100%** payment shall be paid after the successful completion of training programme (s) against certificate issued by BHEL's representative.

➤ However, followings may please be noted by the bidders:-

All payments (as agreed between the parties) shall be made by BHEL to the party after receipt of payments from end customer not later than 30 (Thirty) days after receipt of payment from M/s RRVPNL.

- **No interest shall be payable to contractor on account on any delayed payments and such delay will not entitle contractor for any compensation or extension in time.**
- **The payment for the material / equipment / erection work on order shall be made as under only after execution of the contract agreement & furnishing of security deposit and performance security Bank guarantee as per relevant clauses.**

L. RIGHTS OF BHEL: -

BHEL **reserves** the following rights in respect of this contract during the original contract period or its extensions if any, as per the provisions of the contract, without entitling the contractor for any compensation

- K.7.1 To withdraw any portion of work (after due opportunity given to contractor to meet schedule) &/or to restrict/alter quantum of work as indicated in the contract during the progress of construction and get it done through other agency to suit BHEL's commitment to its customer or in case BHEL decides to advance the date of completion period due to other emergent reasons/BHEL's obligations to its customer.
- K.7.2 To restrict or increase the quantity and nature of work to suit site requirements, since the tender specification is based on preliminary documents and quantities furnished therein are indicative and approximate.. Quantity/ contract variation clause may also be read in conjunction with this clause.
- K.7.3 To terminate the contract or to restrict the quantum of work and pay for the portion of work executed in case BHEL's contracts with its customer are terminated/ altered/ deferred/ disputed/on hold for any reason as per mutual agreement.
- K.7.4 To effect recovery from any amounts due to the contractor under this or any other contract or in any other form, the moneys BHEL is statutorily forced to pay to anybody, due to contractor's failure to fulfill any of his obligations. BHEL shall levy overheads of 5% on all such payments.
- K.7.5 While every endeavour will be made by BHEL to this end, they cannot guarantee uninterrupted work due to conditions beyond their control. The Contractor will not be normally entitled for any compensation/extra payment on this account unless otherwise specified elsewhere in the contract. No idle labour charges will be payable by BHEL in any case.
- K.7.6 To deploy BHEL's skilled and unskilled 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 moneys due to the contractor.
- K.7.7 In event of termination of contract/ withdrawal/ the contractor shall have no claim to compensate for any loss sustained by him by reason of having purchase of any material or entered into agreement or made any advance on account of execution of work/ contract on account of any profit or advantage which he might have derived from the execution of the works in full but which he did not derive in consequence of the termination/ withdrawal of works.
- K.7.8 In the event of any dispute of technical nature, the decision of BHEL shall be final and binding on the Contractor.

K.7.9 Risk & Cost Clause

In case of fault of the contractor, BHEL reserves the following rights without entitling the contractor for any compensation:

- K.7.9.1 To terminate the contract or withdraw portion of work and get it done through other agency, at the risk and cost of the contractor after due notice **of a period of 14 days' by BHEL** in any of the following cases:
- i) Contractor's poor progress of the work vis-à-vis execution timeline as stipulated in the Contract, backlog attributable to contractor including unexecuted portion of work does not appear to be executable within balance available period considering its performance of execution.
 - ii) Withdrawal from or abandonment of the work by contractor before completion of the work as per contract.
 - iii) Non-completion of work by the Contractor within scheduled completion period as per Contract or as extended from time to time, for the reasons attributable to the contractor.
 - iv) Termination of Contract on account of any other reason (s) attributable to Contractor.
 - v) Assignment, transfer, subletting of Contract without BHEL's written permission.
 - vi) Non-compliance to any contractual condition or any other default attributable to Contractor.

K.7.9.2 Risk & Cost Amount against Balance Work:

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

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

Where,

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

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

H = Overhead Factor to be taken as 5

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

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

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

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

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

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

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

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

K.7.9.3 LD against delay in executed work in case of Termination of Contract:

LD against delay in executed work shall be calculated in line with LD clause of the contract, for the delay attributable to contractor. For limiting the maximum value of LD, contract value shall be taken as Executed Value of work till termination of contract.

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

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

K.7.9.4 Recoveries arising out of Risk & Cost and LD or any other recoveries due from Contractor

Following sequence shall be applicable for recoveries from contractor after informing the contractor of the total proposed recovery:

- a) Dues available in the form of Bills payable to contractor, SD, BGs against the same contract.
- b) Demand notice for deposit of balance recovery amount to be sent to contractor, if funds are insufficient to effect complete recovery against dues indicated in (a) above.
- c) If contractor fails to deposit the balance risk & cost amount within the period as prescribed in demand notice, following action shall be taken for balance recovery:
 - i) Dues payable to contractor against other contracts in the same Region/unit shall be considered for recovery.

ii) If recovery cannot be made out of dues payable to the contractor as above, balance amount to be recovered, shall be informed to other Regions/Units for making recovery from the Unpaid Bills/Running Bills/SD/BGs/Final Bills of contractor.

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

M. ARBITRATION"

Except as provide elsewhere in this Contract, in case amicable settlement is not reached between the Parties, in respect of any dispute or difference; arising out of the formation, breach, termination, validity or execution of the contract; or, the respective rights and liabilities of the Parties; or, in relation to interpretation of any provision of the contract; or, in 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 to the sole arbitration of an arbitrator appointed by Head of the BHEL Unit/Region/Division issuing the Contract.

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

Subject as aforesaid, the provisions of Arbitration and Conciliation Act 1996 (India) or statutory modifications or re-enactments thereof and the rules made thereunder and for the time being in force shall apply to the arbitration proceedings under this clause. The seat of arbitration shall be New Delhi.

The cost of arbitration shall be borne as per the award of the Arbitrator.

Subject to the arbitration in terms of clause L above, the court at New Delhi shall have exclusive jurisdiction over nay matter arising out of or in connection with this Contract.

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

In the event of 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 as mentioned in DPE OM No.4(1)/2013-DPE9GM)/FTS-1835 dated 22.05.2018.

N. FACILITIES PROVIDED TO MSEs:-

Vide office memorandum F.No.21(8)/2011-MA dated 09.11.2016, Office of AS&DC, Ministry of MSME has issued clarification regarding definition of Goods and Services under the Public Procurement Policy of MSEs order-2012, In accordance with the Public Procurement Policy for MSEs order-2012 and OM regarding definition of Goods and Services issued by Ministry of MSME, it is clarified that benefits as envisaged in Public Procurement Policy for MSEs Order 2012 are to be provided in respect of the procurements related to the Goods and Services produced and provided by Micro and Small Enterprises (MSEs) only and **no benefits is to be given in Case of Works Contracts.**

O. All other terms and conditions of tender shall remain unchanged.

PROFORMA OF BANK GUARANTEE (in lieu of EARNEST MONEY if permissible in NIT)

(On non-Judicial paper of appropriate value)

Bank Guarantee No.....

Date.....

To,

M/s Bharat Heavy Electricals Limited
 Transmission Business Group (TBG)
 5th Floor, Advant Navis IT Business Park
 Plot No. 7, Sector-142, Expressway Noida,
 UP-201305

Dear Sirs,

In accordance with the terms and conditions of Invitation for Bids/Notice Inviting Tender No.....¹(Tender Conditions), M/s having its registered office at² (hereinafter referred to as the 'Tenderer'), is submitting its bid for the work of³ invited by M/s Bharat Heavy Electricals Limited through its Unit at BHEL, Transmission Business Group, Noida.

The Tender Conditions provide that the Tenderer shall pay a sum of Rs as Earnest Money Deposit in the form therein mentioned. The form of payment of Earnest Money Deposit includes Bank Guarantee executed by a Scheduled Bank.

In lieu of the stipulations contained in the aforesaid Tender Conditions that an irrevocable and unconditional Bank Guarantee against Earnest Money Deposit for an amount of Rs.....⁴ is required to be submitted by the Tenderer as a condition precedent for participation in the said Tender and the Tenderer having approached us for giving the said Guarantee,

We, the.....[Name & address of the Bank]

having our Registered Office at.....(hereinafter referred to as the Bank) being the Guarantor under this Guarantee, hereby irrevocably and unconditionally undertake to forthwith and immediately pay to the Employer without any demur, merely on your first demand any sum or sums of Rs.⁴ (in words Rupees.....) without any reservation, protest, and recourse and without the beneficiary needing to prove or demonstrate reasons for its such demand.

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.

We undertake to pay to the Employer any money so demanded notwithstanding any dispute or disputes raised by the Vendor/Contractor/Supplier in any suit or proceeding pending before any Court or Tribunal, Arbitrator or any other authority, our liability under this present being absolute and unequivocal.

The payment so made by us under this Guarantee shall be a valid discharge of our liability for payment hereunder and the Tenderer shall have no claim against us for making such payment.

We Bank further agree that the Employer shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Tender or to extend the time of submission of from time to time or to postpone for any time or from time to time any of the powers exercisable by the Employer against the said Tenderer and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Tenderer or for any forbearance, act or omission on the part of the Employer or any indulgence by the Employer to the said Tenderer 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.

The Bank also agrees that the Employer at its option shall be entitled to enforce this Guarantee against the Bank as a principal debtor, in the first instance without proceeding against the Tenderer and notwithstanding any security or other guarantee that the Employer may have in relation to the Tenderer's liabilities.

This Guarantee shall be irrevocable and shall remain in force upto and including.....⁵ and shall be extended from time to time for such period as may be desired by the Employer.

This Guarantee shall not be determined or affected by liquidation or winding up, dissolution or change of constitution or insolvency of the Tenderer but shall in all respects and for all purposes be binding and operative until payment of all money payable to the Employer in terms hereof. However, unless a demand or claim under this Guarantee is made on us in writing on or before the⁶ we shall be discharged from all liabilities under this Guarantee.

We, Bank lastly undertake not to revoke this guarantee during its currency except with the previous consent of the Employer in writing.

Notwithstanding anything to the contrary contained hereinabove:

- a) The liability of the Bank under this Guarantee shall not exceed.....⁴
- b) This Guarantee shall be valid up to⁵
- c) Unless the Bank is served a written claim or demand on or before⁶ all rights under this guarantee shall be forfeited and the Bank shall be relieved and discharged from all liabilities under this guarantee irrespective of whether or not the original bank guarantee is returned to the Bank.

We, Bank, have power to issue this Guarantee under law and the undersigned as a duly authorized person has full powers to sign this Guarantee on behalf of the Bank.

For and on behalf of

(Name of the Bank)

Date.....

Place of Issue.....

- 1 Details of the Invitation to Bid/Notice Inviting Tender
- 2 Name and Address of the Tenderer
- 3 Details of the Work
- 4 BG Amount in words and Figures
- 5 Validity Date (At least six months from date of tender opening)
- 6 Date of Expiry of Claim Period (At least 3 months more than the present date of validity of BG)

Note:

- 1 The Bank Guarantee should be valid for at least six months from date of tender opening. The expiry of claim period shall be at least 3 months more than the validity date. It may be ensured that the same is in line with the agreement/ contract entered with the Vendor.
- 2 The BG should be on Non-Judicial Stamp paper/e-stamp paper of appropriate value as per Stamp Act prevailing in the State(s) where the BG is submitted or is to be acted upon or the rate prevailing in the State where the BG was executed, whichever is higher. The Stamp Paper/e-stamp paper shall be purchased in the name of Vendor/Contractor/Supplier /Bank issuing the guarantee.
- 3 **In Case of Bank Guarantees submitted by Foreign Vendors-**
 - a. **From Nationalized / Public Sector / Private Sector/ Foreign Banks (BG issued by Branches in India)** can be accepted subject to the condition that the Bank Guarantee should be enforceable in the town/city or at nearest branch where the Unit is located i.e. Demand can be presented at the Branch located in the town/city or at nearest branch where the Unit is located.
 - b. **From Foreign Banks (wherein Foreign Vendors intend to provide BG from local branch of the Vendor country's Bank)**
 - b.1 In such cases, in the Tender Enquiry/ Contract itself, it may be clearly specified that Bank Guarantee issued by **any of the Consortium Banks only** will be accepted by BHEL. As such, Foreign Vendor needs to make necessary arrangements for issuance of Counter- Guarantee by Foreign Bank in favour of the Indian Bank's (BHEL's Consortium Bank) branch in India. It is advisable that all charges for issuance of Bank Guarantee/ counter- Guarantee should be borne by the Foreign Vendor. The tender stipulation should clearly specify these requirements.
 - b.2 **In case, Foreign Vendors intend to provide BG from Overseas Branch of our Consortium Bank** (e.g. if a BG is to be issued by SBI Frankfurt), the same is acceptable. However, the procedure **at sl.no. b.1** will required to be followed.
 - b.3 The BG issued may preferably be subject to Uniform Rules for Demand Guarantees (URDG) 758 (as amended from time to time). The BG Format provided to them should clearly specify the same.